

PENNSYLVANIA BULLETIN

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Environmental Quality Board's
Hazardous Waste Management

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**Latest Pennsylvania Code Reporter
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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CH. 5]

Amendment to the Rules of Procedure; Doc. No. 1 JD 94

Per Curiam:

Order

And Now, this 21st day of November, 1997, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed new Rule of Procedure No. 505 and renumbering former Rule 505 as Rule 506, as more specifically hereinafter set forth, *It Is Hereby Ordered*:

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

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

Annex A

TITLE 207. JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

ARTICLE II. PROCEEDINGS BASED ON THE FILING OF FORMAL CHARGES

CHAPTER 5. TRIAL PROCEDURES

Rule 505. Post Sanction Proceedings.

(A) When the Court includes as part of an order of discipline a period and conditions of probation, the Court shall retain the power to reconsider the sanction imposed if, after hearing, the Court determines that a judicial officer has violated the terms of probation.

(B) When the Board finds that the judicial officer has violated the conditions of probation, the Board shall file a Petition with the Court alleging such a violation. This Petition shall request a hearing and request the Court to provide the Board with any relevant material or other written information in possession of the Court.

(C) At any hearing held pursuant to Section B of this Rule:

(1) The Board shall have the burden of proving by clear and convincing evidence that the judicial officer failed to comply with one or more of the terms of probation.

(2) All testimony shall be under oath.

(3) The Board and the judicial officer shall be permitted to present evidence and examine and cross-examine witnesses.

(4) The judicial officer shall have the right to counsel.

(5) All hearings shall be public proceedings conducted pursuant to the Rules of this Court and in accordance with the principles of due process and the laws of evidence.

(D) When the Court learns that the judicial officer may not be in compliance with the conditions of said proba-

tion, and the Judicial Conduct Board has not already filed a Petition alleging failure to comply with a condition of probation, the Court may ask the Board to undertake an inquiry to determine whether a violation has occurred. If upon investigation the Board finds that the judicial officer has violated the terms of probation, the Board may file a Petition and the matter shall proceed pursuant to Sections B and C of this Rule. If after investigation the Board finds that the judicial officer has not violated the terms of probation, the Board may file a Report stating in detail the basis for that conclusion, and requesting the Court to order the inquiry concluded, ended, and terminated. Notwithstanding the Board's conclusion that no violation of probation has occurred, the Court may order a hearing to determine whether a violation has occurred.

(E) If, after hearing, the Court determines that the judicial officer has violated the terms of probation, the Court may reconsider the original sanction imposed, revoke probation, and impose any sanction it could have ordered initially in its discretion under Article V, § 18(d)(1). If, after hearing, the Court concludes that the judicial officer has not violated the terms of probation, the Court shall enter an Order dismissing the allegation of violation.

(F) The Board and judicial officer shall serve each other with copies of any pleading filed with this Court under the provisions of this Rule.

Rule 506. Appellate Review.

Appellate review shall be governed pursuant to Rules promulgated by the Supreme Court.

[Pa.B. Doc. No. 97-1941. Filed for public inspection December 5, 1997, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Process Service for Domestic Relations; No. 5MI97

Administrative Order 10-1997

And Now, this 19th day of November, 1997, in order to provide effective process service for the Carbon County Domestic Relations Office, it is hereby

Ordered and Decried that effective immediately the Carbon County Sheriff's Department *Shall Provide* process services for any and all Bench Warrants issued by the Domestic Relations Office in Carbon County.

By the Court

JOHN P. LAVELLE,
President Judge

[Pa.B. Doc. No. 97-1942. Filed for public inspection December 5, 1997, 9:00 a.m.]

FRANKLIN AND FULTON COUNTIES

Amendment of Local Civil Action Rule 39-3252;
Miscellaneous Docket; Volume CC, Page 163

Order of Court

November 19, 1997, Civil Action Rule No. 39-3252 for the Court of Common Pleas of the 39th Judicial District of Pennsylvania is hereby amended as follows, to be effective thirty (30) days of the publication in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,
President Judge

Rule 39-3252. Writ of Execution—Money Judgments.

The agency to be contacted for legal help as provided by Pa.R.C.P. 3252 (b) is: Pennsylvania Bar Association, Lawyer Referral Service, (800) 692-7375 (PA only) or (717) 238-6715.

[Pa.B. Doc. No. 97-1943. Filed for public inspection December 5, 1997, 9:00 a.m.]

LEHIGH COUNTY

Order establishing Uniform Costs for Driving Under the Influence Prosecutions; File No. 638-M of 1997

Order

And Now, this 12th day of November, 1997, *It Is Ordered* that the Administrative Order establishing uniform costs for driving under the influence prosecutions, be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the Administrative Order in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of the Court of Common Pleas of Lehigh County.

Order

And Now, this 12th day of November, 1997, the District Attorney of Lehigh County having informed the Court: (A) that the County of Lehigh has obtained a Pennsylvania Department of Transportation grant enabling it to establish a centralized location ("D.U.I. Center") for the testing and initial processing of driving under the influence cases¹; (B) that after said center becomes operational, all police agencies in said County have agreed to utilize said D.U.I. Center in all such cases initiated by the officers of their departments; and (C) that a specific condition of said grant is that the Court enter an Administrative Order establishing a uniform cost to be assessed against each defendant convicted of, or admitted to the Accelerated Rehabilitative Disposition ("A.R.D.") Program for Driving Under the Influence, which will insure that after the first six (6) months of operation under the grant, the D.U.I. Center will be self-supporting.

It Further Appearing That the District Attorney has estimated that in order to meet this self-supporting

¹ Driving under the influence of alcohol or controlled substance in violation of 75 Pa.C.S. § 3731.

requirement, an appropriate cost for each defendant convicted of, or admitted to the A.R.D. Program for Driving Under the Influence would be One Hundred Twenty (\$120.00) Dollars.

It Is Therefore Ordered and Decreed That:

1. The District Attorney shall file a certification to the above File Number, in the Office of the Clerk of Courts Criminal, immediately upon the opening of said D.U.I. Center, indicating the date when it became operational.

2. Effective as to all cases where the charges of Driving Under the Influence were initiated on or after the date so certified by the District Attorney, the sum of One Hundred Twenty (\$120.00) shall be assessed as costs in each such case against every Defendant convicted of Driving Under the Influence² or admitted to the A.R.D. Program.³ This charge shall be in addition to all other authorized costs and supervision fees not duplicitous⁴ of the processing, booking and testing costs herein authorized.⁵

3. The funds so collected as costs for the D.U.I. Center shall be paid into the General Fund of the County of Lehigh, but separately identified in the County's records and accounts so that the amounts collected during any period can be readily determined. The District Attorney shall maintain appropriate records of all cases processed through the D.U.I. Center, including the dates of processing and the final dispositions and dates thereof as well. These records shall reflect the number of defendants whose cases are processed by the D.U.I. Center, including the number of defendants released without filings, the numbers charged, convicted, admitted to A.R.D., discharged and acquitted of such charges initiated through the D.U.I. Center, and the dates of all such processings, filings, and dispositions. The District Attorney shall also keep complete and accurate records of the actual costs of personnel, equipment and materials expended in the operation of the D.U.I. Center, and correlate such expenses to the cases processed and disposed of. The District Attorney shall account to the Court on an interim quarterly basis with these figures, and shall annually submit to the Court a complete calculation based upon actual experience so that the costs assessed for said D.U.I. Center can be reviewed and adjusted, if necessary, to reflect, as accurately as possible, the actual costs of its operation distributed equally among the defendants convicted and admitted to A.R.D.

4. The Court directs, in accordance with the District Attorney's agreement to do so, that personnel employed at the D.U.I. Center will be rotated into and out of the D.U.I. Center, so that no one other than the supervisor becomes a regular employee. The District Attorney in the interim quarterly accounts to the Court shall supply the names, qualifications, capacities, and hours worked by the personnel employed at the D.U.I. Center, and further the District Attorney shall annually submit to the Court a complete summary of the operations of the D.U.I. Center, including, but not limited to, information on personnel utilization and rotation, the costs of operation information as required in Paragraph 3, above, and a general evaluation of the operation of the D.U.I. Center from the perspective of the District Attorney, the various police

² The Act of August 9, 1955, P. L. 323, § 1403, 16 P. S. § 1403, authorizes such costs.

³ Pa.R.Crim.P. 182, authorizes costs in A.R.D. dispositions; and 75 Pa.C.S. § 3731(e)(6) authorizes certain additional costs in D.U.I./A.R.D. cases.

⁴ Where blood samples are analyzed by the Pennsylvania State Police Regional Crime Laboratory rather than by the Laboratory attached to the D.U.I. Center, and costs for such analysis are assessed pursuant to 42 Pa.C.S. § 1725.3, the laboratory component of the D.U.I. Center costs shall be deducted from the costs taxed under this Order, and the authorized user fee taxed pursuant to Section 1725.3.

⁵ See 75 Pa.C.S. § 1548.

agencies using the D.U.I. Center and in terms of its efficiency and effectiveness in serving the public.

It Is Further Ordered That the Administrative Order dated November 26, 1991, and filed to No. 84-M of 1992, relating to Costs for Municipal Police in A.R.D./D.U.I. Cases, shall be inapplicable to any cases initiated by municipal police agencies on or after the date the D.U.I. Center is certified operational by the District Attorney of Lehigh County pursuant to Paragraph 1 herein.⁶ No costs

⁶ That Administrative Order provided for the collection of \$110.00 as court costs in A.R.D./D.U.I. cases in order to reimburse the municipal police departments for their processing and testing costs in such cases.

shall be assessed, and no reimbursements made to any municipalities under that prior Administrative Order in any case instituted after the D.U.I. Center is certified operational.

By the Court

JAMES KNOLL GARDNER,
President Judge

[Pa.B. Doc. No. 97-1944. Filed for public inspection December 5, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 701, 709, 711 AND 713]

Drug and Alcohol Facilities and Services

The Department of Health (Department) deletes, in part, Part V (relating to drug and alcohol facilities and services) under the authority of the Pennsylvania Drug and Alcohol Abuse Control Act (Act 63) (71 P. S. §§ 1690.101—1690.115), Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 of 1981 (71 P. S. § 751-31). The portions of Part V being deleted include the activity matrix, provisions for licensure of shelter activities in free standing and health care related facilities and the approval of drop-in activities and hot-line activities, to read as set forth in Annex A.

Purpose

The purpose of the amendments is to delete the matrix and the regulation of various activities so that Department staff and other resources may be directed toward oversight of entities providing substance abuse treatment services. These amendments will reduce the workload and allow for more efficient regulatory oversight of the substance abuse treatment delivery system, and result in the redirection of State government costs in ensuring safe and effective substance abuse treatment.

The Department is deleting these regulations because regulation of the substance abuse service delivery system has changed significantly over the past few years. Even more changes are predicted in the coming years based on current plans to change the health care delivery system at both the State and Federal levels. In point of fact, the present Health Choices implements a new system of managed care in five counties in southeast Pennsylvania on both physical health and behavioral health sides. To better address the needs of the substance abuse service delivery system and maximize existing resources, it is necessary to modify the regulatory process beginning with the cessation of licensing shelter, drop-in and hot-line activities. This will reduce the overload on survey staff resources and enable the Department's attention to focus on the oversight of activities which actually provide treatment to the substance abusing client.

The activities that the Department will cease licensing do not provide treatment to clients. Shelters provide beds for individuals to stay while they make arrangements to receive treatment elsewhere. Drop-in centers, similarly, provide a place for individuals to gather and make arrangements for referral to treatment providers. Hot-lines only provide referral to treatment providers over the telephone. No assessment is done by any staff of any of these three activities. As indicated, the most that occurs is that the substance abuse client is referred to a facility where an assessment can occur. The referral system carried out through these activities will not be diminished as a result of these actions. The Department's specific resources will be better focused on activities by which specific substance abuse treatment services are being provided. Currently, the Department licenses 10 shelters, and approves 17 drop-in centers and 28 hot-lines.

Further, the matrix and definitions have no practical purpose. Not all the activities that are in the matrix are being performed. They are not necessary for licensure since any activity that is licensed is already defined in § 701.1 and has accompanying standards within the remainder of Part V. The activity matrix is not appropriate for regulation but merely shows levels, activities and approaches.

Requirements of the Regulations

The following provisions are being deleted:

A. § 701.1—*General Definitions (in part)*.

The definition of the shelter, drop-in and hot-line activities in this section have been deleted.

B. § 701.2—*General Matrix Definitions*.

This section sets forth definitions and a matrix which categorizes drug and alcohol services. The matrix has no practical purpose. Some activities which are listed are not licensed, for example, driving while intoxicated activities. Other activities which are licensed have specific regulations elsewhere in Part V. This matrix is not part of the licensing process, nor is it necessary for licensing. It simply identifies levels and activities and is not regulatory in nature.

C. § 709.21(a) (relating to applicability); and §§ 709.101—709.102 and 711.101—711.106 (relating to standards for shelter activities).

These sections set forth licensing standards for current shelter activities in freestanding facilities and health care facilities. Shelter activities are the provision to the client of food, clothing, hygienic facilities, referral services and overnight housing in a supportive atmosphere.

Facilities licensed for these activities do not actually provide substance abuse prevention, intervention or treatment services, but serve persons with multiservice needs in addition to or in conjunction with substance abuse problems. A shelter provides no substance abuse treatment services, rather, it provides a place for individuals to stay and avail themselves of referrals for other services related to their individual needs.

D. §§ 713.51—713.55 (relating to standards for drop-in center activities).

These sections set forth standards for approval of drop-in center activities. Drop-in center activities are the provision of information, referral and crisis intervention as well as the opportunity to discuss personal problems in an informal setting.

Drop-in activities fall within the intervention level of care which is aimed at assisting the client in decisionmaking and supporting the client until the client can cope independently. Referral is provided if the need for a structured treatment regimen or other services is indicated. The drop-in center provides information, referral and crisis intervention as well as the opportunity to discuss problems in an informal setting, which is not a treatment activity. Client records are maintained only when crisis intervention, short-term counseling or referral services are rendered.

E. §§ 713.61—713.63 (relating to standards for hot-line activities).

These sections set forth standards for approval of hot-line activities. Hot-line activities are the provision of

information, referral, advice and crisis intervention through telephone service. Again, these activities are not treatment activities. Records are maintained on standardized forms which indicate the nature of the telephone call and the disposition of the call. The maintenance of client specific records is optional as the project deems appropriate and feasible.

Affected Persons

Since the amendments become final upon publication, there will no longer be regulations governing these activities. Thus, licenses and approvals for shelters, drop-in and hot-line activities issued and existing will expire at the time of the publication of these amendments in final-form. Further, no new shelter, drop-in or hot-line activities will be licensed or approved as of December 6, 1997. The lack of Department license or approval, however, will not prohibit the continuation of these activities. They will merely no longer be licensed or approved by the Department.

Comments

The Department received one comment on the proposed amendments. The Independent Regulatory Review Commission (IRRC) discovered that the proposed amendments failed to delete the word "shelter" from § 709.21(a). IRRC stated that failure to remove the reference to shelter in this section could negate the Department's efforts to remove shelters from the requirements of Chapter 701. The Department agrees with this comment and has deleted the term "shelter" from § 709.21(a) in the final-form rulemaking.

One other change has been made, regarding the effective date of the amendments. The proposed rulemaking indicated that existing approvals and licenses would continue after the amendments until they expired. Upon review, however, this position was considered to be inconsistent with the regulatory initiative. The approved and licensed activities are governed by the standards which are being deleted. Since the amendments are effective immediately, there will no longer be any standards for these activities to follow. If the standards upon which the approval or license is based no longer exist, and persons choosing to engage in the activity may do so uninhibited by a license or approval process, the existing approval or license ceases to have meaning. Therefore, all outstanding approvals and licenses will expire December 6, 1997.

Cost and Paperwork Estimate

There will be neither additional costs nor additional paperwork to the Commonwealth, local governments or the private sector resulting from the deletion of certain provisions of Part V.

Effective Date/Sunset Date

The deletion of the relevant portions of Part V will be effective upon final publication in the *Pennsylvania Bulletin*. No sunset date is necessary.

Statutory Authority

The Department was authorized by the General Assembly under Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) Reorganization Plan No. 4 of 1981 (71 P. S. § 751-31) and amendments under Act 63 to assume the functions and responsibilities of the Governor's Council on Drug and Alcohol Abuse (Council). The Council's authority to regulate and promulgate rules and regulations was transferred to the Department through those reorganization plans. See Reorganization Plan No. 2 of 1977 (transferring duties under the Public Welfare Code with regard

to regulation, supervision and licensing of drug and alcohol facilities to the Council), Reorganization Plan No. 4 of 1981 (transferring the functions of the Council to the Department and establishing it as an advisory council) and the 1985 Amendments to Act 63 which amended the reference to the Pennsylvania Advisory Council on Drug and Alcohol Abuse (Advisory Council)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of notice of proposed rulemaking, published at 27 Pa. B. 1815 (April 12, 1997), to IRRC and the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment. In compliance with sections 5(c) and 5.1(a) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

The Department submitted a copy of the final-form regulations to IRRC and the Chairpersons of the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services on September 29, 1997. In addition, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

These final-form regulations were deemed approved by the House Committee on Health and Human Services on October 20, 1997, and deemed approved by the Senate Committee on Public Health and Welfare on October 20, 1997. IRRC met on October 23, 1997, and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act. The Office of Attorney General approved the final-form regulations on November 12, 1997.

Contact Person

Interested persons are invited to submit written questions regarding the deletion of the regulations to John C. Hair, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665. Persons with a disability may submit questions in alternative formats, such as audiotape, braille or using TDD: (717) 783-6514. Persons with disabilities who require alternative formats of this document (for example, large print, audio tape, braille) should contact the Department so that necessary arrangements may be made.

Findings

The Department finds that:

(1) Notice of proposed rulemaking was published at 27 Pa.B. 1815, as required by 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) A public comment period was provided as required by law and that the comments received were considered.

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

Order

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

(a) The regulations of the Department, 28 Pa. Code Chapters 701, 709, 711 and 713, are amended by deleting §§ 701.2, 709.101, 709.102, 711.101—711.106, 713.51—713.55 and 713.61—713.63 and by amending § 701.1 to read as set forth at 27 Pa.B. 1815 and amending § 709.21 to read as set forth in Annex A.

(b) The Secretary of Health shall submit this order, 27 Pa.B. 1815 and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.

(c) The Secretary of Health shall certify this order, 27 Pa.B. 1815 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*.

DANIEL F. HOFFMANN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 5840 (November 8, 1997).)

Fiscal Note: Fiscal Note 10-147 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 28. HEALTH AND SAFETY****PART V. DRUG AND ALCOHOL FACILITIES AND SERVICES****CHAPTER 709. STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES****Subchapter C. GENERAL STANDARDS FOR FREESTANDING TREATMENT ACTIVITIES.****§ 709.21. Applicability.**

(a) The intake, evaluation and referral, inpatient nonhospital, partial hospitalization, outpatient and inpatient hospital activities shall comply with this chapter.

(b) A facility in which freestanding treatment activities are provided that has a valid full license from the Department of Public Welfare under 55 Pa. Code Chapters 5300 and 5310 (relating to private psychiatric hospitals; and community residential rehabilitation services for the mentally ill) is deemed to be in compliance with the following standards: Sections 709.22—709.27, 709.29 and 709.32. This subsection shall remain in effect as long as the Department finds the standards in 55 Pa. Code Chapters 5300 and 5310 to be consistent with of this subchapter.

[Pa.B. Doc. No. 97-1945. Filed for public inspection December 6, 1997, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this regulation as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (Code). The proposed regulation deals with fishing.

A. Effective date

This proposed regulation will, if approved on final rulemaking, go into effect on January 1, 1999, or upon publication of an order adopting the regulation, whichever occurs later.

B. Contact person

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

C. Statutory authority

This proposed regulation is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and background

The proposed regulation is designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the proposed regulation is described in more detail under the summary of proposal.

E. Summary of proposal

Angler opinions from the 1991 Trout Angler Telephone Survey resulted in strong support for the creation of more limited kill areas on wild trout fisheries. The same general theme was supported by the participants of the recent Wild Trout Workgroup. In keeping with this concept, the Commission is proposing the adoption of a new All Tackle Selective Harvest Program. This proposed regulation is designed to enhance wild trout fisheries, while providing anglers with an opportunity for limited harvest of larger individuals.

If adopted, the All Tackle Selective Harvest Program would provide an alternative to the current Selective Harvest Program, in which angling is limited to the use of artificial lures only (including flies and streamers). The proposed regulation would appeal to a broad spectrum of anglers, as fishing would be permitted with the use of artificial lures, flies, streamers, natural bait, baitfish or fishbait. Both spinning and fly fishing gear would be permitted in these areas. This proposed regulation would provide for year-round angling (no closed season) with a 12-inch minimum length limit on brown trout and a 9-inch minimum length limit for all other salmonid species. The daily creel limit would be two trout (combined species) from 8 a.m. on the opening day of regular trout season to midnight Labor Day. No harvest would be permitted from midnight Labor Day to 8 a.m. on the opening day of regular trout season of the following year.

Waters for the proposed All Tackle Selective Harvest Program include the following. In addition, the Commission's staff expect to have several new waters to add to this program. However, time did not permit staff to complete all of the necessary landowner contacts.

County	Water	Description
Westmoreland	Camp Run	Currently managed as a Class A wild brook trout fishery and unstocked. From the headwaters downstream to the mouth a distance of 4.1 miles.
Cameron	Hunts Run	Currently managed as a Class A wild brown trout fishery and unstocked. From the confluence with McNuff Branch downstream to the mouth, a distance of 4.7 miles.
Potter	Sinnemahoning Creek East Fork	Currently managed as a Class A wild brown trout fishery and unstocked. From the confluence with Wild Boy Run downstream to the confluence with Camp Run, a distance of 2.9 miles.
Union	Cherry Run	Currently managed as a Class A wild brown trout fishery and unstocked. From a point 2.7 miles upstream from the mouth downstream to the mouth, a distance of 2.7 miles.

F. Paperwork

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

G. Fiscal impact

The proposed regulation will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed regulation 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 regulation 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 "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. 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-74. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS
§ 65.4b. All-Tackle Selective Harvest Program.

(a) **The Executive Director, with the approval of the Commission, may designate waters as all-tackle selective harvest areas. The designation of waters as all-tackle selective harvest areas will be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.**

(b) **It is unlawful to fish in designated and posted all-tackle selective harvest areas except in compliance with the following requirements:**

(1) **The program is open to fishing year-round; there is no closed season.**

(2) **The minimum size is 12 inches for brown trout and 9 inches for all other salmonids caught on, or in possession on, the waters under the all-tackle selective regulations.**

(3) **The daily creel limit is two trout—combined species—from 8 a.m. on the opening day of trout season in April until midnight Labor Day, except during the period from the day after Labor Day to 8 a.m. on the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.**

(4) **A current trout/salmon permit is required.**

(c) **This section applies to trout only. Inland regulations apply to all other species.**

[Pa.B. Doc. No. 97-1946. Filed for public inspection December 5, 1997, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 143 AND 147]

Hunting and Furtaker Licenses; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its October 7, 1997 meeting, proposed the following amendments to read as set forth in Annex A.

Amend Chapter 143, Subchapter C (relating to antlerless deer licenses) by amending §§ 143.42, 143.51, 143.52 and 143.55, to eliminate the reference to “bonus” tags in this subchapter and change the definition to “surplus” tags and provide for their issuance as well as the issuance of unlimited antlerless licenses for counties in the Special Regulations Areas.

Amend Chapter 147, Subchapter A (relating to general provisions) by removing language in § 147.1 (relating to scope) that has been determined to exceed the parameters under 34 Pa.C.S. (relating to Game and Wildlife Code (code)).

Amend Chapter 147, Subchapter A with the addition of the definition of “field trial/hunt test” in § 147.2 (relating to general) and to Subchapter L, § 147.221 (relating to general) and removing the language in § 147.222 (relat-

ing to permits for bird dog trials on Commission controlled lands) making reference to “official guns.”

Amend Chapter 147, Subchapter H (relating to protected specimen) by adding new §§ 147.143—147.145, to provide a definition of “abandoned venison” and to outline the procedures for the transfer of ownership of the abandoned venison.

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

The authority for the proposal of these amendments is the code.

These proposals were made public at the October 7, 1997, meeting of the Commission, and comments on these proposals may be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until December 19, 1997.

Proposed amendments to Chapter 143, Subchapter C

1. Introduction

In establishing the antlerless deer license allocation for 1997, the Commission decided to eliminate the bonus license system and to establish a much restricted “surplus” system involving issuance of these licenses to flintlock muzzleloader hunters and in special regulations areas only. The proposed changes to Subchapter C of Chapter 143 would accomplish this purpose. These changes are being proposed under authority contained in section 2102 of the code (relating to regulations).

2. Purpose and Authority

Given concerns by Legislators and sportsmen with regard to deer populations in parts of this Commonwealth, the Commission at its April 15, 1997, meeting decided to reduce antlerless license allocations and eliminate the bonus system which virtually guaranteed the sale of all antlerless licenses and permitted deer hunters to each harvest a number of deer. The Commission decided to initiate a limit of a maximum of two deer, one of each sex, per hunter per year and to restrict “surplus” antlerless licenses to flintlock muzzleloader hunters and to special regulations areas where antlerless licenses are unlimited. At its October 7, 1997, meeting the Commission proposed changes to Subchapter C of Chapter 143 which would implement this change.

Section 2102 of the code authorizes the Commission to “. . . promulgate regulations relating to seasons and bag limits for hunting or furtaking. . . .” This section provides the authority for the proposed changes.

3. Regulatory Requirements

With the exception of those areas where unlimited antlerless deer licenses are available, the proposed changes would limit deer hunters to one antlerless or one surplus license per year.

4. Persons Affected

Persons wishing to hunt antlerless deer in this Commonwealth would be affected by the proposed changes.

5. Cost and Paperwork Requirements

There would be no significant increase in cost or paperwork requirements resulting from the proposed changes.

Proposed amendments to § 147.1

1. Introduction

In a memorandum opinion in the case of *Showers v. Spangler, et. al.*, 1 CV-94-2129, Judge Caldwell of the

Federal District Court for the Middle District of Pennsylvania expressed the opinion that § 147.1(b) is invalid as being inconsistent with section 2906 of the code (relating to records). To avoid any potential future problems, the Commission at its October 7, 1997, meeting proposed deleting a sentence which expands the scope of the section. This change is being proposed under the authority contained in section 2901(b) of the code (relating to regulations for permits).

2. Purpose and Authority

Section 2906 of the code provides that: "The records must be kept for a period of three years and shall be open to inspection by any officer of the Commission during normal business hours . . ." Section 147.1(b) provides that: "The record, together with the premises, shall be open to inspection upon demand of an officer of the Commission." Clearly the regulation authorizes much more than the statute, namely the inspection of premises and records on demand, not during reasonable business hours. As such, the Commission is proposing to delete the above sentence.

Section 2901 of the code authorizes the Commission to ". . . promulgate regulations to control the activities which may be performed under authority of any permit issued." This provides authority for the proposed change in the regulation.

3. Regulatory Requirements

The proposed change would relax current requirements.

4. Persons Affected

Individuals holding Commission permits would be affected by the proposed change.

5. Cost and Paperwork Requirements

There would be no additional cost or paperwork requirements under the proposed change.

Proposed amendments to Chapter 147, Subchapters A and L

1. Introduction

By Act No. 184 of 1996, enacted on December 19, 1996, section 2382 of the code (relating to training dogs on small game) was amended to allow lawful training of dogs on small game at any time during the year. As a result of this change, many dog training organizations requested that the Commission review some of its regulations relating to dog training. That review led the Commission to propose at its October 7, 1997, meeting, changes to Subchapters A and L of Chapter 147 to define "field trial/hunt test" and allow the firing of blank ammunition from a firearm normally fired from the shoulder by up to 10 "official guns" during the trials/tests. These changes are proposed under authority contained in section 2901(b) of the code.

2. Purpose and Authority

As a result of recent changes in the code and a dialogue with representatives of dog training organizations, the Commission has decided to recognize sanctioned dog training events which will be referred to as "field trials/hunt tests." In addition, the Commission also is proposing to allow the firing of blank ammunition at the events from a firearm normally fired from the shoulder by no more than 10 persons. Finally, a provision in § 147.222 (relating to bird dog trials on Commission controlled property) providing for five "official guns" would be increased to 10.

These activities would be authorized by permits issued by the Commission. Section 2902(b) of the code authorizes

the Commission to promulgate regulations to control activities which may be performed under the authority of any permit.

3. Regulatory Requirements

The proposed changes would expand activities that could be performed under Commission permits and would increase the number of "official guns" to 10 persons.

4. Persons Affected

Persons wishing to train hunting dogs would be affected by the proposed changes.

5. Cost and Paperwork Requirements

Because of the limited number of dog training permits that are issued, it is unlikely that there would be a significant increase in cost or paperwork requirements.

Proposed amendments to Chapter 147, Subchapter H

1. Introduction

As a result of several meetings held among representatives of the Commission, legislators and meat processors, the need became evident for a mechanism by which meat processors could dispose of unclaimed venison which they have been given to process. The Commission therefore proposed at its October 7, 1997, meeting that §§ 147.143—147.145, be added to Subchapter H of Chapter 147 to provide the mechanism. These additions are being proposed under authority contained in sections 2102 and 2901 of the code, relating to regulations, and regulations for permits.

2. Purpose and Authority

Meat processors are often asked to butcher deer, yet when they notify the customer that the meat is ready for pickup, the owner does not pick up the venison. Currently, regulations do not permit the meat processor to lawfully transfer the venison and the processor has therefore lost the time and expense of butchering the meat. The proposed additions would change this situation by creating a special permit which would allow transfer of venison in return for payment of processing fees.

Section 2102(a) of the code directs the Commission to ". . . promulgate such regulations as it deems necessary and appropriate concerning game or wildlife . . ." Section 2901(b) of the code authorizes the Commission ". . . as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit . . ." These provisions provide the authority for the proposed additions, which would control limited transfer of venison.

3. Regulatory Requirements

The proposed additions would allow actions currently not permitted by regulation but would require compliance with a notification and reporting procedure and the obtaining of a permit.

4. Persons Affected

Meat processors who process venison and their customers who fail to pick up meat would be affected by the proposed additions.

5. Cost and Paperwork Requirements

Prior to transfer of abandoned venison, meat processors would be required to give written notice to the owner by registered mail. Any transferee would be required to obtain a permit free of charge to possess the venison.

Finally, the meat processor would be required to mail a brief report of the transaction to the local wildlife conservation officer.

Effective Dates

These proposed amendments would be effective on final publication in the Pennsylvania Bulletin and would remain in effect until changed by the Commission.

Contact Person

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

DONALD C. MADL, Executive Director

Fiscal Note: 48-101. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.42. Definitions.

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

* * * * *

[Bonus] Surplus tag—An antlerless deer license permitting properly licensed [persons] flintlock muzzleloader hunters to take an [additional] antlerless deer during the regular firearms antlerless deer season, archery or flintlock muzzleloader deer seasons in [a specific] the county of issue.

[Bonus] Surplus tag application—The form contained in the Hunting and Trapping Digest used in applying for a [bonus] surplus tag and unlimited antlerless deer licenses in special regulations areas.

* * * * *

§ 143.45. Completing and submitting applications.

(a) Except as otherwise provided in § 143.52 (relating to procedure for [unexhausted allocation] unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application in a manner other than by standard mail delivery through and by the United States Postal Service.

* * * * *

§ 143.51. Application and issuance of [bonus] surplus tags.

(a) [Beginning on the fourth Monday in August, remaining unsold antlerless deer licenses will be made available as first bonus tags to properly licensed applicants under §§ 143.45 and 143.50 (relating to completing and submitting applications; and procedure for nonresidents of this Commonwealth). Other appropriate sections of this chapter apply.

(b)] County treasurers shall accept and process [bonus] surplus applications from applicants in possession of a current flintlock muzzleloader license stamp beginning the third Monday in August. [Bonus] Surplus applications accepted by county treasurers on the third Monday in August shall have the applicant's flintlock muzzleloader license number written in the upper corners of the [bonus] surplus application. The applicant shall write or indicate "Flintlock/Muzzleloader" in the lower left corner of the official envelope.

[(c)] (b) An applicant for this tag may not use the regular antlerless deer license application. An applicant shall only use the [bonus] surplus application contained in the Hunting [&] and Trapping Digest or a reasonable facsimile thereof.

[(d)] (c) ***

[(e)] (d) ***

[(f) In a county where bonus tags become available, a person who may lawfully hunt without a license as defined in section 2706 of the act (relating to resident license and fee exemptions) may take the number of bonus antlerless deer without a license during the regular firearms antlerless deer season or the archery and muzzleloader deer season equal to the number of licenses available to a licensed individual. Deer taken shall be tagged and reported as set forth in section 2323(b) of the act (relating to tagging and reporting big game kills). The tag and report shall contain the wording "antlerless deer," along with the other information required.

(g)] (e) [Bonus] Surplus tags shall be validated by the addition of the county treasurer's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag.

§ 143.52. Procedure for [unexhausted allocation] unlimited antlerless licenses.

(a) [A county treasurer who has unsold licenses on the second Monday in September and thereafter, shall accept regular antlerless, first bonus and second bonus applications (see subsection (b)) by mail from residents and nonresidents of this Commonwealth and issue licenses to the applicants until the county allocation is exhausted.

(b) Beginning on the date defined in subsection (a), residents and nonresidents of this Commonwealth shall be eligible to apply for and receive one additional bonus tag for a total of two—under the conditions in subsection (a).

(c)] Beginning on the [date defined in subsection (a)] fourth Monday in August, residents and nonresidents of this Commonwealth shall be eligible to apply to any county within the special regulations areas defined in § 141.1 (relating to special regulations areas) for an unlimited number of [bonus tags under the conditions of subsection (a)] antlerless deer licenses by mail. Applicants shall be limited to submitting not more than three applications per official envelope [when application is made through the mail].

[(d)] (b) Beginning on the **[last Wednesday in September]** date specified in subsection (a), county treasurers within the special regulations areas defined in § 141.1 (relating to special regulations areas) shall accept **[regular]** antlerless **[and bonus]** applications over the counter **[and by mail]** from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

§ 143.55. Unlawful acts.

It is unlawful:

* * * * *

(5) Except as specified in §§ 143.52 (a) and (b) **[and (c)]** and 143.53 (relating to procedure for **[unexhausted allocation]** unlimited antlerless licenses; and reapplication), to apply for or receive more than one **[of the following:]** antlerless license or more than one surplus license.

[(i) One antlerless license.

(ii) One bonus license.]

* * * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter A. GENERAL PROVISIONS

§ 147.1. Scope.

* * * * *

(b) A holder of a permit shall keep a record of transactions on a form provided by the Commission in accordance with the instructions provided. **[The record, together with the premises, shall be open to inspection upon demand of an officer of the Commission.]** A permittee shall answer, without evasion, questions that may be asked by a representative or officer of the Commission relative to ownership of a bird or mammal or part thereof, found in the permittee's possession or under the permittee's control, or which has passed through the permittee's hands.

§ 147.2. General.

(a) In addition to definitions in section 102 and 2961 of the act (relating to definitions**;** **and definitions**), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Field trial/hunt test—A club, group or organization of ten or more dog owners/handlers participating in the actual performance of sporting dogs in one of the following events advertised and registered with AKC, UKC, NAHRA or the NAVHDA:

- (i) Member trial.
- (ii) Licensed trial.
- (iii) Sanctioned trial.

* * * * *

Subchapter H. PROTECTED SPECIMEN

§ 147.143. Transfer of lawful possession of abandoned venison.

(a) Definition.

Abandoned venison—Venison which remains unclaimed by the lawful owner at a butcher shop for

longer than 10 days after the lawful owner has been notified by the butcher or an employe that the venison is dressed and ready to be picked up.

(b) Procedure for transfer of lawful possession of abandoned venison. Lawful possession of abandoned venison may be transferred to any resident of this Commonwealth who is in possession of a valid permit to possess deer (PGC-90-LE) provided that:

(1) Prior to a transfer of possession of abandoned venison, the butcher or an employe has notified the lawful owner of the venison in the butcher shop by United States registered mail to the person's last known address of the intent to dispose of the venison.

(2) The notification gives the lawful owner of the venison 30 days to claim the venison and pay to the butcher the standard labor fee for preparing the venison for consumption.

(c) After the 30-day period has expired, the butcher may transfer the lawful possession of abandoned venison to a resident of this Commonwealth who presents a valid permit to possess deer (PGC-90-LE) and if required by the butcher pays the standard labor fee for preparing the venison for consumption.

(d) The butcher shall, within 24 hours of transferring possession of abandoned venison, send by United States mail a report setting forth the date of transfer and the name, address and telephone number of the person or organization that received the venison to the wildlife conservation officer in charge of the district where the butcher shop is located.

§ 147.144. Transfer of lawful possession of abandoned venison to food banks.

Lawful possession of abandoned venison may be transferred to a food bank by a butcher after proper notification to the lawful owner of the venison as set forth in § 147.143(b) (relating to transfer of lawful possession of abandoned venison). Food banks or persons who receive venison from a food bank are not required to possess a permit to possess deer (PGC-90-LE), however, the report to the wildlife conservation officer as set forth in § 147.143(b) shall be made.

§ 147.145. Unlawful acts.

A person who transfers possession or takes possession of abandoned venison from a butcher shop contrary to §§ 147.143(b) and 143.144 (relating to transfer of lawful possession of abandoned venison; and transfer of lawful possession of abandoned venison to food banks) shall be subject to the penalties in section 2312(d) of the act (relating to buying and selling game).

Subchapter L. PERMITS RELATING TO DOGS

§ 147.221. General.

* * * * *

(d) During field trials/hunt tests for which a permit has been issued, a firearm normally fired from the shoulder may be used with blank ammunition, if no live ammunition is possessed.

(e) No more than ten persons may be listed on the permit as "official guns."

§ 147.222. Permits for bird dog trials on Commission controlled lands.

* * * * *

[(e) No more than five persons may be listed on the permit as "Official Guns".]

[(f)] (e) ***

[(g)] (f) ***

[(h)] (g) ***

[(i)] (h) ***

[(j)] (i) ***

[(k)] (j) ***

[(l)] (k) ***

[(m)] (l) ***

[(n)] (m) ***

[(o)] (n) ***

[Pa.B. Doc. No. 97-1947. Filed for public inspection December 5, 1997, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending November 25, 1997.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-21-97	Pocono Community Bank Stroudsburg Monroe County	559 Main Street P. O. Box 639 Stroudsburg Monroe County	Commenced Operations

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Area</i>
11-20-97	S & T Bank Indiana Indiana County	Second Avenue and Hicks Street Leechburg Armstrong County	Approved
11-21-97	Patriot Bank Pottstown Montgomery County	30 W. Franklin St. Topton Berks County	Effective

SAVINGS ASSOCIATIONS

Branch Applications

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
11-16-97	East Stroudsburg Savings Association Stroudsburg Monroe County	Mr. Z's Supermarket U. S. Highway 209 and Weir Lake Road Chestnuthill Twp. Monroe County	Opened

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 97-1948. Filed for public inspection December 5, 1997, 9:00 a.m.]

DEPARTMENT OF EDUCATION

General Educational Development (GED) Diplomas and Transcripts

Effective January 1, 1998, the Department of Education will begin charging \$3 for producing and mailing Commonwealth Diploma program transcripts. Diplomas and initial transcripts that are provided each time General Educational Development (GED) tests are scored will continue to be provided at no cost to the clients. Also, the diplomas and initial transcripts for clients who receive credentials based on college attendance and semester hour credit will be provided at no cost. Any additional transcripts provided upon request of clients whether to be

mailed to the client or to a third party at the request of the client will only be provided upon receipt of a cashier's check, certified check or money order made payable to the Commonwealth of Pennsylvania in the exact amount of \$3 per transcript. Cashier's checks, certified checks and money orders that are made out to any amount other than \$3 per transcript will be returned to the sender. Personal checks and cash will not be accepted as payment and will be returned to the sender. The address for ordering transcripts is: Department of Education, Commonwealth Diploma Program, 333 Market Street, 12th Floor, Harrisburg, PA 17126-0333.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 97-1949. Filed for public inspection December 5, 1997, 9:00 a.m.]

State Plan and Preschool Grant

The Department of Education's State Plan and Preschool Grant under the Individuals with Disabilities Education Act has been amended and approved by the United States Department of Education. The amendments have been disseminated to local school districts, intermediate units and instructional support centers and thus are available for public inspection. Copies may be requested by writing to Samuel R. Bashore, Bureau of

Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126. If this information is required in an alternate format, contact Jill Deitrich at the above address or call (717) 772-0635, TTY: (717) 787-7367.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 97-1950. Filed for public inspection December 5, 1997, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

APPLICATIONS RECEIVED UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the Field Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Field Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

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

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the Field Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Applications for National Pollutant Discharge Elimination System (NPDES) permit to discharge to State waters.

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

PA 0055484. Sewage, **Herbert and Elizabeth Keating**, 68 Bullock Road, Chadds Ford, PA 19317.

This application is for renewal of an NPDES permit to discharge treated sewage from small flow sewage treatment plant in Birmingham Township, **Delaware County**. This is an existing discharge to drainage area of an unnamed tributary of the Brandywine Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd are as follows:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Ammonia (as N) (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0054585. Sewage, **Clark Properties, Inc.**, P. O. Box 239, Concordville, PA 19331-0239.

This application is for renewal of an NPDES permit to discharge treated sewage from Clark Properties Lot No. 37 residence in Concord Township, **Delaware County**. This is an existing discharge to intermittent UNT to West Branch Chester Creek.

The receiving stream is classified as a dry stream. It is an intermittent unnamed tributary to the West Branch of Chester Creek.

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N) (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

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

PA 0051632. Industrial waste, **City of Easton**, Route 611, North Delaware Drive, Easton, PA 18042.

This application is for renewal of an NPDES permit to discharge sedimentation basin overflow and shaft lubrication water from the City of Easton Water Treatment Plant located in the City of Easton, **Northampton County**. This is an existing discharge to the Delaware River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.0014 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	75
Total Iron	2	4	5
Total Aluminum	4	8	10
Total Manganese	1	2	2.5
Dichlorobromomethane		monitor/report	
Chlorodibromomethane		monitor/report	
Chloroform		monitor/report	
Total Residual Chlorine	0.5		1.6
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 002 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	75
Total Iron	2	4	5
Total Aluminum	4	8	10
Total Manganese	1	2	2.5
Dichlorobromomethane		monitor/report	
Chlorodibromomethane		monitor/report	
Chloroform		monitor/report	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.5		1.6
pH	within limits of 6.0—9.0 standard units at all times		

PA 0012092. Industrial waste, **BOC Gases**, 575 Mountain Avenue, Murray Hill, NJ 07974.

This application is for renewal of an NPDES permit to discharge untreated cooling water and stormwater from the BOC Gases facility in City of Bethlehem, **Northampton County**. This is an existing discharge to dry swale tributary to the Lehigh Canal.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.026 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	within limits of 6.0—9.0 standard units at all times		
Total Dissolved Solids	1,000	2,000	2,500
Total Residual Chlorine	0.5		1.6

The proposed effluent limits for Outfall 001, based on an average storm event are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			monitor/report
COD			monitor/report
Oil and Grease			monitor/report
pH			monitor/report
Total Suspended Solids			monitor/report
Total Kjeldahl Nitrogen			monitor/report
Total Phosphorus			monitor/report
Dissolved Iron			monitor/report

The EPA waiver is in effect.

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

PA 0205559. Sewage, **WJT Enterprises**, R. D. 2, Box 54, Marion Center, PA 15759.

This application is for renewal of an NPDES permit to discharge treated sewage from the Crystal Waters Personal Care Facility STP in Rayne Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Pine Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Cadogen Township Water Works.

Outfall 001: existing discharge, design flow of .0029 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>
CBOD ₅	25		50
Suspended Solids	30		60
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	75,000/100 ml as a geometric mean		
Total Residual Chlorine	1.4		3.3
pH	not less than 6.0 nor greater than 9.0		

The EPA waiver is in effect.

PA 0217743. Sewage, **Summit Hospitality Group Services, Inc.** Days Inn at Donegal, Route 31, Donegal, PA 15628.

This application is for issuance of an NPDES permit to discharge treated sewage from the Days Inn at Donegal Sewage Treatment Plant in Donegal Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Minnow Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County MA—Source: Indian Creek Reservoir.

Outfall 001: new discharge, design flow of 0.0051 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	4.5			9.0
Fecal Coliforms				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.04			0.09
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA 000701. Industrial waste and sewage. **PFV Enterprises, Inc.** 123 North Franklin Street, Titusville, PA 16354.

This application is for renewal of an NPDES permit to discharge treated sewage and noncontact cooling water to an unnamed tributary to Pine Creek in Oil Creek Township, **Venango County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 57 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.00015 mgd, at Outfall 001 and .0007 mgd at Outfall 002 are:

Outfall No. 001

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	monitor and report		
Total Suspended Solids	20	40	50
Oil and Grease	15	30	30
Product 3005	not detectable**		
Temperature***	Daily Average °F		
Oct. (1—15)	59		
Oct. (16—31)	55		
Nov. (1—15)	51		
Nov. (16—30)	50		
Dec. (1—31)	69		
Jan. (1—31)	69		
Feb. (1—28)	63		
pH	within limits of 6.0—9.0 standard units at all times		

**Using the most appropriate analytical method.

***Refer to Special Condition A in Part C.

Outfall No. 002

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	monitor and report		
CBOD ₅	25		50
Total Suspended Solids	30		60
Ammonia-Nitrogen			
(5-1 to 10-31)	7.5		15
Fecal Coliform**			
(5-1 to 9-30)	200/100ml as a geometric average		
(10-1 to 4-30)	11,250/100 ml as a geometric average		
Total Residual Chlorine	1.4		3.2
pH	within limits of 6.0—9.0 standard units at all times		

**Refer to Special Condition B in Part C.

The EPA waiver is in effect.

PA 0101923. Sewage. **Saegertown Area Sewer Authority** P. O. Box 334, Park Avenue Ext., Saegertown, PA 16433.

This application is for renewal of an NPDES permit to discharge treated sewage to the French Creek in Saegertown Borough, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Franklin General Authority on French Creek located at Franklin, approximately 31 miles below point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.49 mgd, are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	40	50
TSS	30	45	60
Phosphorus (as P)			
(Interim)	XX		XX
(Final)	2		4
Fecal Coliform			
(5-1 to 9-30)		200/100 ml	
(10-1 to 4-30)		84,500/100 ml	
Total Residual Chlorine	.5		1.6
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protests. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

2397412. Sewerage. **Relocation Resources Inc.**, 120 Longwater Drive, Norwell, MA 02061. Installation of single family treatment facility to replace the existing malfunctioning septic system to serve 113 Appletree Drive located in Upper Providence Township, **Delaware County**.

0997409. Sewerage. **Upper Southampton Sewer Authority**, 945 Street Road, P. O. Box 481, Southampton, PA 18966. Construction to replace existing sanitary sewer located in Upper Southampton Township, **Bucks County**.

1597413. Sewerage. **Thornbury Township**, 8 Township Drive, Cheyney, PA 19319. Construction of a new wastewater pump station to serve nine single family residences located in Thornbury Township, **Chester County**.

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

A. 3997407. Sewerage. **Washington Township**, P. O. Box 27, Slatedale, PA 18079-0027. Application to construct and operate sewers and appurtenances and pump stations to serve the Villages of Emerald and Slatedale, Primrose Heights/SR 0873 Area, and Riverview Acres Areas, located in Washington Township, **Lehigh County**. Application received in the Regional Office September 18, 1997.

A. 4597405. Sewerage. **PA Department of Conservation and Natural Resources**, Bureau of Forestry, P. O. Box 8451, 400 Market Street, 8th Floor, Harrisburg, PA 17105-8451. Application to modify an existing sewage treatment facility at a new DCNR/DEP field office (Swiftwater Forestry Headquarters), located in Pocono Township, **Monroe County**. Application received in the Regional Office October 15, 1997.

A. 5297401. Sewerage. **Delaware Valley School District**, HC 77, Box 379A, Milford, PA 18337. Application for improvements to the Route 6/209 wastewater treatment plant located in Westfall Township, **Pike County**. Application received in the Regional Office October 31, 1997.

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

WQM Permit No. 6297409. Sewage. **Derek L. Robeson**, SRSTP, R. D. 1, Box 1779, Russell, PA 16345. This project is for the construction of a single residence sewage treatment plant in Pine Grove Township, **Warren County**.

WQM Permit No. 2597423. Sewage. **North East Borough**, 58 East Main Street, North East, PA 16428. This project is for the construction of clarifier and sludge pumping station at Site I Wastewater Treatment Plant in North East Borough, **Erie County**.

INDIVIDUAL PERMITS (PAS)

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Northampton County Conservation District, District Manager, R. R. 4, Greystone Building, Nazareth, PA 18064, (610) 746-1971.

NPDES Permit PAS10U082. Stormwater. **Guy Ahearn**, 8735 North Delaware Drive, Bangor, PA 18013 has applied to discharge stormwater from a construction activity located in Upper Nazareth Township, **Northampton County**, to Bushkill Creek.

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

NPDES Permit PAS10K021. Stormwater. **Robert Tidmore**, 521 Seminole Drive, Erie, PA 16505 has applied to discharge stormwater from a construction activity located in Millcreek Township, **Erie County**, to Thomas Run.

SAFE DRINKING WATER

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

Southeast Regional Office, Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.

A. 1597510. Public water supply. **Lazy Acres Mobile Home Park**, Lucy J. Patton, 21 Patton Drive, Honey Brook, PA 19344. This proposal involves the permitting of an existing unpermitted water supply system in Honey Brook Borough, **Chester County**.

A. 4697512. Public water supply. **Superior Water Company**, Robert A. Braglio, 1030 W. Germantown Pike, Fairview Village, PA 19409. This proposal involves the construction of Well No. 8 in Douglass Township, **Montgomery County**.

Northwest Regional Office, Regional Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.

A. 1097508. Public water supply. **Peter Rabbit Campground, Inc.**, Lilac Lane, Slippery Rock, PA 16057. This proposal involves the addition of new well no. 4 and a 40,000 gallon finished water storage tank in Brady Township, **Butler County**.

A. 2597506. Public water supply. **Municipal Authority of the Borough of Waterford**, 224 East 3rd Street, Waterford, PA 16441. This proposal involves the drilling and installation of water wells nos. 3 and 4 (standby), pumps and controls and construction of a building to house the wells in Waterford Borough, **Erie County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

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

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate

with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

Northeast Regional Field Office, Joseph A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole #63808S50135 (Weaversville Road), Allen Township, **Northampton County**. PP&L, Environmental Management Division has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard. This distribution pole was previously misidentified as pole #63219S50608.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995
Preamble 2

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

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any

contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

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

National Linen Services, City of Philadelphia, **Philadelphia County**. Samuel J. Kucia, Project Engineer, Pennoni Associates, 3001 Market Street, Philadelphia, PA 19104, has submitted a Notice of Intent to Remediate site soil contaminated with solvents, BTEX and polycyclic aromatic hydrocarbons; and groundwater contaminated with solvents and BTEX. The applicant proposes to remediate the site to meet the Statewide health standard with the exception of benzene and methyl chloride in groundwater which will be remediated to site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Inquirer* on November 17, 1997.

AIR POLLUTION OPERATING PERMITS

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

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

10-399-018. Resolite, A United Dominion Co. (Box 338, Rt. 19 North, Zelenople, PA 16063) for the operation of a fiberglass pultrusion process at Jackson Township, **Butler County**.

PA-24-064A. Quality Components, Inc. (R. R. 1, Box 300, Ridgway, PA 15853) for the operation of two spray paint booths at Ridgway, **Elk County**.

33-302-017. Punxsutawney Area School District (Beyer Avenue, Punxsutawney, PA 15767) for the operation of a space heating boiler at Punxsutawney, **Jefferson County**.

PA-43-300A. Atlas Resources, Inc. (P. O. Box 611, Moon Township, PA 15108) for the operation of a natural gas compressor lean burn and dehydrator at East Lacawannock, **Mercer County**.

Caparo Steel Co. (15 Roemer Blvd., Farrell, PA 16121) for the following sources at Farrell, **Mercer County**:

43-302-018A: for the operation of combustion units
43-307-048A: for the operation of a natural gas combustion cold roll and annealing furnaces

43-313-001B: for the operation of an acid regeneration plant

62-312-036. United Refining Company (P. O. Box 780, Warren, PA 16365) for the operation of an API Oil Water Separator at Warren, **Warren County**.

Notice of Intent to Issue

Phase II Acid Rain Permit Pennsylvania Power & Light Company Brunner Island Steam Electric Station York County

The Department of Environmental Protection intends to issue a Phase II Acid Rain Permit to the Pennsylvania Power & Light Company for the Brunner Island steam electric generating station located in East Manchester Township, York County.

The Brunner Island station is a major facility subject to the Acid Rain requirements of Title IV of the Federal Clean Air Act and 25 Pa. Code § 127.531. Phase II is a continuation of the Acid Rain Program and becomes effective on January 1, 2000. The requirements in the proposed permit establish each boiler's annual nitrogen oxides (NO_x) emission limit and allotment of sulfur dioxide (SO₂) allowances during the period from January 1, 2000 until the expiration of the permit.

Copies of the permit application, proposed permit and other relevant information are available for public inspection at the Southcentral Regional Office, One Ararat Boulevard, Harrisburg, PA 17110. An appointment to review the documents may be scheduled by contacting Mary DiSanto at (717) 540-5018 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

Interested persons may submit written comments, suggestions or objections to Kanubhai L. Patel, Chief, Title V Facilities Section, One Ararat Boulevard, Harrisburg, PA 17110 within 30 days of this notice. Written comments should include the name, address and telephone number of the persons submitting the comments along with a reference to the proposed permit.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the comment period. The Department will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Phase II Acid Rain Permit Pennsylvania Power & Light Company Holtwood Steam Electric Station Lancaster County

The Department of Environmental Protection intends to issue a Phase II Acid Rain Permit to the Pennsylvania

Power & Light Company for the Holtwood steam electric generating station located in Martic Township, Lancaster County.

The Holtwood station is a major facility subject to the Acid Rain requirements of Title IV of the Federal Clean Air Act and 25 Pa. Code § 127.531. Phase II is a continuation of the Acid Rain Program and becomes effective on January 1, 2000. The requirements in the proposed permit establish the annual allotment of sulfur dioxide (SO₂) allowances for the Unit 17 boiler during the period from January 1, 2000 until the expiration of the permit. The permit also contains a provision to reopen the permit to add nitrogen oxides (NO_x) requirements which are expected to be developed during the permit term.

Copies of the permit application, proposed permit and other relevant information are available for public inspection at the Southcentral Regional Office, One Ararat Boulevard, Harrisburg, PA 17110. An appointment to review the documents may be scheduled by contacting Mary DiSanto at (717) 540-5018 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

Interested persons may submit written comments, suggestions or objections to Kanubhai L. Patel, Chief, Title V Facilities Section, One Ararat Boulevard, Harrisburg, PA 17110 within 30 days of this notice. Written comments should include the name, address and telephone number of the persons submitting the comments along with a reference to the proposed permit.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the comment period. The Department will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

PLAN APPROVALS

Plan Approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

08-302-040: Taylor Packing Company, Inc. (P. O. Box 188, Wyalusing, PA 18853) for the construction of a natural gas/no. 2 fuel oil-fired boiler in Wyalusing Township, **Bradford County**. This boiler will be subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

17-303-006: Clearfield Asphalt and Construction Supply (R. R. 1, Box 179, Curwensville, PA 16833) for the construction of a batch asphalt plant and associated air cleaning device (a fabric collector) in Lawrence Township, **Clearfield County**. This plant will be subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

17-399-019: Anchor Technologies, Inc. (P. O. Box 401, DuBois, PA 15801) for the construction of a powdered metal parts sintering furnace and associated air cleaning device (a stack afterburner) in Sandy Township, **Clearfield County**.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the

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

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

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

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

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

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

Coal Applications Received

56910103. Permit Renewal. **Barbuschak Excavating** (132 Algonquin Path, Stoystown, PA 15563), commence-

ment, operation and restoration of bituminous strip mine in Shade Township, **Somerset County**, affecting 19.8 acres, receiving stream unnamed tributary to/and Miller Run; application received November 17, 1997.

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

30850103R. Patriot Mining Co., Inc. (P. O. Box 4360, Star City, WV 26505). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Greene Township, **Greene County**. Receiving streams: Whitely Creek watershed. Renewal application received: November 7, 1997.

03970110. GLR Mining, Inc. (P. O. Box 105, Clymer, PA 15728). Application received for commencement, operation and reclamation of a bituminous surface mine located in Valley Township, **Armstrong County**, proposed to affect 27.4 acres. Receiving streams: unnamed tributaries of Cowanshannock Creek to Cowanshannock Creek to the Allegheny River. Application received: November 12, 1997.

03920107R. McKay Coal Company, Inc. (R. D. 2, Templeton, PA 16259-9211). Renewal application received for continued reclamation of a bituminous surface mine located in Mahoning Township, **Armstrong County**. Receiving streams: an unnamed tributary to Cathcart Run. Renewal application received: November 19, 1997.

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

54970105. Anthraco Ltd. (Box 226, Gilberton, PA 17934), commencement, operation and restoration of an anthracite surface mine operation in Mahanoy Township, **Schuylkill County** affecting 1,006.0 acres, receiving streams none. Application received October 30, 1997.

49871304R2. West Cameron Mining (R. R. 2, Box 630, Shamokin, PA 17872), renewal of an anthracite underground mine operation in West Cameron Township, **Northumberland County** affecting 5.9 acres, receiving stream Zerbe Run. Application received October 29, 1997.

54743007T2. McClure Enterprises, Inc. (3 East McClure Avenue, Old Forge, PA 18518), transfer of an existing anthracite surface mine operation from Continental Energy Associates in Branch and Cass Townships, **Schuylkill County** affecting 326.0 acres, receiving stream West Creek. Application received October 27, 1997.

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

Noncoal Permits Received

38970302. TARMAC America (P. O. Box 468, Hanover, PA 17331), commencement, operation and restoration of a quarry operation in North Londonderry Township, **Lebanon County** affecting 97.7 acres, receiving stream none. Application received October 27, 1997.

38870301T3. Carmeuse Pennsylvania, Inc. (P. O. Box 160, Annville, PA 17003), transfer of an existing quarry operation from TARMAC America in North Londonderry, North Annville and Annville Townships, **Lebanon County** affecting 937.5 acres, receiving stream Killinger Creek. Application received October 27, 1997.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

The following Dam Safety and Encroachment permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department).

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provision of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachments Permit, or the approval of Environmental Assessments must submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

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

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E01-184. Encroachment. **Huntington Township**, Floyd Stevens, P. O. Box 247, York Springs, PA 17372. To remove the existing culvert and to construct and maintain a 48-inch diameter corrugated metal pipe culvert across an unnamed tributary to Bermudian Creek on Blueberry Road (T-589) located about 1 mile south of Gargol Village (Mount Holly Springs, PA Quadrangle N: 0.0 inch; W: 6.4 inches) in Huntington Township, **Adams County**.

E01-185. Encroachment. **DCNR, Bureau of Forestry, District 1**, Bruce Kile, 10099 Lincoln Way East, Fayetteville, PA 17222. To remove the existing structure and to construct and maintain three squash culverts, each culvert has a dimension of 42 inches by 29 inches across Conococheague Creek on Miltonberger Road located about 800 feet north of PA 233 (Caledonia Park, PA Quadrangle N: 15.2 inches; W: 4.7 inches) in Franklin Township, **Adams County**.

E05-254. Encroachment. **Terry Cover**, 524 Oak Wood Drive, Bedford, PA 15522. To fill in 0.1 acre of wetland and to construct and maintain twin 6-foot corrugated metal pipe culverts in order to construct a 1,100-foot long logging road across an unnamed tributary to Shobers Run located about 900 feet downstream of LR 05092 Bridge (Rainsburg, PA Quadrangle N: 15.0 inches; W: 7.15

inches) in Bedford Township, **Bedford County**. The applicant is required to provide 0.1 acre of replacement wetland.

E06-504. Encroachment. **Maidencreek Township**, Karl Bolognese, P. O. Box 529, Blandon, PA 19510. To relocate approximately 940 feet of the channel of a tributary to Willow Creek at a point along East Wessner Road (Fleetwood, PA Quadrangle N: 12.6 inches; W: 15.2 inches) in Maidencreek Township, **Berks County**.

E06-505. Encroachment. **Clyde Masemore**, 1784 Huffs Church Road, Barto, PA 19504. To place fill for a driveway in 0.15 acre of wetlands adjacent to the channel of a tributary to Perkiomen Creek at a point near the intersection of Huffs Church Road and Captain Wolfe Road (East Greenville, PA Quadrangle N: 10.25 inches; W: 11.75 inches) in Hereford Township, **Berks County**. The applicant is creating 0.20 acre of replacement wetlands.

E22-376. Encroachment. **Dauphin County Board of Commissioners**, Russell Sheaffer, P. O. Box 1295, Harrisburg, PA 17108. To remove a bridge having a normal span of 55 feet and an underclearance of 4.5 feet across the channel of Wiconisco Creek at a point at Arch Street (T-707) (Lykens, PA Quadrangle N: 12.38 inches; W: 9.75 inches) in Lykens Borough and Wiconisco Township, **Dauphin County**.

E21-275. Encroachment. **PA Dept. of Transportation**, Engineering District 8-0, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To extend an existing 9.33 feet by 6.25 feet arch culvert by 15 feet on the bed of an unnamed tributary to Cedar Run on SR 0641 in order to widen the turning lane at the intersection of SR 0641 (Trindle Road) and SR 2025 (Railroad Avenue) (Lemoyne, PA Quadrangle N: 19.0 inches; W: 11.85 inches) in Hampdon Township, **Cumberland County**.

E28-247. Encroachment. **Greene Township Board of Supervisors**, Charles Jamison, Jr., P. O. Box 215, Scotland, PA 17254. To remove the existing structure and to construct and maintain an 18 feet by 6.5 feet concrete box culvert across an overflow channel of the Conococheague Creek on T-415 (Brindle Road) located about 1.5 miles south of Scotland Village (Scotland, PA Quadrangle N: 12.75 inches; W: 12.3 inches) in Greene Township, **Franklin County**.

E36-643. Encroachment. **Manor Township**, Edward Goodhart, 950 West Fairway Drive, Lancaster, PA 17603. To remove the existing structure, construct and maintain dual reinforced concrete box culverts each having a 12.5-foot span × 9-foot rise across the West Branch Little Conestoga Creek on Owl Bridge Road (T-583) (Safe Harbor, PA Quadrangle N: 22.0 inches; W: 4.4 inches) in Manor Township, **Lancaster County**.

Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

E63-442. Encroachment. **Washington County Commissioners**, Courthouse Square, 100 West Beau Street, Washington, PA 15301. To remove the existing structure (Wheeling Bridge No. 21—Clinton Sprowls Bridge) and to construct and maintain a new bridge on T-448, just east from the intersection of T-448 and T-414 (Wind Ridge, PA Quadrangle N: 21.8 inches; W: 8.3 inches) in West Finley Township, **Washington County**.

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

E10-271. Encroachment. **Recmix of PA Inc.**, 359 North Pike Road, Sarver, PA 16055. To relocate approximately 1,000 linear feet of an unnamed tributary to Little Buffalo Creek (HQ-TSF) (contributory drainage area 147 acres) and to place an energy dissipater/outflow structure from the relocated watercourse in 0.04 acre of wetland. This project is necessary to expand the existing Recmix industrial facility. The project is located east of S. R. 0356 approximately 3,000 feet north of the intersection of S. R. 0356 and Riemer Road in the Village of Lernerville, (Curtisville, PA Quadrangle N: 22.6 inches; W: 1.5 inches) located in Winfield Township, **Butler County**.

ENVIRONMENTAL ASSESSMENT

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

Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor; P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

EA22-009C0. Environmental Assessment. **Triple Crown Corporation** (5351 Jaycee Avenue, Harrisburg, PA 17112). To construct and maintain a nonjurisdictional dam across a tributary to Paxton Creek (WWF) impacting a de minimis area of wetlands (PEM) equal to 0.02 acre to control stormwater at the proposed Fieldstone Farm subdivision. The proposed dam will be located approximately 1,300 feet southeast of the intersection of Crooked Hill Road and Reichert Road (Harrisburg, East, PA Quadrangle N: 12.1 inches; W: 16.3 inches) in Susquehanna Township, **Dauphin County**.

EA22-010C0. Environmental Assessment. **Levi Esh** (285 Smith Road, Millersburg, PA 17061). To construct and maintain a nonjurisdictional dam across a tributary to Little Wiconisco Creek (WWF) for the purpose of recreation located approximately 2,400 feet northeast of the intersection of Kessler Road and T-633 (Elizabethville, PA Quadrangle N: 19.10 inches; W: 13.25 inches) in Mifflin Township, **Dauphin County**.

ACTIONS

FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, 400 Market Street, Second Floor, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of

written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

Permit No. 1597201. Industrial waste. **Philadelphia Suburban Water Company**, 762 Lancaster Avenue, Bryn Mawr, PA 19010-3489. Construction and operation of a drying/storage impoundment at their Pickering Creek water treatment plant located in Phoenixville Borough, **Chester County**.

Permit No. 0991426. Sewerage. **Camp-Men-O-Lan**, 1415 Doerr Road, Quakertown, PA 18951. Construction and operation for renewal of a Part II permit to spray irrigate 10,000 gpd of treated sewage within the Hazelbach Creek drainage basin located in Milford Township, **Bucks County**.

Permit No. 2397411. Sewerage. **Delaware County Prison**, P. O. Box 23A, Thornton, PA 19373. Construction and operation of pretreatment facilities, pump station and force main to serve Delaware County Prison located in Concord Township, **Delaware County**.

Permit No. 1597407. Sewerage. **West Pikeland Township Board of Supervisors**, Route 113 and 401, Chester Springs, PA 19425. Construction and operation of a wastewater treatment facility to treat domestic sewage generated by residents of Windermere Development located in West Pikeland Township, **Chester County**.

Permit No. 1597412. Sewerage. **East Bradford Township**, 666 Copeland School Road, West Chester, PA 19380. Construction and operation of a pump station and force main to serve a proposed 66-unit subdivision on a 90 acre parcel of land in East Bradford Township, **Chester County**.

NPDES Permit No. PA0028614. Sewage. **Borough of Spring City**, 6 Church Street, Spring City, PA 19475 is authorized to discharge from a facility located in Spring City Borough, **Chester County** into the Schuylkill River.

NPDES Permit No. PA0031178. Sewage. **Melody Lake Properties**, 1045 North West End Boulevard Lot No. 10, Quakertown, PA 18951 is authorized to discharge from a facility located in Richland Township, **Bucks County** into an unnamed tributary to Tohickon Creek.

NPDES Permit No. PA0045021, Amendment No. 2. Industrial waste. **Pre Finish Metals, Inc.**, 1295 New Ford Mill Road, Morrisville, PA 19067 is authorized to discharge from a facility located in Falls Township, **Bucks County** into Biles Creek.

Northwest Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Permit No. 4097401. Sewerage. **Wyoming Area School District**, 20 Memorial Street, Exeter, PA 18643-2698. Permit to construct and operate a wastewater treatment facility to serve the existing Sarah J. Dymond Elementary School, located in Exeter Township, **Luzerne County**.

Permit No. 4897402. Sewerage. **Palmer Township Municipal Authority**, 3 Weller Place, P. O. Box 3039, Palmer, PA 18043. Permit to construct and operate a pump station to serve the New Orchard Estates Residential Development, located in Palmer Township, **Northampton County**.

NPDES Permit No. PA-0062421. Industrial waste. **Jim Thorpe Municipal Authority**, 101 E. Tenth Street, Jim Thorpe, PA 18229 is authorized to discharge from a facility located in Jim Thorpe Borough, **Carbon County** to Mauch Chunk Creek.

NPDES Permit No. PA-0032972. Sewerage. **Four Diamonds, Inc.**, 1040 N. Park Road, Wyomissing, PA 19610 is authorized to discharge from a facility (Mount Laurel Resort) located in Kidder Township, **Carbon County** to Black Creek.

NPDES Permit No. PA-0062626. Industrial waste. **Champion Spark Plug Co.**, 75 W. Main Street, Weatherly, PA 18255-1099 is authorized to discharge from a facility located in Weatherly Borough, **Carbon County** to Hazel Creek.

NPDES Permit No. PA-0009628. Industrial waste. **General Dynamics Land Systems Division**, 175 East Street, Eynon, PA 18403 is authorized to discharge from a facility located in Archbald Borough, **Lackawanna County** to Wild Cat Creek.

NPDES Permit No. PA-0029653. Sewerage. **Jewish Community Center Day Camp**, 601 Jefferson Avenue, Scranton, PA 18510 is authorized to discharge from a facility located in Covington Township, **Lackawanna County** to Spring Brook.

NPDES Permit No. PA-0013650. Industrial waste. **Chamberlain Manufacturing Corporation**, 156 Cedar Avenue, Scranton, PA 18505-1138 is authorized to discharge from a facility located in the City of Scranton, **Lackawanna County** to Roaring Brook.

NPDES Permit No. PA-0061069. Industrial waste. **Schott Glass Technologies, Inc.**, 400 York Avenue, Duryea, PA 18642 is authorized to discharge from a facility located in Duryea Borough, **Luzerne County** to the Duryea Storm Sewer to the Lackawanna River.

NPDES Permit No. PA-0061662. Sewerage. **Arrowhead Sewer Company**, HC 88, Box 305, Pocono Lake, PA 18347 is authorized to discharge from a facility located in Coolbaugh Township, **Monroe County** to the Lehigh River.

NPDES Permit No. PA-0063649. Sewerage. **Howard P. Newhard, Jr.**, Box 271, Route 209, Sciota, PA 18354 is authorized to discharge from a facility (King Arthur Dining Room) located in Hamilton Township, **Monroe County** to McMichael Creek.

NPDES Permit No. PA-0061719. Sewerage. **Pinecrest Development Corporation**, P. O. Box 760, Pocono Pines, PA 18350 is authorized to discharge from a facility located in Tobyhanna Township, **Monroe County** to Beaver Creek.

NPDES Permit No. PA-0052591. Sewerage. **Richard C. Becker**, 901 S. Best Avenue, Route 145, Walnutport, PA 18088-1218 is authorized to discharge from a facility (Walnutport Mobil Court) located in Lehigh Township, **Northampton County** to Bertsch Creek.

NPDES Permit No. PA-0063661. Industrial waste. **Penske Truck Leasing Co., L. P.**, 1182 Route 61 South, Pottsville, PA is authorized to discharge from a facility located in North Manheim Township, **Schuylkill County** to the Schuylkill River.

NPDES Permit No. PA-0043877. Sewerage. **Greater Pottsville Area Sewer Authority**, 401 N. Centre Street, P. O. Box 1163, Pottsville, PA 17901-7163 is authorized to discharge from a facility (West End Treatment Plant) located in the City of Pottsville, **Schuylkill County** to the West Branch of the Schuylkill River.

NPDES Permit No. PA-0036463. Industrial waste. **Gen Corporation, Inc.**, Hickory Drive, P. O. Box 429, Auburn, PA 17922-0429 is authorized to discharge from a facility located in West Brunswick Township, **Schuylkill County** to a wet weather channel to the Schuylkill River.

NPDES Permit No. PA-0060461. Sewerage. **Silver Lake Township Municipal Authority**, P. O. Box 1975, Brackney, PA 18812 is authorized to discharge from a facility (Laurel Lake) located in Silver Lake Township, **Susquehanna County** to Silver Lake Creek.

NPDES Permit No. PA-0061665. Sewerage. **Wallenpaupack Area School District**, HC 6, Box 6075, Hawley, PA 18428-9045 is authorized to discharge from a facility (Newfoundland Elementary School) located in Dreher Township, **Wayne County** to Wallenpaupack Creek.

NPDES Permit No. PA-0044024. Industrial waste. **Pennsylvania Fish and Boat Commission**, Benner Spring Fish Research Station, 1225 Shiloh Road, State College, PA 16801-8495 is authorized to discharge from a facility located in Mount Pleasant Township, **Wayne County** to the West Branch of the Lackawanna River.

NPDES Permit No. PA-0029416. Sewerage. **Camp Weequahic, Inc.**, 42 Underwood Drive, West Orange, NJ 07052 is authorized to discharge from a facility located in Preston Township, **Wayne County** to Sly Lake.

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

WQM Permit No. 6297201. Industrial waste. **National Forge Company**, 1 Front Street, Irvine, PA 16329. This project is for the construction and operation of a wetlands treatment system in Brokenstraw Township, **Warren County**.

WQM Permit No. 2597418. Sewage. **Dear, Inc., d/b/a Lakeview Estates**, 12430 East Lake Road, North East, PA 16428. This project is for the construction and operation of a sewage treatment facility in North East Township, **Erie County**.

NPDES Permit No. PA 0033936. Sewage. **Denny Ridge MHP**, 14842 Nickelson Drive, Meadville, PA 16335 is authorized to discharge from a facility located in Hayfield Township, **Crawford County** to an unnamed tributary to Cussewago Creek.

NPDES Permit No. PA 0103217. Sewage. **Wattsburg Area School District**, Greene Township Elementary School, P. O. Box 219, Wattsburg, PA 16442 is authorized

to discharge from a facility located in Greene Township, **Erie County** to an unnamed tributary to Four Mile Creek.

NPDES Permit No. PA 0025739. Sewage. **Borough of Port Allegany**, One Maple Street, Port Allegany, PA 16743 is authorized to discharge from a facility located in the Borough of Port Allegany, **McKean County** to the Allegheny River.

NPDES Permit No. PA 0030902. Sewage. **Fox Mobile Home Court**, 12 Lois Lane, Box 1290C, Clarendon, PA 16313-9760 is authorized to discharge from a facility located in Mead Township, **Warren County** to an unnamed tributary to Dutchman Creek.

NPDES Permit No. PA 0222429. Sewage. **Best Oil, Inc.**, 2939 Saw Mill Run Boulevard, Pittsburgh, PA 15227 is authorized to discharge from a facility located in Muddy Creek Township, **Butler County** to Muddy Creek.

NPDES Permit No. PA 0210471. Sewage. **Bessemer Municipal Authority**, P. O. Box 642, Bessemer Borough Building, Bessemer, PA 16112 is authorized to discharge from a facility located in North Beaver Township, **Lawrence County** to Hickory Run.

NPDES Permit No. PA 0090514. Sewage. **E. J. Gulick Mobile Home Park**, 123 Beatty Drive,

Saxonburg, PA 16056 is authorized to discharge from a facility located in Winfield Township, **Butler County** to an unnamed tributary to Buffalo Creek.

INDIVIDUAL PERMITS

(PAS)

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by an aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream</i>
PAS10-G250	Realen Homes 725 Talamore Drive Ambler, PA 19002	West Pikeland Township Chester County	Pickering Creek
PAS10-G256	John L. Sbarbaro, III c/o Pitt, Palma, Sbarbaro 107 South Church Street West Chester, PA 19382	West Pikeland Township Chester County	Tributary to Pickering Creek
PAS10-G269	Sunrise Development, Inc. 403 Berkley Road Haverford, PA 19041	Willistown and East Whiteland Townships Chester County	Schuylkill River
PAS10-G280	Southdown Properties Inc. 55 Country Club Drive Suite 200 Downingtown, PA 19335-3062	Caln Township Chester County	Valley Run

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10V018	Columbia Gas Transmission Corporation 1700 MacCorkle Avenue, S. E. P. O. Box 1273 Charleston, WV 25325	Pike County Lehman Township	Bushkill Creek Little Bushkill Creek Toms Creek
		Delaware Township	Hornsbeck Creek Dingman Creek Adams Creek
		Dingman Township	Raymondskill Creek
		Westfall Township	Vandermark Creek Bush Kill (Millrift) Creek
		Monroe County Smithfield Township	Cherry Creek Marshalls Creek
		Middle Smithfield Twp.	Bushkill Creek

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS105715	PA Dept. of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square 5th Floor Wilkes-Barre, PA 18711-0790	Schuylkill County Frailey Township	Martins Creek

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

PAS-10-C029. Individual NPDES. **C F Farms Partnership, Ltd.**, P. O. Box 216, Elverson, PA 19520. To implement an erosion and sedimentation control plan for construction of an industrial and office park development on 117.53 acres in Caernarvon Township, **Berks County**. The project is located on the south side of Route 23 approximately 1,500 feet west of Twin Valley Road (Elverson, PA Quadrangle N: 5.2 inches; W: 15.5 inches). Drainage will be to a tributary to the Conestoga River.

INDIVIDUAL PERMITS

(PAR)

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or other General Permit Type

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

General Permit Type—PAG-2

Facility Location

<i>County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Armstrong North Apollo Borough	PAR10B004R	Commander Homes, Inc. c/o Stanford Homes, Inc. 2001 Route 286 Pittsburgh, PA 15239	Sugar Hollow Run	Armstrong County CD (412) 548-3425

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Armstrong South Bethlehem Borough Mahoning Township	PAR10B006R	PA Department of Transportation P. O. Box 429 Indiana, PA 15701-0429	Bostonia Run Tributary to Redbank Creek	Armstrong County CD (412) 548-3425
Armstrong Kittanning Township	PAR10B008R	Kittanning Township Recreational Youth League c/o Scott Rothwell R. D. 1, Box 180B Ford City, PA 16226	Tributary to Rupp Run	Armstrong County CD (412) 548-3425
Armstrong Manor Township	PAR10B012R	Commonwealth of Pennsylvania Department of General Services 18th and Herr Streets Harrisburg, PA 17120	Garretts Run Tributary to Allegheny River	Armstrong County CD (412) 548-3425
Armstrong Mahoning Township	PAR10B013R	Department of Environmental Protection Bureau of Abandoned Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105-8476	Cathcart Run	Armstrong County CD (412) 548-3425
Armstrong Kittanning Borough	PAR10B014R	Borough of Kittanning P. O. Box 973 Kittanning, PA 16201-0973	Allegheny River	Armstrong County CD (412) 548-3425
Armstrong Redbank Township	PAR10B015R	Glenn C. Shick, Jr. Box 97 Oak Ridge, PA 16245	Unknown Tributary	Armstrong County CD (412) 548-3425
Armstrong East Franklin Township North Buffalo Township	PAR10B016R	Department of Environmental Protection Bureau of Abandoned Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105-8476	Unknown Tributary to Glade Run	Armstrong County CD (412) 548-3425
Armstrong Manor Township North Buffalo Township Ford City Borough	PAR10B017	Pennsylvania Department of Transportation District 10-0 Route 286 South P. O. Box 429 Indiana, PA 15701	Allegheny River	Armstrong County CD (412) 548-3425
Armstrong East Franklin Township Sugar Creek Township Washington Township	PAR10B019	Kittanning Suburban Joint Water Authority c/o Donald B. Norton R. R. 1, Box 23 Adrian, PA 16210-9712	Glade Run Limestone Run Allegheny River	Armstrong County CD (412) 548-3425
Beaver Center Township	PAR100201R	Frank McCracken 1128 Chapel Road Monaca, PA 15061	Tributary to Moon Run	Beaver County CD (412) 774-7090
Beaver Brighton Township	PAR100205R	Roy Long and Ben Long 135 Kerr Drive Beaver, PA 15009	Tributary to Two Mile Run	Beaver County CD (412) 774-7090
Beaver Hopewell Township	PAR100206R	G&N Development, Inc. 2210 Bryson Road Aliquippa, PA 15001	Tributary to Raccoon Creek	Beaver County CD (412) 774-7090
Beaver Chippewa Township	PAR100214R	Heintz Builders P. O. Box 1918 Cranberry Township, PA	Wallace Run	Beaver County CD (412) 774-7090
Beaver Brighton Township	PAR100218R	Landis Family LTD Partnership 102 Pine Meadows Lane Beaver, PA 15009	Tributary to Two Mile Run	Beaver County CD (412) 774-7090

NOTICES

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Beaver Brighton Township	PAR100222R	Delroy Development Company 4730 Dutch Ridge Road Beaver, PA 15009	Tributary to Four Mile Creek	Beaver County CD (412) 774-7090
Beaver Center Township	PAR100228R	Louis Pappan 1198 Mulberry Street Bridgewater, PA 15009	Tributary to Raccoon Creek	Beaver County CD (412) 774-7090
Beaver Brighton Township	PAR100230R	Township of Brighton 1300 Brighton Road Beaver, PA 15009	Tributary to Two Mile Run	Beaver County CD (412) 774-7090
Beaver Center Township	PAR100234R	FPK Properties 1252 Broadhead Road Monaca, PA 15061	Rog Run	Beaver County CD (412) 774-7090
Beaver Chippewa Township	PAR100236R	Royce Development 132 Ponderosa Drive Beaver Falls, PA 15010	North Branch Brady Run	Beaver County CD (412) 774-7090
Beaver Baden Borough Harmony Township	PAR100237R	Leroy E. Friend 211 Woodbine Drive Beaver, PA 15009	Tributary to Ohio Run	Beaver County CD (412) 774-7090
Beaver Brighton Township	PAR100238	Carnegie Development Corporation 210 N. Cedar Street New Castle, PA 16102	Six Mile Run	Beaver County CD (412) 774-7090
Indiana White Township	PAR103129R	Indiana Hospital Hospital Road P. O. Box 788 Indiana, PA 15701	Marsh Run	Indiana County CD (412) 463-7702
Indiana White Township	PAR103131R	White Township Municipal Authority 950 Indian Springs Road Indiana, PA 15701	Cherry Run	Indiana County CD (412) 463-7702
Indiana Conemaugh Township	PAR103132R	PA Department of Environmental Protection Bureau of Abandoned Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105-8476	Sulfur Run	Indiana County CD (412) 463-7702
Washington Peters Township	PAR10W096	Gary Duckworth 601 East McMurray Road McMurray, PA 15317	Brush Run	Washington County CD (412) 228-6774
Washington Somerset Township	PAR10W098	PA Department of Environmental Protection Bureau of Abandoned Mine Reclamation P. O. Box 149 Ebensburg, PA 15931-0149	Pigeon Creek	Washington County CD (412) 228-6774
Washington Cecil Township	PAR10W099	Castleman Enterprise 140 West Union Street Somerset, PA 15501		
		Black Box Corporation 1000 Park Avenue Drive Lawrence, PA 15055	Tributary to Chartiers Creek	Washington County CD (412) 228-6774
		Mosites Construction Company 4839 Campbells Run Road Pittsburgh, PA 15205		

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lackawanna County Taylor Borough City of Scranton	PAR10N054	Eugene J. Kane, Jr. Kane Properties Stauffer Ind. Park P. O. Box 931 Scranton, PA 18501	Keyser Creek	Lackawanna CD (717) 587-2607
Lehigh County South Whitehall Township	PAR10Q087	Violet Wisser 1813 Pope Road Allentown, PA 18104	Jordan Creek	Lehigh CD (610) 391-9583
Lehigh County Hanover Township	PAR10Q092	J. P. Foodservice, Inc. 1200 Hoover Avenue Allentown, PA 18103	Lehigh River	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q097	Lafarge Corporation 5160 Main Street Whitehall, PA 18052	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Lynn Township	PAR10Q001-R	Hornstein Enterprises P. O. Box 46 Whitehall, PA 18052	Maiden Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q005-R	Neil Dreslin P. O. Box 53 Limekiln, PA 19535	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Milford Township	PAR10Q007-R	Jervin, Inc. 1170 Hillview Road Allentown, PA 18103	Hosensack Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q009-R	Equity Associates 4480 Spring Mill Drive Schnecksville, PA 18078	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q011-R	Amy-Lee Development Corp. 3848 Lehigh Street Whitehall, PA 18052	Lehigh River	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q012-R	Kent Newhart 1621 N. Cedar Crest Blvd. No. 120 Allentown, PA 18103	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Milford Township	PAR10Q016-R	Harned Durham Oil Company, Inc. 4893 Buckeye Road Emmaus, PA 18049	Indian Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q020-R	Neil Dreslin P. O. Box 53 Limekiln, PA 19535	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q019-R	Salvatore Sportelli P. O. Box 109 Easton, PA 18044-0109	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q023-R	Curtis Schneck, Inc. 5426 Rte. 873 Schnecksville, PA 18078	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q024-R	Hillside Developers P. O. Box 307 Coopersburg, PA 18036	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q034-R	Franklin D. Longenbach P. O. Box 307 Broadheadsville, PA 18322	Fells Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q035-R	Aquarian Equities 3725 Remaley Street Bethlehem, PA 18017	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q036-R	John Bliss 451 Linden Street Coopersburg, PA 18036	Saucon Creek	Lehigh CD (610) 391-9583

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lehigh County Upper Saucon Township	PAR10Q037-R	Robert H. Godown 344 S. Third Street Coopersburg, PA 18036	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q039-R	Stabler Land Company 4401 Camp Mtg. Rd., Suite 100 Center Valley, PA	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q040-R	Scherersville Development P. O. Box 124 Whitehall, PA 18052	Jordan Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q042-R	Paul Kokolus 2552 Spring Street Coplay, PA 18037	Lehigh River	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q043-R	Paul Chernay P. O. Box 199 Coopersburg, PA 18036	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Lynn Township	PAR10Q045-R	Mildred Pergosky 7128 Flint Hill Road New Tripoli, PA 18066	Ontelaupsee Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q047-R	Margaret Tammaro 1744 Station Avenue Center Valley, PA 18034	Saucon Creek	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q052-R	Charles Fandl 3318 Highland Road Orefield, PA 18069	Coplay Creek	Lehigh CD (610) 391-9583
Lehigh County Whitehall Township	PAR10Q055-R	Forest Hill Homes, Inc. 1019 N. 38th Street Allentown, PA 18104	Jordan Creek	Lehigh CD (610) 391-9583
Lehigh County North Whitehall Township	PAR10Q041-R	Semmel Excavating, Inc. 5000 Springside Court Allentown, PA 18104	Mill Creek	Lehigh CD (610) 391-9583
Lehigh County South Whitehall Township	PAR10Q058-R	Pennsylvania Real Estate Inv. 455 Pennsylvania Avenue Fort Washington, PA 19034	UNT to Jordan	Lehigh CD (610) 391-9583
Lehigh County Upper Saucon Township	PAR10Q059-R	Old Bethlehem Pike Ltd. Partnership 60 West Broad Street, Suite 301 Bethlehem, PA	Saucon Creek	Lehigh CD (610) 391-9583
Erie County Millcreek Township	PAR10K078-R	Millcreek Township School District 3740 West 26th Street Erie, PA 16056	UNT to Presque Isle Bay	Erie County Cons. Dist. 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Butler County Cranberry Township	PAR10E012-R	J.B.R. Development Co. 300 Arcadia Court 9370 McKnight Road Pittsburgh, PA 15237	Brush Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-6501 (412) 284-5270
Butler County Butler Township	PAR10E046-R	Irene Stacey Mental Health Center 112 Hillvue Drive Butler, PA 16001	Butcher Run	Butler Conservation District 122 McCune Drive Butler, PA 16001-6501 (412) 284-5270

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Butler County Cranberry Township	PAR10E056-R	Mark Cozad 407 Woodcock Drive Cranberry Township, PA 16066	Brush Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-6501 (412) 284-5270
North Cornwall Township Lebanon County	PAR-10-P062	Manor Care Assisted Living FaC 11555 Darnestown Road Gaithersburg, PA 20878	Snitz Creek	Lebanon CCD 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3377
Annville Township Lebanon County	PAR-10-P063	Lebanon Valley College 101 North College Avenue Annville, PA 17003	UNT Quittapahila	Lebanon CCD 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3377
Bethel Township Lebanon County	PAR-10-P064	Pine Meadows Golf Course 199 West McKinley Avenue Myerstown, PA 17067	Little Swatara Creek	Lebanon CCD 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3377
Manchester Township York County	PAR-10-Y283	Glen Markey Willow Springs Partnership 76 Willow Springs Circle York, PA 17402	UNT to Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR-10-Y278-R	Tim Kinsley Winship Land Associates III 2700 Water Street York, PA 17403	UNT Little Conewago Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Mifflin Township Dauphin County	PAR-10-I133	New Hope Farms Farm 3 210 Fry Road Fleetwood, PA 19522	Little Wiconisco Creek	Dauphin CCD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
East Hempfield Township Lancaster County	PAR-10-O-151-R	Hempfield Brethren in Christ Church 818 Hillaire Drive Lancaster, PA 17601	Brubaker Run	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
Little Britain Township Lancaster County	PAR-10-O-151-R	Warren K. Samples P. O. Box 159 Nottingham, PA 19362	Octoraro Creek	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
Manheim Township Lancaster County	PAR-10-O-188-R	Buckwalter Enterprises 235 North Duke Street P. O. Box 1587 Lancaster, PA 17601	Bachman Run	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
Upper Leacock Township Lancaster County	PAR-10-O-224-R	Lancaster Laboratories 2425 New Holland Pike Lancaster, PA 17601	UNT Conestoga River	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
East Hempfield Township Lancaster County	PAR-10-O-233-R	Hempfield United Methodist Church 3050 Marietta Avenue Lancaster, PA 17601	UNT Swarr Run	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Upper Leacock Township Lancaster County	PAR-10-O-238-R	John Martin 950 Hartman Station Road Lancaster, PA 17601	UNT Conestoga Creek	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
West Earl Township Lancaster County	PAR-10-O-272-R	Carvell and Rick Inc. 4437 Oregon Pike Ephrata, PA 17522	Cocalico Creek	Lancaster CCD 1383 Arcadia Road Suite 5 Lancaster, PA 17601 (717) 299-5361
Susquehanna Township Dauphin County	PAR-10-I135	The Ecumenical Community c/o Country Meadows Assoc. 830 Cherry Drive Hershey, PA 17033	Spring Creek (West)	Dauphin CCD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Maidencreek Township Berks County	PAR-10-C007-R	Park Place Phase I Tigh Holding Inc. 288 Lancaster Avenue Frazer, PA 19355	Willow Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Cumru Township Berks County	PAR-10-C023-R	Thomas Gardens Townhouses Greth Development Corporation P. O. Box 305 Temple, PA 19560	UNT Wyomissing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Muhlenberg Township Berks County	PAR-10-C028-R	Reading Crest Park Muhlenberg Township Park & Rec. 555 Raymond Street Reading, PA 19605	Laurel Run Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Exeter Township Berks County	PAR-10-C030-R	The Fairways Forino Development Company 3000 Penn Avenue West Lawn, PA 19609	Antietam Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Exeter Township Berks County	PAR-10-C034-R	Long Pond Subdivision MDR Construction 38 West Lancaster Avenue Rear Shillington, PA 19607	Heisters Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
City of Reading Berks County	PAR-10-C039-R	Sweet Street Desserts Sandy Solmon, President P. O. Box 15127 Reading, PA 19612	Bernhart Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Sinking Spring Borough Sinking Spring Township Berks County	PAR-10-C046-R	Milbeth Village Section 3 Spring Associates R. D. 6, Box 20D Sinking Spring, PA 19608	Cacoosing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Washington Township Berks County	PAR-10-C055-R	Perkiomen Creek John Backenstose P. O. Box 112 Barto, PA 19504	Perkiomen Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657

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Exeter Township Berks County	PAR-10-C056-R	Antietam Creek Hills Miro Inc. 309 Strath Haven Condominium P. O. Box 180 Swathmore, PA 19081	Antietam Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Mohnton Borough Cumru Township Berks County	PAR-10-C057-R	Northridge Phase IV, IIIB, IIIC and 5 Northridge Development Assoc. 137 Chestnut Street Mohnton, PA 19540	Wyomissing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Exeter Township Berks County	PAR-10-C067-R	Farming Ridge Section 5 Key Communities Inc. 2921 Windmill Road, Suite 4 Sinking Spring, PA 19608	Monocacy Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Spring Township Berks County	PAR-10-C071-R	Werner Estate Subdivision Greth Construction P. O. Box 305 Temple, PA 19560	UNT Wyomissing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Muhlenberg Township Berks County	PAR-10-C072-R	Peters Subdivision Donald Peters 425 Mennonite Road Collegeville, PA 19426	Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
South Heidelberg Township Berks County	PAR-10-C075-R	Deer Meadows Grande Construction 424 Miller Road Sinking Spring, PA 19608	Hospital Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Cumru Township Berks County	PAR-10-C076-R	Five Mile Hill Subdivision Phase I Dibiase Construction 62 Downing Drive Wyomissing Hills, PA 19609	Wyomissing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Colebrookdale Township Berks County	PAR-10-C087-R	Colebrookdale Glen Colebrookdale Glen Partnership 112 John Robert Thomas Drive Exton, PA 19341	UNT Minister Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Spring Township Berks County	PAR-10-C097-R	Wilson High School Expansion Wilson School District 2601 Grandview Blvd. West Lawn, PA 19609	Cacoosing Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Birdsboro Borough Berks County	PAR-10-C100-R	Woodridge Forino Development Corporation 3000 Penn Avenue West Lawn, PA 19609	UNT Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Robeson Township Berks County	PAR-10-C101-R	Robeson Twp. Recreation Area Robeson Twp. Board of Supervisors R. D. 4, Box 3 Birdsboro, PA 19508	UNT Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Exeter Township Berks County	PAR-10-C102-R	Exeter Golf Club Est. Phase 2A and 2B Grande Construction 424 Miller Road Sinking Spring, PA 19608	Tributary to Antietam Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Union Township Berks County	PAR-10-C104-R	Monocacy Woods MDR Construction 38 West Lancaster Avenue Shillington, PA 19607	Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Ruscombmanor Township Berks County	PAR-10-C110-R	Ridge Crest Manor Phase II J B Ranmar Inc. c/o Alvin Woerle 219 Carsonia Avenue Reading, PA 19606	Little Mamatawny Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Tilden Township Berks County	PAR-10-C112-R	Richard Mayer Property Richard Mayer R. D. 3, Box 3876 Hamburg, PA 19526	UNT Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Penn Township Berks County	PAR-10-C118-R	Penn Twp. Community Park Penn Twp. Sharon Harrison Sec. P. O. Box 130 Bernville, PA 19506	Tulpehocken Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Jefferson Township Berks County	PAR-10-C122-R	Jefferson Park Jefferson Township 581 New Schaefferstown Road Bernville, PA 19506	Little Northkill Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Spring Township Berks County	PAR-10-C129-R	Beverly Heights Forino Developers 3000 Penn Avenue West Lawn, PA 19609	Tributaries to Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Oley Township Berks County	PAR-10-C132-R	Reifsneider Subdivision Stauffer Riefsneider R. D. 4, Box 4051 Fleetwood, PA 19522	Tributary to Manatawny Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Caernarvon Township Berks County	PAR-10-C130-R	Titanium Hearth Tech. Hemlock Road Morgantown Business Park Morgantown, PA 19543	Conestoga River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Amity Township Berks County	PAR-10-C138-R	Westridge Subdivision Phase 2 Forino Developers 3000 Penn Avenue West Lawn, PA 19609	UNT Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Upper Tulpehocken Township Berks County	PAR-10-C139-R	Ben-Cin Acres Phase I Ben and Cindy Reed P. O. Box 219 Strausstown, PA 19559	Little Northkill Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Muhlenberg Township Berks County	PAR-10-C142-R	Muhlenberg Elementary Center Muhlenberg School District 801 Bellevue Avenue Laureldale, PA 19605	Laurel Run	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Tilden Township Berks County	PAR-10-C143-R	Pleasant Hills Mobile Home Park Phase 5 GSP Management P. O. Box 278 King of Prussia, PA 19605	Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Muhlenberg Township Berks County	PAR-10-C144-R	South Temple Heights Phase II Donald Quinter 4426 Twelfth Avenue Temple, PA 19560	Laurel Run	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Maxatawny Township Berks County	PAR-10-C145-R	IFT Maxatawny Fish Farm Fred Pasi 840 Broad St. Emmaus, PA 18049	Little Lehigh Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Douglass Township Berks County	PAR-10-C146-R	Relocation Rattlesnake Hill Rd. Pottstown Trap Rock Quarries Inc. 394 Sanatoga Rd. Pottstown, PA 19464	UNT Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Exeter Township Berks County	PAR-10-C147-R	Valley Ridge Farms Forino Developers 3000 Penn Ave. West Lawn, PA 19609	Trout Run	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Spring Township Berks County	PAR-10-C152-R	Spring Ridge Wellness Center Spring Ridge Land Dev. Corp. 4 South 4th St. P. O. Box 32 Reading, PA 19603	Tulpehocken Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Maidencreek Township Berks County	PAR-10-C156-R	Blandon Meadows V Henry Inc. 1 Aspen Ave. Sinking Spring, PA 19608	Willow Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Greenwich Township Berks County	PAR-10-C160-R	Highland Estates MHP Phase III United Mobile Homes Inc. 125 Wyckoff Rd. Eatontown, NJ 07724	Mill Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Muhlenberg Township Berks County	PAR-10-C163-R	NGK Metals Corp/RCRA Corrective Action Project NGK Metal Corp. P. O. Box 13367 Reading, PA 19612	Laurel Run	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Fleetwood Borough Berks County	PAR-10-C168-R	Fleetwood High School Fleetwood Area School District North Richmond St. Fleetwood, PA 19522	Willow Crk.	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Maidencreek Township Berks County	PAR-10-C171-R	Shadow Ridge Grande Construction 424 Miller Road Sinking Spring, PA 19608	Willow Creek	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
City of Reading Berks County	PAR-10-183-R	Holy Name High School Sister Joseph Eleanore Murphy 955 East Wyomissing Blvd. Reading, PA 19611	Schuylkill River	Berks CCD 702 W. Pitt Street Suite 4 Leesport, PA 19533 (610) 372-4657
Towamencin Township Montgomery County	PAR10-T373-R	WB Homes, Inc. 538 East Main St. Lansdale, PA 19446	Unnamed Tributary to Skeppack Creek	Southeast Regional Office 555 North Lane, Suite 6010, Lee Park Conshohocken, PA 19428

General Permit Type—PAG 3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lehigh County Upper Macungie Township	PAR232206	Master Builders 23700 Chagrin Boulevard Cleveland, OH 44122-5554	Spring Creek	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553
Luzerne County Hanover Township	PAR202226	Air Products and Chemicals Inc. 827 Sans Souci Parkway Hanover Township Wilkes-Barre, PA 18702	Soloman Creek	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553
Lackawanna County Taylor Borough	PAR502201	Alliance Landfill/USA Waste Services Co. P. O. Box 28 Taylor, PA 18517	Unnamed Tributary to St. Johns Creek Snake Run	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553
Luzerne County Salem Township	PAR602219	Hevi-Duty Electric R. R. 1, River Road Berwick, PA 18603	Susquehanna River	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553
Lackawanna County Dunmore Borough	PAR602201	Denaples Auto Parts, Inc. 400 Mill St. Dunmore, PA 18512	Roaring Brook	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553
Gordon Borough Lackawanna County	PAR222208	Universal Forest Products Eastern Company, Inc. 2801 East Beltline NE Grand Rapids, MI 49525	Little Mahoney Crk.	Northeast Regional Office Regional Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553

*General Permit Type—PAG-4**Facility Location**County and Municipality**Permit No.**Applicant Name and Address**Receiving Stream or Body of Water**Contact Office and Telephone No.*Washington County
Amwell Township

PAG046136

John Prokell
R. R. 1, Box 551
New Alexandria, PA 15670Tributary to Little
Tenmile CreekSouthwest Regional
Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Indiana County
Blacklick Township

PAG046127

Edgar Baker
R. R. 5, Box 584
Blairsville, PA 15717Unnamed
intermittant
Tributary of
Blacklick CreekSouthwest Regional
Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Jefferson Township
Mercer County

PAG048466

Rickey L. and Mary L.
Whenry
500 McCullough Rd.
Sharpville, PA 16150Unnamed
Tributary of Daley
RunNorthwest Region
Water Management
230 Water St.
Meadville, PA
16335-3481
(814) 332-6942**SEWAGE FACILITIES ACT
PLAN APPROVAL****Plan Approval granted under the Pennsylvania
Sewage Facilities Act (35 P. S. §§ 750.1—750.20).***Northeast Regional Office, Water Management Program
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790,
(717) 826-2553.***Washington Township, Lehigh County**

The following announcement was previously published in the November 15, 1997 edition of the *Pennsylvania Bulletin*. At that time, the printer mistakenly replaced the word "now" with the word "not" found in the first sentence of the second paragraph of the announcement. The text of that announcement has been reprinted and follows in its correct form and now replaces the item improperly published in the November 15, 1997 edition of the *Pennsylvania Bulletin*.

The Department has reviewed the Plan Update Revision, dated November 30, 1994 (received December 1, 1994), with additional information dated August 1, 1996 (received August 2, 1996), February 7, 1997 (received February 10, 1997), March 3, 1997 (received March 4, 1997), April 25, 1997 (received April 28, 1997) and September 26, 1997 (received September 29, 1997), as submitted by Keystone Consulting Engineers, Inc.

The Department's review has found that the Plan Update Revision is now acceptable and hereby grants planning approval. This review has also not identified any significant environmental impacts resulting from this proposal.

Washington Township proposes to implement Alternate 4 as discussed in the text of the Plan Update Revision. Alternate 4 calls for the construction of wastewater collection and conveyance systems to eliminate on-lot wastewater disposal system malfunctions in the project

area. The proposed systems will serve the Villages of Emerald and Slatedale (298 edu's at 100,000 gpd), the Primerose Heights/SR0873 Area (70 edu's at 40,000 gpd) and the Riverview Acres Area (145 edu's at 52,000 gpd). The Equivalent Dwelling Unit (edu) counts for each of these areas include existing residential and commercial structures and vacant lots adjacent to the proposed sewer system and existing properties.

Wastewater from the previously identified areas of Washington Township will be conveyed to the Slatington Borough Authority's (Authority) Wastewater Treatment Facility for treatment and discharge. Although the Authority's facilities are currently under a sewer connection prohibition, the Department will allow the connection of the proposed Washington Township collection/conveyance system to the Authority's facilities. The connection of the Washington Township system will be permitted as an exception to the current sewer connection prohibition under § 94.57 of the Department's regulations (25 Pa. Code § 94.57). This section of the Department's regulations permits connections to overloaded facilities in order to eliminate public health hazards. The Department considers the currently malfunctioning on-lot wastewater disposal systems, located in the proposed Washington Township Wastewater Collection/Conveyance System's service area, to be public health hazards.

The previously described construction activities are proposed to be financed through a low-interest loan from the Pennsylvania Infrastructure Investment Authority (PENNVEST).

In addition to the previously described construction activities, Washington Township proposes to implement an on-lot sewage management program. The program and its enabling municipal ordinance will provide for the further regulation, inspection, maintenance and rehabilitation of on-lot wastewater disposal systems within Washington Township.

In accordance with the provisions of the Pennsylvania Sewage Facilities Act, 35 P. S. §§ 750.1—750.20(a) (Act 537) and Chapter 71 of the Department's regulations (25 Pa. Code Chapter 71), the Department will hold Washington Township responsible for the complete and timely implementation of the Plan Update Revision's chosen wastewater disposal alternative. Implementation of the Plan Update's chosen wastewater disposal alternative must be performed within the time frames indicated in the Plan Update Revision's most current Schedule of Implementation.

Any additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the Plan Update Revision must be in compliance with the Department's regulations and be submitted to and approved by the Department in writing.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Prompt Interim Response

Modern Glass Technology Corporation Site

Pleasant Township, Warren County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1304), has completed a prompt interim response at the Modern Glass Technology Corporation site (site). The site is located at 4 Harmer Street in Pleasant Township, Warren County, PA. The site is in the Warren County Industrial Complex (WCIC), and consists of an 8x8 foot shed (Shed), its contents and any contamination resulting from the migration of the contents of the Shed. The Warren County Development Association (WCDA) owns approximately 3.95 acres within the WCIC. The site is located on the WCDA property.

Modern Glass Technology Corporation (Modern) manufactured components used in the semi-conductor industry in the WCIC, in space leased from the WCDA, from at least 1994 until 1996. Robert G. Yorks (Yorks) is president of Modern. Since at least 1994, Yorks has been directly involved with the management of Modern's activities and personally participated in the operations of Modern, including the generation, storage and handling of all wastes, including hazardous wastes. Yorks ceased operating Modern on the WCDA property in October, 1996, and moved its operations out of this Commonwealth. As of March, 1997, Yorks had consolidated and moved all hazardous wastes remaining in Modern's leased facility to the Shed. Yorks and Modern abandoned the Shed contents in 1997.

In April, 1997, the Department issued an Order to Yorks and Modern to properly dispose the hazardous wastes in the Shed. In June, 1997, the Department filed a Petition to Enforce the Order of April, 1997, in the Commonwealth Court of Pennsylvania (Court). In July, 1997, the Court issued an order requiring Yorks to, among other things, properly dispose the hazardous wastes stored in the Shed. Yorks did not comply with the Court's order. During a July, 1997 inspection of the site, the Department determined that 11 containers of hazardous wastes remained in the Shed.

The routes of exposure of greatest concern for trespassers and workers at the WCIC included inhalation, ingestion and dermal absorption of hazardous substances that could have been released through container rupture, spillage or leakage.

The main objectives for the prompt interim response at the site were:

- 1) To protect the public and environmental receptors from direct contact risks associated with site-related hazardous substances; and
- 2) To eliminate the ongoing release and threat of release of hazardous substances into the environment from the containerized waste.

The Department considered two alternatives for the prompt interim response at the site:

Alternative 1

A "No Action" alternative provided a baseline for comparison to other alternatives. Because no action would be implemented, any present or future risks to human health, safety or the environment would remain unchanged.

Alternative 2

This alternative involved the removal and disposal of containerized wastes in the Shed at a permitted off-site facility.

The Department chose to implement Alternative 2 as the prompt interim response at the site. Alternative 2 was selected because it would, in the most cost effective manner, protect the public and environmental receptors from the risks associated with the hazardous substances at the site.

This notice is being provided under section 506(b) of HSCA. The administrative record, which contains the information that forms the basis for, and documents the selection of this response action, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, and is available for review Monday through Friday from 8 a.m. until 4 p.m.

The administrative record will be open for comment from December 6, 1997, until March 6, 1998. Persons may submit written comments into the record during this time only, by sending them to the site Project Manager, Christine Dougherty, at the Department's Northwest Regional Office, or by delivering them to that office in person.

In addition, persons may submit oral comments, for inclusion in the administrative record, at a public hearing. The Department will schedule a hearing between January 5 and February 4, 1998, if requested by one or more members of the public. Persons wishing to present comments at a hearing must register with the Department's Community Relations Coordinator, Steve Curcio before January 28, 1998, by telephone at (814) 332-6945 or in writing to the Northwest Regional Office. If no person requests to present oral comments by the date specified, a hearing will not be held. Persons interested in finding out if anyone has registered, and if a hearing will be held, should contact Steve Curcio at the telephone number noted.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings, should call Steve Curcio or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final reports.

Northeast Regional Field Office, Joseph A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Pennsylvania Power & Light Company (PP&L)—Distribution pole #63808S50135 (Weaversville Road), Allen Township, **Northampton County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to have been contaminated with PCBs (polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard. This distribution pole was previously misidentified as pole #63219S50608.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Regional Office, Regional Solid Waste Manager, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428.

Permit No. 300582. Warner Company, P. O. Box 457, Devault, PA 19432, was issued a permit modification for cessation of active landfilling operations and for approval of a closure plan for the Cedar Hollow Residual Waste Landfill located in Tredyffrin and East Whiteland Townships **Chester County**. Permit was issued by the Southeast Regional Office on November 19, 1997.

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

Permit ID No. 100277. Westmoreland Waste, LCC, R. D. 3, Box 60, Monongahela, PA 15063. Operation of a municipal waste landfill in Rostraver Township, **Westmoreland County**. Permit modification changing the ownership from the Municipal Authority of Westmoreland County to Westmoreland Waste, LCC issued in the Regional Office on November 13, 1997.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§693.1—693.27); and the Solid Waste Management Act (35 P. S. §§6018.101—6018.1003).

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

Coal Applications Issued

32920104. Permit Renewal. Opal Industries, Inc. (P. O. Box 980, Latrobe, PA 15650), commencement, operation and restoration of a bituminous strip mine in Conemaugh Township, **Indiana County**, affecting 88.0 acres; receiving stream unnamed tributary to/and Blacklegs Creek; application received September 12, 1997; permit issued November 14, 1997.

56960106. Transfer from Dunamis Resources, Inc. to Senate Coal Mines, Inc. (One Energy Place, Suite 5100, Latrobe, PA 15650), commencement, operation and restoration of a bituminous strip-auger mine in Lincoln Township, **Somerset County**, affecting 351.6 acres; receiving stream North Branch Quemahoning Creek and Homer Run; application received September 19, 1997, permit issued November 14, 1997.

11920111. Permit Renewal. R.J.C. Kohl, Inc. (P. O. Box 299, Nicktown, PA 15762), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Susquehanna Township, **Cambria County**, affecting 66.0 acres; receiving stream two unnamed tributaries to Fox Run; application received November 12, 1997; permit issued November 14, 1997.

11850102. Permit Renewal. Cooney Brothers Coal Company P. O. Box 246, Cresson, PA 16630), commencement, operation and restoration of a bituminous strip mine in Gallitzin and Logan Townships, **Cambria and**

Blair Counties, affecting 225 acres; receiving stream unnamed tributaries to Little Laurel Run; application received September 2, 1997; permit issued November 14, 1997.

56940301. Permit Revision. Keystone Lime Company, Inc. (P. O. Box 278, Springs, PA 15562), a revision to include underground mining of the Loyalhanna Limestone in Addison and Elk Lick Townships, **Somerset County**, affecting 21.2 acres; receiving streams Christner Run; application received May 14, 1997; issued November 18, 1997.

11920104. Permit Renewal. K & J Coal Company, Inc. (P. O. Box 189, Westover, PA 16692), commencement, operation and restoration of a bituminous strip-auger mine in Chest; Chest Townships; and Westover Boro, **Cambria and Clearfield Counties**, affecting 135.0 acres; receiving stream unnamed tributary to/and Chest Creek; application received August 7, 1997; permit issued November 18, 1997.

56703124. Permit Revision. Diamond T Coal Company (P. O. Box 260, Friedens, PA 15541), revision to an existing bituminous strip operation to change the postmining land use change of forestland, mine spoil, cropland and pastureland to wildlife habitat in Stonycreek Township, **Somerset County**, affecting 562.1 acres; receiving stream to Lamberts Run; application received April 29, 1997; permit issued November 19, 1997.

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

03950114. Thomas J. Smith, Inc. (R. D. 1, Box 260-D, Shelocta, PA 15774). Permit issued for commencement, operation and reclamation of a bituminous surface auger mine located in South Bend Township, **Armstrong County**, affecting 221.6 acres. Receiving streams: unnamed tributary to Sugar Run to Crooked Creek. Application received: March 21, 1997. Permit issued: November 10, 1997.

63870102R. Robinson Coal Company (200 Neville Road, Neville Island, PA 15225). Renewal issued for continued reclamation only of a bituminous surface mine located in Robinson Township, **Washington County**, affecting 70 acres. Receiving streams: unnamed tributary to Little Raccoon Run. Application received: October 3, 1997. Renewal issued: November 17, 1997.

26850112R. Christopher Resources, Inc. (P. O. Box 197, Mt. Braddock, PA 15465). Renewal issued for continued operation and reclamation of a bituminous surface mine located in Dunbar Township, **Fayette County**, affecting 158.8 acres. Receiving streams: an unnamed tributary to Gist Run and Dunbar Creek. Application received: May 22, 1997. Renewal issued: November 19, 1997.

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

54920103R. Harriman Coal Corporation (P. O. Box 127, Valley View, PA 17983), renewal of an existing anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 47.6 acres, receiving stream—none. Renewal issued November 21, 1997.

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

Coal Applications Withdrawn

03970108. Rosebud Mining Company (R. D. 9, Box 379A, Kittanning, PA 16201). Application withdrawn for

commencement, operation and reclamation of a bituminous surface auger mine located in Burrell Township, **Armstrong County**, proposed to affect 113.0 acres. Receiving streams: unnamed tributaries to Crooked Creek to the Allegheny River. Application received: October 15, 1997. Application withdrawn: November 10, 1997.

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

Noncoal Permits Issued

8074SM2T2. Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422-0465), transfer of an existing quarry operation in Whitmarsh Township, **Montgomery County** affecting 345.2 acres, receiving stream—Lorraine Run. Transfer issued November 18, 1997.

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

General Small Noncoal Authorizations Granted

66970806. William M. Ruark (P. O. Box 311, Meshoppen, PA 18630), commencement, operation and restoration of a small bluestone quarry operation in Meshoppen Township, **Wyoming County** affecting 3.0 acres, receiving stream—none. Authorization granted November 20, 1997.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment Approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board, (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), (*Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.*)

Southeast Regional Office, Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15-538. Encroachment Permit. **Realen Homes**, 725 Talamore Drive, Ambler, PA 19002. To perform the following activities associated with construction of the Pickering Meadows Residential Subdivision (a.k.a. Sbarbaro Tract):

1. To construct and maintain the Road "A" Crossing consisting of approximately 50 linear feet of 14.0-foot by 6.5-foot reinforced concrete box culvert, associated endwalls, roadway approach fill and to realign approximately 30 feet of watercourse at the upstream end of the aforementioned culvert. The culvert invert will be depressed 6 inches to accommodate the passage of fish. This work occurs in and along an unnamed tributary to Pickering Creek (HQ-TSF), and will impact a total of approximately 0.33 acre of adjacent wetlands (PFO);

2. To construct and maintain three utility line stream crossings adjacent and downstream of the Road "A" Crossing;

The site is located just east of the intersection of Conestoga Road (SR 0401) and Byers Road (SR 1022) (Downingtown USGS Quadrangle N: 15.4 inches; W: 2.0 inches) in West Pikeland Township, **Chester County**. Applicant proposes to construct 0.37 acre of replacement wetlands.

E46-775. Encroachment Permit. **Pennsylvania Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To construct and maintain a 15-foot long bridge extension consisting of prestressed concrete box beams on the upstream side of an existing tee-beam bridge with a span of 30 feet and an average underclearance of 9.5 feet, and to construct and maintain new abutment extensions, replacement wingwalls and riprap protection along the Pennypack Creek (TSF-MF). This site is located along Eaton Road (S. R. 0611), approximately 125 feet south of the Horsham Road (S. R. 0463) intersection (Ambler, PA USGS Quadrangle N: 9.8 inches, W: 0.7 inch) in Horsham Township, **Montgomery County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E46-782. Encroachment Permit. **Upper Merion Township**, 175 West Valley Forge Road, King of Prussia, PA 19406. To encroach on approximately 1,080 linear feet of Abrams Run (WWF) (a.k.a. East Branch Creek) and the 100-year floodway to rehabilitate and stabilize an eroded streambed and streambank, and protect an existing sanitary sewer line situated along the western side of the stream bank. The proposed project will include the following activities:

1. The installation of approximately 300 linear feet of 1.5 to 5.6-foot high gabion retaining walls along both sides of the stream channel, beginning at the upstream face of an existing 16.5-foot by 5-foot box culvert situated beneath Kingwood Road.

2. The placement of riprap erosion protection with filter stone or erosion control blanket along the streambed and within a 100-year floodway in the reach of stream, which extends from the terminus of the reno mattress protection near the existing railroad culvert to the Philadelphia Electric Company right-of-way, and from the aforementioned right-of-way downstream to the point where the gabion stream bank protection begins.

3. The installation of a reno mattress blanket at the downstream end of an existing 48-inch diameter CMP culvert situated beneath the Conrail Railroad tracks.

4. The removal of a gravel bar along the streambed which will cause a slight channel realignment.

The project is located between Kingwood Road and Conrail Railroad tracks, approximately 1,000 feet southeast from the intersection of the DeKalb Pike (U. S. Route 202) and Pennsylvania Turnpike (Norristown, PA Quadrangle N: 15.6 inches; W: 17.4 inches) in Upper Merion Township, **Montgomery County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E15-548. Encroachment Permit. **Jeffrey R. Bevan**, 103 Oak Tree Court, Pottstown, PA 19464. To construct and maintain a low flow driveway crossing consisting of twin 34-inch by 53-inch HERCP culverts with riprap protection, located in and along an unnamed tributary to French Creek (TSF) and to construct and maintain three 12-inch CMP culverts across a de minimis area of wetlands (PEM), within the floodplain of the unnamed tributary to French Creek. These crossings will be located on the Bevan's property, situated approximately 1,000 feet southwest of the intersection of Route 113 and Rapps Dam Road (Phoenixville, PA Quadrangle N: 0.4 inch; W: 8.2 inches) in East Pikeland Township, **Chester County**.

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E07-283. Encroachment. **Appleton Paper Mill**, Dan Hershberger, 100 Paper Mill Rd., Roaring Spring, PA 15673. To construct and maintain a 10-foot 1-inch high, 16-foot 7-inch wide, 40-foot long corrugated metal pipe arch extension to an existing 140-foot long stream enclosure for the purpose of providing safe access to kiln area in an industrial facility located at the Appleton Paper Mill (Roaring Spring, PA Quadrangle N: 15.8 inches; W: 4.3 inches) in Roaring Spring Borough, **Blair County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E21-269. Encroachment. **Larry Livingston**, 209 S. Norway St., Mechanicsburg, PA 17055. To maintain two units of steel steps within the 100-year floodway on the left bank of the Conodoguinet Creek in order to reach the left bank for fishing located about 1,500 feet west of the Sears Run Drive and Orrs Bridge Road intersection (Harrisburg West, PA Quadrangle N: 1.65 inches; W: 12.65 inches) in Hampden Township, **Cumberland County**. This permit was issued under section 105.13(e) Small Projects.

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

E02-1200. Encroachment. Place and maintain fill in 0.19 acre of wetland (PEM) for the purpose of constructing an assisted living/care facility. The project is located along the north side of Cedar Ridge Road approximately 2,400 feet west of its intersection with SR 910 (Glenshaw, PA Quadrangle N: 18.8 inches; W: 3.1 inches) in West Deer Township, **Allegheny County**. This permit authorizes the construction of 0.2 acre of replacement wetland.

E63-402. Encroachment. Remove the existing structure and to construct and maintain a bridge having a span of 24 feet with an underclearance of 8 feet across a tributary to Peters Creek to provide access to the proposed Lake Colony Development. The project is located on the west side of Bebout Road, approximately 3,700 feet south of the intersection of Bebout Road and Turkeyfoot Road (Bridgeville, PA Quadrangle N: 1.0 inch; W: 6.4 inches) in Peters Township, **Washington County**.

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

E10-270. Encroachment. **Adams Township Supervisors**, 170 Hutchman Road, Mars, PA 16046. To remove the existing structure and to construct and maintain a Con/Span precast concrete arch bridge having a span of 28 feet and a rise of 10 feet with approximately 30 feet of dumped rock stream bank stabilization in Breakneck Creek on Brickyard Road (T-391) approximately 150 feet east of Mars/Valencia Road (S. R. 3015) (Mars, PA Quadrangle N: 12.6 inches; W: 1.2 inches) located in Adams Township, **Butler County**.

E24-203. Encroachment. **Ridgway Township Supervisors**, Ridgway Drive, Ridgway, PA 15853. To remove the existing bridge and to construct and maintain the following structures on T-351 approximately 1,300 feet east of S. R. 4003 (Trambine Road) (Wilcox, PA Quadrangle N: 0.25 inch; W: 14.3 inches) located in Ridgway Township, **Elk County**: 1) A precast reinforced concrete box culvert having a 20-foot wide by 4.5-foot high waterway opening in Little Mill Creek. 2) Channel realignment and rock riprap bank protection extending approximately 50 feet upstream and downstream from the box culvert. 3) Approximately 75 feet of 9-foot high aibion basket retaining wall along the right bank of Little Mill Creek. Project includes a de minimis wetland impact associated with installation of the box culvert and roadway approach work. No replacement is required.

E25-470A. Encroachment. **Millcreek Mall Corporation, The Cafaro Company**, 1445 Belmont Avenue, P. O. Box 2186, Youngstown, OH 44504-0186. To amend existing Permit No. E25-470 (as amended November 28, 1994) to authorize the construction and maintenance of 10.7 acres of replacement wetlands located within the Conneaut Creek (WWF, MF) watershed. The replacement wetlands will be located east of S. R. 0215 adjacent to Conneaut Creek approximately 4,000 feet north of the intersection of S. R. 0215 and S. R. 3002 (West Cherry Hill Road) at Kidders Corner (East Springfield, PA Quadrangle N: 7.9 inches; W: 2.8 inches) located in Springfield Township, **Erie County**.

E33-184. Encroachment. **PA Department of Transportation, District 10-0**, P. O. Box 429, Route 286 South, Indiana, PA 15701. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear span of 53.48

feet and an underclearance of 8.5 feet across Fivemile Run on S. R. 3039, Segment 0100, Offset 0000 approximately 1,200 feet north of Swamp Run Road (Brookville, PA Quadrangle N: 3.45 inches; W: 10.8 inches) located in Knox, Rose and Pine Creek Townships, **Jefferson County**.

E43-257. Encroachment. **Consumers Pennsylvania Water Company**, Shenango Valley Division, Kenneth W. Baumann, Vice President, 665 South Dock Street, Box 572, Sharon, PA 16146-1835. To construct and maintain a raw water intake structure with partially submerged crib, 30-inch and 36-inch diameter stormwater outfall structures, a total of approximately 51 feet of concrete retaining wall and roadway improvements along the right bank and within the floodway of the Shenango River as part of the expansion and upgrade of the existing water treatment plant on the east side of North Water Street (S. R. 0718) approximately 3,400 feet north of West State Street (S. R. 0062 Business) (Sharon West, PA Quadrangle N: 21.4 inches; W: 1.6 inches) located in the City of Sharon, **Mercer County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

ENVIRONMENTAL ASSESSMENT

Environmental Assessment Approvals and Actions on 401 Certification

Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

EA46-027CO. Environmental Assessment. **JRP Development LTD.** (210 Bassett Court, Limerick, PA 19468). To construct and maintain a nonjurisdictional dam across a tributary to Scioto Creek (TSF) for the purpose of stormwater management at the proposed Ivy Ridge subdivision located approximately 1,400 feet east of the intersection of Snyder Road and Hoffmansville Road (S. R. 73) (Sassamansville, PA Quadrangle N: 10.55 inches; W: 4.30 inches) in Upper Frederick Township, **Montgomery County**.

WATER QUALITY CERTIFICATION

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

Certification Request Initiated By: Department of the Army, Philadelphia District, Corp of Engineers, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3390.

Project Description: This is an amendment to an existing section 401 Water Quality Certification issued on January 14, 1994 for the discharge of supernatant from dredge disposal sites located at Money Island and Biles Island. The modifications to the Certificate include additional monitoring requirements and effluent limits as listed:

<i>Parameter</i>	<i>Average Monthly Limit (mg/l)</i>	<i>Maximum Daily Limit (mg/l)</i>	<i>Instantaneous Maximum Limit (mg/l)</i>
Flow	16 mgd (combined limit for both sites)		
Total Suspended Solids			8,000
pH	6—9 std units at all times		
Total Antimony	0.02	0.03	
Total Cadmium	0.002	0.003	
Total Lead	0.0045	0.007	

<i>Parameter</i>	<i>Average Monthly Limit (mg/l)</i>	<i>Maximum Daily Limit (mg/l)</i>	<i>Instantaneous Maximum Limit (mg/l)</i>
Total Silver	0.005	0.008	
Total Copper	monitor only	monitor only	

Final Action on Request: Certification Granted

WATER ALLOCATIONS

Actions taken on applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—640) relating to the acquisition of rights to divert waters of this Commonwealth.

Northwest Regional Office, Regional Program Manager, Water Supply Management, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.

Permit No. WA 24-105E. Water Allocation. **St. Marys Area Joint Water Authority**, 429 Ridgway Road, St. Marys, PA 15857. Grants the applicant's right to withdraw an average of 3.22 mgd based on a 30-day average with a 5.44 mgd peak day withdrawal, when available, from the Laurel Run Reservoir. St. Marys Area Joint Water Authority serves customers located in the City of St. Marys, **Elk County**.

Type of Facility: Water Authority.

Consulting Engineer: Craig J. Bauer, KLH Engineers, Inc., 5173 Campbells Run Road, Pittsburgh, PA 15205

Permit Issued: November 18, 1997

[Pa.B. Doc. No. 97-1951. Filed for public inspection December 5, 1997, 9:00 a.m.]

Advisory Board/Committee Meeting Schedules for 1998

The following is a list of 1998 meetings for the majority of the Department of Environmental Protection's (Department) advisory boards and committees. Notice of these meetings is being given in accordance with the Sunshine Act.

These schedules and an agenda for each meeting will be available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Agricultural Advisory Board

The Agricultural Advisory Board meetings will be held the third Wednesday of the even-numbered months with the exception of the month of August, when the meeting will be held on the fourth Wednesday of the month. All meetings will begin at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building on the following dates:

February 18, 1998
April 15, 1998
June 17, 1998
August 26, 1998
October 21, 1998
December 16, 1998

Contact: Dean Auchenbach, Bureau of Water Quality Protection, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5668, or e-mail Auchenbach.Dean@a1.dep.state.pa.us.

Bituminous Mine Safety Advisory Committee

The Pennsylvania Bituminous Mine Safety Advisory Committee (BMSAC) meetings will be held at 10 a.m. in the Fayette County Health Center in Uniontown on the following dates:

January 14, 1998
April 8, 1998
July 8, 1998
October 14, 1998

Contact: Allison Trader, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (412) 439-7469, or e-mail Trader.Allison@a1.dep.state.pa.us.

Coastal Zone Advisory Committee

There will be a meeting of the Coastal Zone Advisory Committee on January 14, 1998 at 10 a.m. to review and approve 1998 State agency projects for the Coastal Zone Program and to provide participation in the review of coastal zone related programs in this Commonwealth. The meeting will be held in the 10th Floor Conference Room in the Rachel Carson State Office Building.

Contact: Robert S. Edwards, Bureau of Watershed Conservation, P. O. Box 8555, Harrisburg, PA 17105-8555, at (717) 787-5259 or e-mail Edwards.Robert@a1.dep.state.pa.us.

Mining and Reclamation Advisory Board

The Mining and Reclamation Advisory Board (MRAB) meetings will be held on the following dates. All meeting times and locations will be announced unless otherwise noted.

January 8, 1998 (16th Floor Delaware Room, Rachel Carson State Office Building)
April 16, 1998
July 2, 1998
October 15, 1998

Contact: Rod Kelley, Office of Mineral Resources, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-5338 or e-mail Kelley.Rodney@a1.dep.state.pa.us.

Radiation Protection Advisory Committee

The Radiation Protection Advisory Committee (RPAC) will meet in the First Floor Conference Room of the Rachel Carson State Office Building on the following date:

*February 19, 1998 (Snowdate is February 26, 1998)
(Time of meeting to be announced)

Contact: Stuart Levin, Bureau of Radiation Protection, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-3720, or e-mail Levin.Stuart@a1.dep.state.pa.us.

Recycling Fund Advisory Committee

The Recycling Fund Advisory Committee (RFAC) annual meeting will be held at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building on the following date:

July 9, 1998

Contact: Diana Welker or Keith Kerns, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-7382 or e-mail Welker.Diana@a1.dep.state.pa.us or Kerns.Keith@a1.dep.state.pa.us.

Sewage Advisory Committee

The Sewage Advisory Committee (SAC) meetings will be held at 10:30 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building on the following dates:

March 10, 1998
November 18, 1998

Contact: Milt Lauch, Bureau of Water Quality Protection, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 787-8184, or e-mail Lauch.Milton@a1.dep.state.pa.us.

Small Business Assistance Program Compliance Advisory Committee

The Small Business Assistance Program Compliance Advisory Committee meetings will be held at 10:30 a.m. in the large conference room on the 14th Floor of the Rachel Carson State Office Building on the following dates:

January 28, 1998
April 22, 1998
July 22, 1998
October 28, 1998

Contact: Scott Kepner, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-2330 or e-mail Kepner.Scott@a1.dep.state.pa.us.

Solid Waste Advisory Committee

The Solid Waste Advisory Committee (SWAC) meetings will be held the second Thursday of every other month; additional meetings may be scheduled to accommodate agenda items for the Committee. All meetings are expected to begin at 10 a.m. and will be held in the First Floor Conference Room in the Rachel Carson State Office Building, unless otherwise noted on the following dates:

January 8, 1998
March 12, 1998
May 14, 1998
September 10-11, 1998 (Kings Gap Environmental Education Center, Carlisle)
November 12, 1998

Contact: Rose Prough or Gayle Leader, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, or e-mail Prough.Rosetta@a1.dep.state.pa.us or Leader.Gayle@a1.dep.state.pa.us.

Storage Tank Advisory Committee

The Storage Tank Advisory Committee (STAC) meetings will be held at 10 a.m. in the 10th Floor Conference Room of the Rachel Carson State Office Building on the following dates. All meeting dates and times are subject to change and should be confirmed prior to each meeting.

February 3, 1998
June 2, 1998
October 6, 1998

Contact: C. Victor Funk, Bureau of Watershed Conservation, P. O. Box 8555, Harrisburg, PA 17105-8555, (800) 42-TANKS (toll-free within Pennsylvania) or (717) 772-5599 or e-mail Funk.Victor@a1.dep.state.pa.us.

Technical Advisory Committee on Diesel-Powered Equipment

The Technical Advisory Committee on Diesel-Powered Equipment (TAC) meetings will be held at 9 a.m. in the Fayette County Health Center in Uniontown on the following dates:

January 21, 1998
April 15, 1998
July 15, 1998
October 21, 1998

Contact: Allison Trader, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (412) 439-7469, or e-mail Trader.Allison@a1.dep.state.pa.us.

Technical Assistance Center for Small Water Systems

The Technical Assistance Center for Small Water Systems meetings will be held at 9:30 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building, unless otherwise noted, on the following dates:

February 10, 1998 (10th Floor Conference Room, Rachel Carson State Office Building)
May 12, 1998
August 11, 1998
November 10, 1998

Contact: Donna Green, Bureau of Water Quality Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 787-0122 or e-mail Green.Donna@a1.dep.state.pa.us.

Water Resources Advisory Committee

The Water Resources Advisory Committee (WRAC) meetings will be held at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building, unless otherwise noted, on the following dates:

January 14, 1998 (14th Floor Conference Room, Rachel Carson State Office Building)
March 11, 1998
May 13, 1998
July 8, 1998
September 9, 1998
November 18, 1998

Contact: Carol Young, Office of Water Management, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4686 or e-mail Young.Carol@a1.dep.state.pa.us.

Wetlands Protection Advisory Committee

The Wetlands Protection Advisory Committee (WETPAC) will meet at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building on the following dates:

January 6, 1998
March 3, 1998
May 5, 1998
July 7, 1998
September 8, 1998
November 5, 1998

Contact: Kelly Heffner, Bureau of Water Quality Protection, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 787-6827, or e-mail Heffner.Kelly@a1.dep.state.pa.us.

Citizens Advisory Council

The Citizens Advisory Council (CAC) meetings will be held at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building unless otherwise noted:

January 13, 1998 (2nd Floor Training Room, Rachel Carson State Office Building)
 February 10, 1998 (2nd Floor Training Room, Rachel Carson State Office Building)
 March 16, 1998
 April 20, 1998
 May 18, 1998
 June 15, 1998
 July 20, 1998
 September 14, 1998 (2nd Floor Training Room, Rachel Carson State Office Building)
 October 19, 1998
 November 16, 1998

Contact: Stephanie Mioff, Citizens Advisory Council, P. O. Box 8459, Harrisburg, PA 17105-8459, (717) 787-4527, or through e-mail at Mioff.Stephanie@a1.dep.state.pa.us.

Environmental Quality Board

The Environmental Quality Board (EQB) meetings will be held at 10 a.m. in the First Floor Conference Room of the Rachel Carson State Office Building on the dates listed. EQB meetings are held the third Tuesday of each month, unless otherwise noted, when agenda items are available for consideration.

January 20, 1998
 February 17, 1998
 March 17, 1998
 April 21, 1998
 May 21, 1998 (Thursday—due to Primary Election Day)
 June 16, 1998
 July 21, 1998
 August 18, 1998
 September 15, 1998
 October 20, 1998
 November 17, 1998
 December 15, 1998

Contact: Sharon Freeman, Regulatory Coordinator, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, or e-mail Freeman.Sharon@a1.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the individual listed for each board/committee or through the Pennsylvania AT&T Relay Service at 1(800)654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1952. Filed for public inspection December 5, 1997, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "June 1997 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will be adding its revised documents to the Web throughout 1997.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Persons should check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

Final Technical Guidance—Substantive Revision

DEP ID: 561-5300-101 Title: Insurance Sales Guidance Description: Directions for processing requests for insurance, inspecting structures, completing applications for insurance and creating insurance policies. Effective Date: November 4, 1997 Page Length: 6 pages Location: Vol 12, Tab 93a Contact: Dottie Shellehamer at (717) 787-5103

DEP ID: 561-5300-102 Title: Damage Claim Processing Description: Ensures the thorough, effective, efficient and economical processing of damage claims and that valid claims are paid. This applies to the processing of all MSI damage claims. Effective Date: November 3, 1997 Page Length: 7 pages Location: Vol 12, Tab 93b Contact: Dottie Shellehamer at (717) 787-5103

Final Technical Guidance—Minor Revisions

DEP ID: 383-0400-102 Title: Total Coliform Rule Staff Handbook Description: Directs and supports implementation of the Total Coliform Rule under the provisions of the DEP safe drinking water program. Effective Date: March 27, 1997 Page Length: 2 pages Location: Vol 16 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0400-103 Title: Bottled, Vended, Retail and Bulk Water Staff Handbook Description: Directs and supports implementation of the bottled, blended, retail and bulk water activities under the provisions of the DEP safe drinking water program. Effective Date: March 27, 1997 Page Length: 3 pages Location: Vol 17 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0400-107 Title: Lead and Copper Rule Staff Handbook Description: Directs and supports implementation of the Lead and Copper rule under the provisions of the DEP safe drinking water program. Effective Date: March 27, 1997 Page Length: 2 pages Location: Vol 21 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 563-2000-208 Title: Right of Entry Description: Requires an applicant to submit certain documents with the application for a permit concerning the legal right to enter and commence mining activities within the permit area. Effective Date: November 21, 1997 Page Length: 12 pages Location: Vol 12, Tab 49 Contact: Evan Shuster at (717) 787-7846

DEP ID: 580-3000-001 Title: Bureau of Deep Mine Safety Program Guidance Manual Description: This minor revision to the program guidance document reflects the structural changes as a result of the Bureau of Deep

Mine Safety's reorganization. This provides direction to the Bureau of Deep Mine Safety staff for the execution of their duties. Effective Date: September 15, 1997 Page Length: 112 pages Location: Vol 09, Tab 01 Contact: Matt Bertovich at (412) 439-7304

Notice of Intent Rescind Technical Guidance

DEP ID: 562-3900-401 Title: Citizen Complaints and Requests Description: The existing guidance is obsolete. It has been replaced with a Department-wide system for handling complaints. Anticipated Effective Date: October 3, 1996 Contact: Evan Shuster at (717) 787-7846

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1953. Filed for public inspection December 5, 1997, 9:00 a.m.]

Proposed State Plan to Implement Emission Guidelines for Municipal Waste Combustors (MWCs); Public Hearing

Under sections 111(d) and 129 of the 1990 Clean Air Act Amendments (CAA), the United States Environmental Protection Agency (EPA) promulgated standards for new large MWCs (Subpart Eb) and emission guidelines (EG) (Subpart Cb) for existing MWCs to control the emissions of the nine designated pollutants. (See 60 FR 65382, and 62 FR 45116, December 19, 1995 and August 25, 1997 respectively). These emission guidelines establish criteria for existing large MWCs using best demonstrated technology. A large MWC is considered an "existing" MWC if the MWC's capacity to combust is greater than 250 tons per day of municipal solid waste and were constructed on or before September 20, 1994.

As required under 40 CFR 60.23(a), states must submit to the EPA a State Plan to implement and enforce the requirements of the EG for MWCs within 12 months after notice of the availability of a final EG. The State Plans, developed and implemented under sections 111(d) and 129 of the CAA, are not elements of State Implementation Plans required under section 110 of the CAA.

In this Commonwealth, six existing MWC facilities are subject to the EG for MWCs. Consequently, the Department of Environmental Protection (Department) must develop a State Plan to implement the sections 111(d) and 129 requirements to control designated pollutants at existing designated MWC units. The Pennsylvania State Plan for MWCs will be submitted to the EPA no later than February 28, 1998. The Department will hold two public hearings for the purpose of accepting testimony on the proposed State Plan for designated MWC facilities. The public hearings will be held on the following dates, times and Department locations:

January 7, 1998 2 p.m.	Southeast Regional Office, Main Conference Room, 555 North Lane, Suite 6010, Conshohocken, PA 19428.
January 8, 1998 1 p.m.	Rachel Carson State Office Building, 2nd Floor Auditorium, 400 Market Street, Harrisburg, PA 17105-8468

Persons wishing to present testimony at a hearing should contact Kimberly Maneval at the Department of Environmental Protection, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325, at

least 1 week in advance of the hearing to reserve a time to present testimony. Persons who do not reserve a time to testify will be able to testify after preregistered witnesses. Each witness must keep oral testimony to 10 minutes, and submit three copies of the oral testimony at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments on the proposed State Plan should send the comments to Krishnan Ramamurthy, Chief, Technical Support Section, Division of Permits, P. O. Box 8468, Harrisburg, PA 17105-8468. Written comments must be received by the close of business on January 16, 1998. Copies of the proposed adopted State Plan for MWC may be obtained from Krishnan Ramamurthy at the above address or by telephone at (717) 787-4325 (e-mail: ramamurthy.krishnan@a1.dep.state.pa.us). This proposed State Plan is also available on the DEP Web site at <http://www.dep.state.pa.us> (choose Public Participation Center/Proposals Open for comment).

Persons with a disability who will be attending a hearing, and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact Krishnan Ramamurthy at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1954. Filed for public inspection December 5, 1997, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Draft Request of Waivers

The Appropriations Act for fiscal year 1997, passed by Congress and signed by President Clinton, included language that allows states to request waivers of the laws which govern employment and training programs. The Department of Labor and Industry on behalf of the Commonwealth of Pennsylvania has developed a draft request of waivers.

The waiver authority applies to the Job Training Partnership Act (JTPA) and to the Wagner-Peyser Act, which governs the public employment service. A waiver allows the State to be exempted from specific statutory or regulatory requirements. The waiver provisions are intended to provide flexibility to states and local areas in implementing reforms to the workforce development system in exchange for accountability for results.

The two waivers contained in this request would remove the 6-month/500-hour duration limitation for participants in on-the-job training and allow for up to 1 year of posttermination training and services.

Copies of the waiver request package may be obtained by contacting John C. Vogel, Director, Bureau of Employment Services and Training, 12th Floor, Labor and Indus-

try Building, 7th and Forster Streets, Harrisburg, PA 17120.

JOHNNY J. BUTLER
Secretary

[Pa.B. Doc. No. 97-1955. Filed for public inspection December 5, 1997, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Cool Cash Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-1—3761-15), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cool Cash.
2. *Price:* The price of a Pennsylvania Cool Cash instant lottery game ticket is \$2.00.
3. *Play Symbols:* Each Pennsylvania Cool Cash instant lottery game ticket will contain a "Your Temp" area, a "Prize" area and a "Winning Temp" area. The play symbols and their captions located in the "Your Temp" and "Winning Temp" areas are: 15° (FIFTN), 16° (SIXTN), 17° (SVNTN), 18° (EGTN), 19° (NINTN), 20° (TWENTY), 21° (TWYONE), 22° (TWYTWO), 23° (TWYTHR), 24° (TWYFOR), 25° (TWYFIV), 26° (TWYSIX), 27° (TWYSVN), 28° (TWYEGT), 29° (TWYNIN), 30° (THIRTY), 31° (THYONE), 32° (THYTWO), 33° (THYTHR), 34° (THYFOR), 35° (THYFIV), 36° (THYSIX), 37° (THYSVN), 38° (THYEGT), 39° (THYNIN), 40° (FORTY), 41° (FORONE), 42° (FORTWO), 43° (FORTHR), 44° (FORFOR), 45° (FORFIV), 46° (FORSIX), 47° (FORSVN), 48° (FOREGT), 49° (FORNIN) and 50° (FIFTY).
4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area are: \$1^{.00} (ONE DOL), \$2^{.00} (TWO DOL), \$4^{.00} (FOUR DOL), \$8^{.00} (EGT DOL), \$12\$ (TWLV), \$24\$ (TWY FOR), \$40\$ (FORTY), \$64\$ (SXY FOR), \$320 (THRHNTRY), \$3,000 (THR THO) and \$24,000 (TWYFORTHO).
5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$8, \$12, \$24, \$40, \$64, \$320, \$3,000 and \$24,000. The player can win up to eight times on each ticket.
6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Cool Cash instant lottery game.
7. *Determination of Prize Winners:*

(a) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$24,000 (TWYFORTHO)

appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$24,000.

(b) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$3,000 (THR THO) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$320 (THRHNTRY) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$320.

(d) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$64\$ (SXY FOR) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$64.

(e) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$40\$ (FORTY) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(f) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$24\$ (TWY FOR) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(g) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$12\$ (TWLV) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(h) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$8^{.00} (EGT DOL) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(i) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$4^{.00} (FOUR DOL) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(j) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$2^{.00} (TWO DOL) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(k) Holders of tickets where the "Winning Temp" play symbol matches any one of the "Your Temp" play symbols and a prize play symbol of \$1^{.00} (ONE DOL) appears to the right of the matching "Your Temp" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Match Your Temperature To The Winning Temperature With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$1 + \$1	\$2	1:10	600,000
\$2	\$2	1:18.75	320,000

*Match Your Temperature
To The Winning Temperature
With Prize(s) Of:*

	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$1 x 4	\$4	1:41.67	144,000
\$1 x 2 + \$2	\$4	1:44.12	136,000
\$2 x 2	\$4	1:39.47	152,000
\$4	\$4	1:68.18	88,000
\$1 x 8	\$8	1:107.14	56,000
\$1 x 4 + \$4	\$8	1:750	8,000
\$4 x 2	\$8	1:750	8,000
\$8	\$8	1:750	8,000
\$2 x 6	\$12	1:375	16,000
\$4 x 3	\$12	1:750	8,000
\$1 x 4 + \$2 x 4	\$12	1:750	8,000
\$12	\$12	1:750	8,000
\$2 x 6 + \$4 + \$8	\$24	1:750	8,000
\$4 x 6	\$24	1:750	8,000
\$12 x 2	\$24	1:750	8,000
\$4 x 4 + \$8	\$24	1:750	8,000
\$24	\$24	1:750	8,000
\$4 x 6 + \$8 x 2	\$40	1:1,714	3,500
\$8 x 5	\$40	1:2,400	2,500
\$4 + \$8 x 3 + \$12	\$40	1:2,400	2,500
\$4 + \$12 + \$24	\$40	1:3,000	2,000
\$40	\$40	1:4,000	1,500
\$8 x 8	\$64	1:12,000	500
\$24 + \$40	\$64	1:12,000	500
\$12 x 2 + \$40	\$64	1:12,000	500
\$8 x 5 + \$24	\$64	1:12,000	500
\$64	\$64	1:12,000	500
\$40 x 8	\$320	1:80,000	75
\$320	\$320	1:240,000	25
\$3,000	\$3,000	1:240,000	25
\$3,000 x 8	\$24,000	1:750,000	8
\$24,000	\$24,000	1:1,500,000	4

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cool Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of one year from the announced close of Pennsylvania Cool Cash, prize money on winning Pennsylvania Cool Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within one year of the announced close of the Pennsylvania Cool Cash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote

Pennsylvania Cool Cash or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-1956. Filed for public inspection December 5, 1997, 9:00 a.m.]

Pennsylvania Red Hot 7's II Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-1—3761-15), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Red Hot 7's II.

2. *Price:* The price of a Pennsylvania Red Hot 7's II instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Red Hot 7's II instant lottery game ticket will contain one play area. The play symbols, printed in either red or black ink, and their captions, printed in black ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

4. *Prize Play Symbols:* The prize play symbols and their captions, printed in black ink, located in the play area are: \$1^{.00} (ONE DOL), \$2^{.00} (TWO DOL), \$4^{.00} (FOUR DOL), \$7^{.00} (SVN DOL), \$14\$ (FRTN DOL), \$77\$ (SVTYSN) and \$7,777 (STSHSS).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$7, \$14, \$77, and \$7,777. The player can win up to five times on each ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 14,880,000 tickets will be printed for the Pennsylvania Red Hot 7's II instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$7,777 (STSHSS) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$7,777.

(b) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$77\$ (SVTYSN) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$77.

(c) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in red ink, and a prize play symbol of \$7^{.00} (SVN DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$14.

(d) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$7^{.00} (SVN DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$14.

(e) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$7^{.00} (SVN DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$7.

(f) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$4^{.00} (FOUR DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$4.

(g) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in red ink, and a prize play symbol of \$2^{.00} (TWO DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$4.

(h) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$2^{.00} (TWO DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$2.

(i) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in red ink, and a prize play symbol of \$1^{.00} (ONE DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$2.

(j) Holders of tickets with a play symbol of 7 (SEVEN), with the symbol printed in black ink, and a prize play symbol of \$1^{.00} (ONE DOL) appearing under the 7 (SEVEN) play symbol in the play area on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Find a Black "7;" or
Find a Red "7" to
Double With
Prize(s) Of:

Prize(s) Of:	Win
\$1	\$1
\$1(D)	\$2
\$2	\$2
\$2(D)	\$4
\$4	\$4
\$1(D) + \$1 + \$1 + \$1 + \$2	\$7
\$1 + \$2 + \$4	\$7
\$7	\$7
\$1 + \$1 + \$2(D) + \$4 + \$4	\$14
\$1(D) + \$4 + \$4 + \$4	\$14
\$7(D)	\$14
\$7(D) + \$7	\$21
\$1 + \$2 + \$4 + \$14	\$21
\$1 + \$2 + \$2 + \$2 + \$7(D)	\$21
\$77	\$77
\$7,777 \$7,777	

(D) = A Red 7 Doubles Prize

Approximate Odds	Approximate No. of Winners Per 14,880,000 Tickets
1:9.38	1,587,200
1:18.75	793,600
1:50	297,600
1:100	148,800
1:300	49,600
1:115.38	128,960
1:250	59,520
1:1,500	9,920
1:250	59,520
1:500	29,760
1:1,500	9,920
1:1,500	9,920
1:1,500	9,920
1:500	29,760
1:4,800	3,100
1:1,062,857	14

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Red Hot 7's II instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Red Hot 7's II, prize money on winning Pennsylvania Red Hot 7's II instant

lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Red Hot 7's II instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Red Hot 7's II or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-1957. Filed for public inspection December 5, 1997, 9:00 a.m.]

Pennsylvania Shake Rattle & Roll Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-1—3761-15), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Shake Rattle & Roll.

2. *Price:* The price of a Pennsylvania Shake Rattle & Roll instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Shake Rattle & Roll instant lottery game ticket will contain four play areas designated as "Roll 1," "Roll 2," "Roll 3" and "Roll 4." Each roll is played separately. The play symbols and their captions located in the four play areas are: a die containing one spot (ONE), a die containing two spots (TWO), a die containing three spots (THR), a die containing four spots (FOR), a die containing five spots (FIV) and a die containing six spots (SIX).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOUR DOL), \$8.⁰⁰ (EGT DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOUR HUN) and \$4,000 (FOUR THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$8, \$10, \$20, \$40, \$100, \$400 and \$4,000. The player can win up to four times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,080,000 tickets will be printed

for the Pennsylvania Shake Rattle & Roll instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$4,000 (FOUR THO) for that roll, on a single ticket, shall be entitled to a prize of \$4,000.

(b) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$400 (FOUR HUN) for that roll, on a single ticket, shall be entitled to a prize of \$400.

(c) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$100 (ONE HUN) for that roll, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$40\$ (FORTY) for that roll, on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$20\$ (TWENTY) for that roll, on a single ticket, shall be entitled to a prize of \$20.

(f) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$10.⁰⁰ (TEN DOL) for that roll, on a single ticket, shall be entitled to a prize of \$10.

(g) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$8.⁰⁰ (EGT DOL) for that roll, on a single ticket, shall be entitled to a prize of \$8.

(h) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$4.⁰⁰ (FOUR DOL) for that roll, on a single ticket, shall be entitled to a prize of \$4.

(i) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$2.⁰⁰ (TWO DOL) for that roll, on a single ticket, shall be entitled to a prize of \$2.

(j) Holders of tickets where the sum of two die totals exactly 7 or 11 in the same roll, with a prize play symbol of \$1.⁰⁰ (ONE DOL) for that roll, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

If Any Of Your Rolls Totals 7 or 11 Win Prize For That Roll With Prize(s) Of:

Win	Approximate Odds	Approximate No. of Winners Per 10,080,000 Tickets
\$1	1:13.64	739,200
\$1 + \$1	1:13.64	739,200
\$2	1:30	336,000
\$1 + \$1 + \$1 + \$1	1:88.24	114,240
\$1 x 2 + \$2	1:150	67,200
\$2 x 2	1:750	13,440
\$4	1:1,500	6,720
\$2 x 4	1:300	33,600

*If Any Of Your Rolls
Totals 7 or 11 Win Prize
For That Roll
With Prize(s) Of:*

<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 10,080,000 Tickets</i>	
\$4 + \$2 x 2	\$8	1:750	13,440
\$1 + \$1 + \$2 + \$4	\$8	1:1,500	6,720
\$4 + \$4	\$8	1:1,500	6,720
\$8	\$8	1:1,500	6,720
\$2 x 3 + \$4	\$10	1:750	13,440
\$2 + \$8	\$10	1:1,500	6,720
\$2 + \$4 x 2	\$10	1:1,500	6,720
\$10	\$10	1:1,500	6,720
\$4 x 3 + \$8	\$20	1:1,500	6,720
\$4 + \$8 x 2	\$20	1:1,500	6,720
\$2 + \$4 x 2 + \$10	\$20	1:1,500	6,720
\$2 + \$8 + \$10	\$20	1:1,500	6,720
\$20	\$20	1:1,500	6,720
\$10 x 4	\$40	1:3,529	2,856
\$10 x 2 + \$20	\$40	1:7,059	1,428
\$20 x 2	\$40	1:14,118	714
\$40	\$40	1:14,118	714
\$20 x 3 + \$40	\$100	1:34,286	294
\$20 + \$40 x 2	\$100	1:48,000	210
\$10 x 2 + \$40 x 2	\$100	1:120,000	84
\$100	\$100	1:120,000	84
\$100 x 4	\$400	1:120,000	84
\$400	\$400	1:120,000	84
\$4,000	\$4,000	1:592,941	17

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Shake Rattle & Roll instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Shake Rattle & Roll, prize money on winning Pennsylvania Shake Rattle & Roll instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Shake Rattle & Roll instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Shake Rattle & Roll or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-1958. Filed for public inspection December 5, 1997, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Retention of Engineering Firms

Lehigh County Project Reference No. 08430AG2145

The Department of Transportation will retain an engineering firm to perform pre-final; final design activities; and services during construction (shop drawing review and construction consultation) for the S. R. 0222, Section 001 relocation project (Trexlerstown) in Upper Macungie and Lower Macungie Townships, Lehigh County, Engineering District 5-0 relative to the selected alternative of the Final Environmental Impact Statement (EIS) as indicated in the Record of Decision (ROD). The estimated construction cost is \$33.6 million.

Section 001 begins near the intersection of Route 100 and Creamery Road in Lower Macungie Township and terminates at Route 100 just north of the intersection with Ruppssville Road in Upper Macungie Township for a distance of approximately 4.1 kilometers.

Section 001 consists of the construction of a four-lane divided highway on new alignment with four anticipated signalized intersections. A semi-directional, grade separated interchange will be provided at the intersection of proposed S. R. 0222 and Old Route 222. A diamond interchange will be provided at proposed S. R. 0222 and S. R. 0100. The structure over S. R. 0100 and the two ramps on the western half of the interchange will be constructed in this section. The remaining two ramps will be constructed in Section 002. In addition to constructing the mainline pavement, Section 001 will consist of widening, reconstructing or relocating of approximately 2.6 kilometers of S. R. 0100 and 3.9 kilometers of other side roads.

The selected firm will be required to perform roadway surveys; preliminary and final roadway design; soils and geological engineering investigation; erosion control plan/earth disturbance permit; preliminary and final highway and interchange lighting; value engineering submission, right-of-way plans, preliminary and final structure design; hydrologic and hydraulic analysis; maintenance and protection of traffic; preliminary and final traffic signal design; environmental studies and mitigation; utility coordination; public information meetings; P.S.&E. submission; project management; and design phase partnering.

The following factors, listed in order of importance, will be considered by the Department during evaluation of the firms submitting acceptable Letters of Interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section of the *Pennsylvania Bulletin*.
- b. Project team composition.
- c. Project team experience.
- d. Ability to expedite project and maintain schedule and budget.
- e. Past performance.
- f. Current workload.

The District will announce the shortlisted firms at an open public meeting to be held at Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, on January 29, 1998 at 10:00 a.m. All candidates that submitted a Letter of Interest will be notified by the District Office if the date is changed. Please specify a contact person in the Letter of Interest submission.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Walter E. Bortree, P.E., District Engineer, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103. Attention: Mr. David A. Earp. P.E.

Any technical questions concerning the requirements for this project should be directed to Mr. Donald E. Lerch, P.E., Engineering District 5-0, at (610) 791-6019.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

Lehigh County
Project Reference No. 08430AG2146

The Department of Transportation will retain an engineering firm to perform pre-final; final design activities; and services during construction (shop drawing review and construction consultation) for the S. R. 0222, Section 002 relocation project (Trexlerstown) in Upper Macungie and Lower Macungie Townships, Lehigh County, Engineering District 5-0 relative to the selective alternative of the Final Environmental Impact Statement (EIS) as indicated in the Record of Decision (ROD). The estimated construction cost is \$22.4 million.

Section 002 begins east of Route 100 and terminates on existing S. R. 0222 between Kressler Road and I-78 for a distance of approximately 6.1 kilometers.

Section 002 consists of the construction of a four-lane divided highway on new alignment with six (6) anticipated signalized intersections. A loop ramp will be provided between S. R. 0222 and Brookside Road near the northern project limit. A diamond interchange will be provided at proposed S. R. 0222 and S. R. 0100. The structure over S. R. 0100 and the two (2) ramps on the western half of the interchange will be constructed in

Section 001. The remaining two (2) ramps will be constructed in Section 002. In addition to constructing the mainline pavement, Section 002 will consist of widening, reconstructing or relocating of approximately 5.5 kilometers of other side roads.

The selected firm for this contract will be required to perform roadway surveys, preliminary and final roadway design; soils and geological engineering investigation; erosion control plan/earth disturbance permit; preliminary and final highway and interchange lighting; value engineering submission; right-of-way plans; preliminary and final structure design; hydrologic and hydraulic analysis; maintenance and protection of traffic; preliminary and final traffic signal design; environmental studies and mitigation; utility coordination; public information meetings, P. S.&E. submission; project management; and design phase partnering.

The following factors, listed in order of importance, will be considered by the Department during evaluation of the firms submitting acceptable Letters of Interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section of the *Pennsylvania Bulletin*.
- b. Project team composition
- c. Project team experience.
- d. Ability to expedite project and maintain schedule and budget.
- e. Past performance.
- f. Current workload.

The District will announce the shortlisted firms at an open public meeting to be held at Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, on January 29, 1998 at 10:00 a.m. All candidates that submitted a Letter of Interest will be notified by the District Office if the date is changed. Please specify a contact person in the Letter of Interest submission.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Walter E. Bortree, P.E., District Engineer, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103. Attention: Mr. David A. Earp, P.E.

Any technical questions concerning the requirements for this project should be directed to Mr. Donald E. Lerch, P.E., at Engineering District 5-0, at (610) 791-6019.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

Berks County
Project Reference No. 08430AG2147

The Department of Transportation will retain an engineering firm to provide a supplementary construction inspection staff of approximately six (6) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on the S. R. 0061, Section 10M, resurfacing and widening project in Ontelaunee and Perry Townships, Berks County. The estimated construction cost is \$9.6 million. This project involves the surfacing of divided roadway with superpave asphalt mixture design HMA wearing, leveling course, and superpave asphalt mixture design HMA binder, RPS, and superpave asphalt mixture design HMA wearing, RPS; the extension and rehabilitation of a 10'-0" x 8'-6"

reinforced concrete arch culvert; a single span precast concrete slab bridge superstructure replacement; side road adjustments; concrete pavement patching; drainage improvements; guide rail upgrading; signal installation; erosion control; and pavement markings within a length of 28,250.92 linear feet (5.351 miles).

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section of the Pennsylvania Bulletin.
- b. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving, drainage, superpave, guiderail, traffic signals and pavement markings.
- c. Understanding of Department's requirements, policies, and specifications.
- d. Past Performance.
- e. Number of available inspectors in each payroll classification.
- f. Number of NICET certified inspectors in each payroll classification.
- g. Workload.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	2 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	4 (3)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

- 1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
- 2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCIS)	\$38.21
(TCI)	\$33.44

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; one (1) of the inspector's listed should be PennDOT C.D.S. certified and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Base Radio Station
- 8 Two-way Radios
- 1 Two-Way Radio Repeater Station

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCIS	3
TCI	6

The second copy of the letter of interest and required forms, (see general requirements and information section) shall be sent to: Mr. Walter E. Bortree, P.E., District

Engineer, District 5-0, 2460 Parkwood Drive, Allentown, PA 18103. Attention Mr. Brian H. Graver.

Any technical questions concerning the requirements for this project should be directed to Mr. Brian H. Graver, District 5-0, at (610) 791-6022.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit two copies of a Letter of Interest and required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to:

Mr. Charles W. Allwein, P.E., Chief
Consultant Selection Committee
7th Floor, Forum Place,
555 Walnut Street
P.O. Box 3060
Harrisburg, Pennsylvania 17105-3060

Note: The Zip Code for express Mailing is 17101-1900

The Letter of Interest and required information must be received within thirteen (13) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 P.M. prevailing time of the thirteenth day.

The second copy of the letter of interest and required information must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If an individual, firm, or corporation not authorized to engage in the practice of engineering desires to submit a Letter of Interest, said individual, firm, or corporation may do so as part of a Joint Venture with an individual, firm, or corporation which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and

controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Each Letter of Interest must include the following information and the information must be packaged and presented in the following order:

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

The subject heading of the transmittal letter must include the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate in the body of their transmittal letter the names and Professional Engineer License Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm.

2. Project Organization Chart (one 8 1/2" x 11" page, one side)

This Chart must show key staff from the prime and each subconsultant and their area of responsibility.

3. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team).

The Standard Form 255 must be signed, dated, and filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project. Under Item 4 of this form, Column A must include the number of subconsultant personnel and Column B must include the number of prime consultant personnel to be assigned to work on this project reference number. The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantage Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, must accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint

Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the Letter of Interest, the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

These Forms must be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Form 255.

5. Workload Projection Graph (Not required for Construction Inspection Services)

Separate Workload Projection Graphs for the prime and each subconsultant shown in Item 6 of the Form 255 must be included and must indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next two-year time frame. The Workload Projection Graphs must be submitted for the office(s) where the work would be performed and must only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the Letter of Interest, the letters from proposed prime employees must be first, followed by subconsultant employees, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. Overhead Rates (one page)

A single page summary must indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public Account must be indicated. New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the

right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1959. Filed for public inspection December 5, 1997, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Borough of Somerset v. DEP; Doc. No. 96-270-MR

The Department of Environmental Protection (Department) and Borough of Somerset (Somerset) have agreed to a settlement of the above matter.

Somerset owns and operates a publicly owned water treatment works known as the Main Sewage Treatment Plant (Plant) in Somerset Township, Somerset County. On or about November 18, 1996, the Department issued NPDES Permit No. PA0021768 (NPDES Permit) to Somerset authorizing the discharge of treated sewage from the Plant to the East Branch of Coxes Creek. The NPDES Permit imposed water quality based effluent limitations (WQBELs) for total iron and, beginning the 37th month of the NPDES Permit, imposed WQBELs for Total Residual Chlorine (TRC).

Somerset appealed the issuance of the NPDES Permit to the Environmental Hearing Board challenging, inter alia, the imposition of WQBELs for total iron and TRC.

The parties have agreed to a settlement, the major provisions of which include:

1. The Department will amend the effluent limitations for total iron in the NPDES Permit. The draft NPDES Permit Amendment is attached to the Consent Order and Adjudication as Exhibit A, a copy of which may be obtained from either attorney listed.

2. Somerset shall submit to the Department results of an extensive sampling study identifying the source of total iron in the Somerset sewage facilities. The study shall also recommend how to remove and/or reduce the total iron discharging from the Plant.

3. In addition, Somerset shall submit to the Department results of a site specific study for TRC (TRC Study).

4. Upon receipt of the TRC Study, the Department shall re-evaluate the WQBELs for TRC currently set forth in the NPDES Permit.

5. In any future appeal of the Department's re-evaluation of the WQBELs for TRC, Somerset shall not challenge the validity of the formulas used by the Department to calculate the WQBELs. Somerset, however, may challenge the data input for the variables of those formulas.

6. Upon approval by the Board, the Consent Order and Adjudication shall terminate the appeal with prejudice.

7. The parties agree to bear their respective attorneys' fees, expenses and costs associated with this matter.

Copies of the full agreement are in the possession of: Bruce M. Herschlag, Assistant Counsel, Department of

Environmental Protection, Office of Chief Counsel, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4262;

John J. Dirienzo, Jr., Esq., Fike, Cascio & Boose, 124 North Center Avenue, P. O. Box 431, Somerset, PA 15501-0431, (814) 445-7948;

and at the offices of the Environmental Hearing Board and may be reviewed by an interested person on request during normal business hours.

Persons believing themselves aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457. Appeals must be filed within 20 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

The Environmental Hearing Board is empowered to approve this settlement if no objection is timely filed with the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 97-1960. Filed for public inspection December 5, 1997, 9:00 a.m.]

Elliott Turbomachinery Co., Inc. v. DEP; Doc. No. 97-157-MR

The Department of Environmental Protection (Department) and Elliott Turbomachinery Co., Inc. (Elliott) have agreed to a settlement of the above matter.

On or about June 25, 1997, the Department issued to Elliott a National Pollutant Discharge Elimination System Permit PA095176 (NPDES Permit) authorizing discharges from Elliott's facility in Jeanette, Westmoreland County to an unnamed tributary of Brush Creek, a water of the Commonwealth. Elliott timely appealed the Department's issuance of the NPDES Permit. During settlement negotiations, Elliott provided the Department additional data relating to the imposition of effluent limitations for water quality based parameters in the NPDES Permit. In addition, the parties discussed methods to reduce the concentration of oil and grease from Outfall 003 at the facility.

The parties have agreed to a settlement, the major provisions of which include:

1. The Department will amend the effluent limitations of the water quality based parameters in the NPDES Permit. The draft NPDES Permit Amendment is attached to the Consent Order and Adjudication as Exhibit A, a copy of which may be obtained from either attorney listed.

2. Elliott shall immediately investigate process changes, operational modifications or the installation of treatment facilities for oil and grease at Outfall 003, and shall timely implement the recommendations of the investigation.

3. Upon approval by the Board, the Consent Order and Adjudication shall terminate the appeal with prejudice.

4. The parties agree to bear their respective attorneys' fees, expenses and costs associated with this matter.

Copies of the full agreement are in the possession of: Bruce M. Herschlag, Assistant Counsel, Department of Environmental Protection, Office of Chief Counsel, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4262;

Donald C. Bluedorn, II, Esq., Babst, Calland, Clements & Zomnir, Two Gateway Center, Eighth Floor, Pittsburgh, PA 15222, (412) 394-5400;

and at the offices of the Environmental Hearing Board, and may be reviewed by an interested person on request during normal business hours.

Persons believing themselves aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457. Appeals must be filed within 20 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

The Environmental Hearing Board is empowered to approve this settlement if no objection is timely filed with the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 97-1961. Filed for public inspection December 5, 1997, 9:00 a.m.]

FISH AND BOAT COMMISSION

Designations of Waters Subject to Special Fishing Regulations

The Fish and Boat Commission (Commission) is republishing the following list of waters designated under 58 Pa. Code § 65.21 as "Waters Limited to Specific Purposes—Exclusive Use Areas." The Commission previously designated these waters as being for the exclusive use of children or special populations or both, posted them and provided notice of such in the *Pennsylvania Bulletin*.

<i>County</i>	<i>Water</i>	<i>Description</i>
Armstrong	Pine Ck—North Fork	From T-628 Bridge downstream to Rt. 66 Bridge (approximately 300 yards)
Centre	Tomtit Run	On State Gamelands No. 33 near Philipsburg, from mouth to Cold Stream upstream (2,500 feet)

<i>County</i>	<i>Water</i>	<i>Description</i>
Clearfield	Goss Run	From base of Brisbin Dam in Brisbin Borough downstream 150 yards (approximately 150 yards)
Crawford	Pymatuning Sportsmen's Club Pond	
Dauphin	Clarks Creek	From Rt. 225 upstream to first bridge (0.7 mile)
Dauphin	Powells Creek	On Lauden Farms and Bisking Properties, Wayne Township (first right at Powells Creek) (1/4 mile)
Erie	Girard Park Pond	Girard Borough Park Pond
Forest	Toms Run	Pond in Cook Forest State Park (1/2 acre)
Fayette	Meadow Run	Izaak Walton Park
Franklin	Conococheague Creek	On property of T. K. Nitterhouse, Guilford Township (1,148 ft)
Franklin	Conodoguinet Creek	On grounds of Lurgan Township Recreation Area (500 yds)
Franklin	Rocky Mountain Creek	Mouth of Carbaugh Run downstream to Conococheague Creek (1/2 mile)
Fulton	Ester Run	From a point opposite the home of Raymond Seville, Jr. downstream to approximately 0.4 mile below T-342
Lancaster	Big Beaver Creek	On property of Richard Smeltz and Leroy Esch, Providence Twp, off Rt. 222 approx. 0.4 mile NNW of New Providence (100 yards)
Lancaster	Fishing Creek	On property of C. Meryl Murphy, Drumore Township, near junction of T-379 and T-434 (Furniss Road and Scalpy Hollow Road) (150 yards)
Lehigh	Coplay Creek	An area extending 50 feet upstream and 50 feet downstream of a fishing pier for persons with disabilities located within the Whitehall Parkway, approximately 1/4 mile west of Route 145 in Whitehall Township (100 feet)
Monroe	Pocono Creek	Knights of Columbus and Stroudsburg Area School District properties in the Borough of Stroudsburg (300 yards)
Monroe	Tobyhanna Creek	Tobyhanna Conservation Association area in Village of Tobyhanna, Coolbaugh Township (300 yards)
Montour	Mahoning Creek	Danville Borough—Extends from Route 11 downstream (1/4 mile)
Potter	Kettle Creek	At Bridge in Cross Forks, as posted (300 yards)
Potter	Kettle Creek	In Ole Bull State Park from the concrete bridge upstream 475 feet to a wire (475 feet)
Schuylkill	Pine Creek	250 yards from Gap Street Bridge West to the waterfalls below the nursery
Union	Buffalo Creek	Between North Third and North Eighth Streets in Borough of Mifflinburg (1,200 feet)

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 97-1962. Filed for public inspection December 5, 1997, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meeting Notice

The following meeting of the Health Care Cost Containment Council has been scheduled: Wednesday, December 10, 1997, 1:30 p.m., Data Systems Committee. The meeting will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The meeting is open to the public. Persons who

need accommodation due to a disability and want to attend the meeting, should contact Cherie Kauffman, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787, at least 24 hours in advance so that arrangements can be made.

DONALD L. ZIMMERMAN,
Executive Director

[Pa.B. Doc. No. 97-1963. Filed for public inspection December 5, 1997, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11:30 a.m., Thursday, November 20, 1997, and took the following actions:

Regulations Approved:

Department of Banking #3-33: Pawnbrokers License (amends provisions of 10 Pa. Code Part V)

Department of Banking #3-31: Registration of Loan Brokers (amends provisions in 10 Pa. Code Chapter 42)

Department of Agriculture #2-97: Agricultural Conservation Easement Purchase Program (amends 7 Pa. Code to add Chapter 138e)

Unemployment Compensation Board of Review #12-43: General Requirements (amend provisions of 34 Pa. Code Chapter 101, Subchapter E)

Department of Labor and Industry #12-50: General Provisions of Act 57 of 1996 (amends 34 Pa. Code Chapters 123, 127 and 131)

Regulations Disapproved:

Department of Revenue #15-371: Tax Amnesty Program; Further Examination of Books and Records (amends 61 Pa. Code by deleting existing § 6.22 (Further examination of books and records) and adding § 8a.1 (Further examination of books and records), to Chapter 8a. (Enforcement).

Regulations Deemed Approved under section 5(g) of the Regulatory Review Act:

Department of Banking #3-32: Repeal of Various Provisions (deletes 10 Pa. Code § 13.2(b) and (c), § 13.3(a)(3) and (b), Chapter 11, Chapter 17, Chapter 35 and § 41.3(i))

Insurance Department #11-143: Deductible Program (amends 31 Pa. Code by deleting Chapter 131)

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Department of Banking—Pawnbrokers License; Doc. No. 3-33

Order

On April 1, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Banking (Department). This rulemaking would amend provisions of 10 Pa. Code Part V, relating to pawnbrokers. The authority for this regulation is found in the Pawnbrokers License Act (act), as amended by Act 163 of 1994 (63 P. S. § 281-1 et seq.). The proposed regulation was published in the April 12, 1997 edition of the *Pennsylvania Bulletin*, with a 30-day public

comment period. The final-form regulation was submitted to the Commission on October 30, 1997.

The act was established in 1937 but not amended until the passage of Act 163 in 1994. The Act 163 statutory amendments prompted the need to update the pawnbroker regulations and the Department's pawnbroker forms. The proposed amendments impose minimum capitalization requirements of \$10,000 in permanent capitalization for each pawnbroker office and up to a maximum minimum capitalization of \$100,000 for all licensed offices. Pawnbrokers are required, inter alia, to publish certain public notice information in newspapers of general circulation in connection with initial license applications and license renewals. Other clarifying changes have also been made. There are an estimated five to ten initial license applicants per year and approximately 77 currently licensed pawnbrokers.

We have reviewed this regulation and find it to be in the public interest. It incorporates changes which update the regulation consistent with the Act 163 amendments and also improve the overall clarity and consistency of its provisions.

Therefore, It Is Ordered That:

1. Regulation No. 3-33 from the Department of Banking, as submitted to the Commission on October 30, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Department of Banking—Registration of Loan Brokers; Doc. No. 3-31

Order

On January 31, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Banking (Department). This rulemaking would amend provisions in 10 Pa. Code Chapter 42, relating to the registration of loan brokers. The authority for this regulation is found in section 8 of the Credit Services Act (act) (73 P. S. § 2188). The proposed regulation was published in the February 15, 1997 edition of the *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 30, 1997.

The act was passed in 1992 partially in response to consumer complaints that unregulated loan brokers were collecting advance fees and then failing to deliver on their representations to arrange for loans, credit cards, and the like. Section 8 of the act and this regulation are designed to close a loophole of unregulated activity by loan brokers not licensed or otherwise subject to (or exempt from) other statutes. This regulation establishes procedures for loan brokers, as that term is defined in the act, to register with the Department initially and annually thereafter and provide the Department with the information specified in the regulation. In addition, the regulation provides that the Department will collect an annual registration fee of \$300. The Department estimates that approximately 50 loan brokers will be affected by this regulation.

We have reviewed this regulation and find it to be in the public interest. It will implement the loan broker registration requirements of section 8 of the act and enhance consumer protection by gathering relevant information on loan brokers subject to the act. Registration of loan brokers will also enhance the Attorney General's ability to facilitate discovery and investigation of, and enforcement action against, fraudulent loan broker activity under The Unfair Trade Practices and Consumer Protection Law (73 P. S. § 201-1 et seq.).

Therefore, It Is Ordered That:

1. Regulation No. 3-31 from the Department of Banking, as submitted to the Commission on October 30, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Department of Agriculture—Agricultural Conservation Easement Purchase Program; Doc. No. 2-97

Order

On July 16, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking amends 7 Pa. Code to add Chapter 138e relating to the Agricultural Conservation Easement Purchase Program. The authority for this regulation is section 15 of the Agricultural Area Security Law (Law) (3 P. S. § 915). The proposed regulation was published in the July 26, 1997 *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 24, 1997.

The Department has administered this program using interim Guidelines since November 25, 1995. The Law allows the Department to use interim Guidelines with the caveat that the Guidelines expire no later than December 31, 1997, and must be replaced with a duly promulgated regulation. This final-form rulemaking establishes regulatory provisions that are identical to the current Guidelines in most instances.

We have reviewed this regulation and find it to be in the public interest. This rulemaking will not adversely impact the private or the public sector because it is essentially a carryover of existing interim Guidelines, with only some minor refinements of certain provisions. Furthermore, it will satisfy the requirements of the Law which require the Department to adopt regulations to replace its Guidelines.

Therefore, It Is Ordered That:

1. Regulation No. 2-97 from the Department of Agriculture, as submitted to the Commission on October 24, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Unemployment Compensation Board of Review—General Requirements; Doc. No. 12-43

Order

On March 1, 1996, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Unemployment Compensation Board of Review (Board). This rulemaking would amend provisions of 34 Pa. Code Chapter 101, Subchapter E. The authority for this regulation is found in sections 203 and 505 of the Unemployment Compensation Law (43 P. S. §§ 763(d) and 825). The proposed regulation was published in the March 16, 1996 edition of the *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 29, 1997.

The Board submitted a previous version of the final-form regulation in January 1997, but withdrew it prior to any formal action being taken on it. It was withdrawn for reconsideration after Representative Robert E. Belfanti, Jr., Minority Chairperson of the House Committee, and several other commentators submitted comment letters objecting to certain revised provisions.

These amendments will replace the Board's former regulation on this subject which "sunsetting" on April 8, 1994, but which continued to be observed since that time by agreement of the parties. The changes are intended to correct minor problems of interpretation under the prior telephone hearings regulation.

Telephone hearings comprise about 6% to 7% of all hearings conducted. There will be some savings in time and travel costs for those persons who participate in a hearing via telephone rather than appearing in person at a designated hearing location.

We have reviewed this regulation and find it to be in the public interest. As further amended, it incorporates additional refinements which improve the clarity of the regulation and the fairness of the telephone hearings process.

Therefore, It Is Ordered That:

1. Regulation No. 12-43 from the Unemployment Compensation Board of Review, as submitted to the Commission on October 29, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Department of Labor and Industry—General Provisions of Act 57 of 1996; Doc. No. 12-50

Order

On June 19, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapters

123, 127 and 131. The authority for this regulation is contained in sections 401.1 and 435 of the Workmen's Compensation Act (77 P. S. §§ 710 and 991). The proposed regulation was published in the June 28, 1997 edition of the *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 29, 1997.

This final-form regulation addresses changes and additions to workers' compensation provisions resulting from Act 57 of 1996. The Department published a Statement of Policy (SOP) on April 5, 1997, to provide guidance. The final-form regulation replaces and elaborates on the provisions of the SOP. Pertinent provisions of the regulation concern the offset of benefits, impairment ratings, qualifications for vocational experts, earning power determinations and the process for special superseedeas.

We have reviewed this regulation and find it to be in the public interest. The regulation is necessary to implement the new provisions to the Workers Compensation Act. The regulation should decrease costs associated with workers' compensation while continuing to assist injured employees.

Therefore, It Is Ordered That:

1. Regulation No. 12-50 from the Department of Labor and Industry, as submitted to the Commission on October 29, 1997, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Department of Revenue—Tax Amnesty Program; Further examination of books and records; Doc. No. 15-371

Order

On September 13, 1995, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code by deleting existing § 6.22 (Further examination of books and records) and adding § 8a.1 (Further examination of books and records), to Chapter 8a (Enforcement). This rulemaking also amends similar language in § 35.1 (Tax examinations and assessments) to avoid conflict or confusion with § 8a.1. The authority for this regulation is 72 P. S. § 9915-A. The proposed regulation was published in the September 23, 1995 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 22, 1997.

This regulation provides for examination of all books, papers and records of a taxpayer to verify the accuracy and completeness of any tax return filed by the taxpayer or to assess any tax owed to the Commonwealth if no tax return has been filed by the taxpayer. Included in the provisions of this regulation is the use of "statistical sampling" and "block sampling" in "test audits" under certain circumstances to establish the liability of a taxpayer.

The Department has already adopted regulations which are the subject matter of this proposed rulemaking. Section 22 of Act 21 of June 30, 1995 (Act 21) (P. L. 139, No. 21) contains the Tax Amnesty Program for which the

Legislature allowed the Department to adopt regulations without going through the regulatory review process. In conjunction with implementation of the Tax Amnesty Program, and working within the time constraints of Act 21, the Department added § 6.22 (Further examination of books and records). The proposed regulation, upon which the Commission expressed strong concerns, was identical to the tax amnesty program regulation at § 6.22. The Department intends to delete § 6.22 of its regulations when the final-form version of § 8a.1 is approved.

We have reviewed this regulation and find it not to be in the public interest. The final-form regulation is an improvement over the proposed rulemaking in several areas. The Department added language to recognize the statutory provisions for the taxpayer to challenge the accuracy of a statistical sample or test audit. The Department also added definitions of the terms used in the regulation and clarified the scope of the regulation. However, the final-form regulation violates our criteria in three areas.

The first area of concern is the reasonableness and clarity of the procedures used for statistical sampling and test audits. Act 21 established 72 P. S. § 9915-A (Further Examination of Books and Records). Subsection (b) provides the following authority in part:

The department may determine the liability based upon a reasonable statistical sample or test audit performed in accordance with the regulations of the department when the individual being audited does not have complete records of transactions or when the review of each transaction or invoice would place an undue burden on the department to conduct an audit in a timely and efficient manner.

The proposed regulation did not provide guidance on the statistical certainty a statistical sampling or test audit must meet. Kirkpatrick and Lockhart commented that the proposed regulation contained little if any guidance regarding statistical sampling or test audit procedures. Kirkpatrick and Lockhart recommended reducing the statistical probability of an over-assessment to at least 5%. Keefer, Wood, Allen, and Rahal expressed similar concerns and recommended that any statistical sampling should be performed so as to produce a "95% one-sided confidence interval." The House Finance Committee commented that "As currently drafted, the regulations do not provide adequate guidelines to ensure the Department arrives at an accurate assessment." The House Finance Committee suggested that a 5% risk of over-assessment would be acceptable. We recommended the following in our Comments on the proposed rulemaking:

We strongly recommend that the Department incorporate into the final-form regulation either existing recognized standards, as mentioned by the commentators, or some reasonable standards a statistical sampling and test audit must meet. We strongly recommend including guidance on the specific degree of statistical certainty required of an audit in the final-form regulation.

In their "Comment and Response Summary" accompanying the final-form regulation, the Department stated that there was a consensus among the comments received that the regulation should be amended to provide a statistical method that would reduce the chance of over-assessment. In response, the Department added a provision to eliminate an "outlier" from the sample. However, the Department did not discuss or add any provisions which would establish the specific degree of statistical certainty required of an audit.

The final-form regulation has provisions related to the certainty of the audits. Subsection (f) of the final-form regulation requires a sample to "reasonably represent the population from which the samples were selected." Subsection (g) (Statistical estimation and software) provides "A standard error of the estimate shall be computed to indicate the reliability of the estimated average, total, or ratio." There is no mention of how the standard error would be used. However, neither of these provisions imposes a reasonable standard which an audit is required to meet.

The Majority and Democratic Chairpersons of the House Finance Committee submitted a joint letter to the Commission on November 18, 1997. The Chairpersons determined the final-form regulation does not sufficiently address the risk of over-assessment as mentioned in the Committee's comments on the proposed rulemaking. Therefore, their concern with the risk of over-assessment remains. They are concerned that this whole area could be an invitation to litigation on the quality of the statistical samples the Department uses. The Chairpersons continue to believe that the regulation should ensure that assessments relying upon a statistical sample are developed in a manner which substantially reduces the risk of over-assessment consistent with the practices of the Internal Revenue Service and the state of New York.

The purpose of a statistical sample and test audit is to determine the liability of a taxpayer. Methods are available to evaluate the precision of statistical calculations. The statute requires the liability to be "... based upon a reasonable statistical sample or test audit performed in accordance with the regulations of the department. . . ." The final-form regulation does not provide assurance that the liability determined by the Department using statistical sampling or test audit will be accurate within any degree of precision. This violates the Regulatory Review Act criteria of reasonableness and clarity.

The second area of concern is the clarity and reasonableness of the determination of whether to employ statistical sampling and test audits. The Department has the authority to use statistical sampling or test audits when complete records are not available or when the review of each transaction would place an undue burden on the Department to conduct the audit in a timely and efficient manner. The Commission recommended that the Department establish a definition of or expand upon the phrase "undue burden on the Department to conduct an audit in a timely and efficient manner."

In the "Comment and Response Summary" accompanying the final-form regulation the Department stated that it is their position that the term "undue burden" cannot be defined because each case is different. Instead, the Department stated that it modified subsection (e) to provide a list of factors the Department will consider in making a determination whether to employ a test audit. However, subsection (e) of the final-form regulation states "the department may consider" the following factors. There is a discrepancy between the "Comment and Response Summary" which requires the factors to be considered and the wording of the final-form regulation which makes consideration of the factors optional. The list of factors includes important considerations such as whether the taxpayer's business is cyclical, whether significant changes in the business occurred during the audit period, and "other relevant factors."

Subsections (f)(3) and (f)(4) provide similar provisions for specific taxes. In the proposed rulemaking these subsections provided "the Department will consider the

following factors:" However, subsections (f)(3) and (f)(4) were modified in the final-form regulation to provide "the Department may consider the following factors:" The "Comment and Response Summary" has no explanation of why subsections (f)(3) and (f)(4) of the final-form regulation were modified to make consideration of factors optional.

These changes are significant. The Department should be required to consider factors such as whether the taxpayer's business is cyclical, whether significant changes in the business occurred during the audit period, and "other relevant factors." These factors are directly related to the appropriateness of the audit. If these factors are not considered, the sample used to infer a liability for the entire population could be flawed. Therefore, the final-form regulation is ambiguous concerning factors the Department will consider for test audits.

The third and final area of concern is the clarity of the provisions regarding concurrence of the taxpayer. Subsection (f) was modified by the Department to provide the following, in part:

When a test audit method is chosen to reduce burden, or because certain records are unavailable, *or for any other reason*, the concurrence of the taxpayer in the test audit plan will be sought. In the absence of *concurrence of the block sampling method*, the Department will select blocks. . . . (Emphasis added.) We have two clarity concerns with this provision. First, we have a concern with the clarity of stating "When a test audit is chosen to reduce burden...or for any other reason. . ." It is not clear what other reasons the Department is contemplating. The statute only provides authority for test audits to reduce undue burden or when a taxpayer does not have complete records. The phrase "or for any other reason" lacks clarity and does not track the statute. Therefore, it should be removed from the final-form regulation.

Second, the phrase "In the absence of concurrence of the block sampling method" is confusing. It is not clear why a block sampling method would not be in concurrence or what comparison would be used to determine concurrence. It would appear the intent of this phrase is actually directed at the absence of concurrence of a taxpayer on the block sampling method. However, regardless of the intent, the wording of the final-form regulation lacks clarity.

Therefore, It Is Ordered That:

1. Regulation No. 15-371 from the Department of Revenue, as submitted to the Commission on October 22, 1997, is disapproved;
2. The Department of Revenue shall, within 7 days of receipt of this Order, notify the Governor, the designated Standing Committees of the House of Representatives and the Senate, and the Commission of its intention to either proceed with the promulgation of the regulation without revisions, to revise the regulation or to withdraw the regulation. Failure to submit notification within the 7-day period shall constitute withdrawal of the regulation;
3. The Commission will transmit a copy of this Order to the Legislative Reference Bureau; and
4. This Order constitutes a bar to final publication of Regulation No. 15-371 under section 6(b) of the Regulatory Review Act.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

*Department of Banking—Repeal of Various Provisions;
Doc. No. 3-32*

Order

On April 1, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Banking (Department). This rulemaking deletes 10 Pa. Code § 13.2(b) and (c), § 13.3(a)(3) and (b), Chapter 11, Chapter 17, Chapter 35 and § 41.3(i). The authority for this regulation is contained in section 103 of the Banking Code (7 P. S. § 103). The proposed regulation was published in the April 12, 1997 edition of the *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 30, 1997.

The regulation repeals various sections of the Department's regulation determined to be unnecessary or no longer consistent with the Banking Code. The revisions are being made as part of its implementation of Governor Ridge's Executive Order No.1 requiring agencies to delete obsolete or unnecessary regulations.

The final-form regulation contains no changes from the proposed regulation. We did not file any comments on the proposed regulation. Furthermore, we did not receive any negative recommendations on the final-form regulation from the Senate Banking and Insurance Committee or the House Commerce and Economic Development Committee.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 3-32 from the Department of Banking, as submitted to the Commission on October 30, 1997, was deemed approved under section 5(g) of the Regulatory Review Act on November 20, 1997.

Commissioners present: John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
November 20, 1997

Insurance Department—Deductible Program; Doc. No. 11-143

Order

On March 31, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code by deleting Chapter 131. The authority for this regulation is found in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); the Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199); and the Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. §§ 1121—1264). The proposed regulation was published in the April 19, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 20, 1997.

The Department is proposing to delete 31 Pa. Code Chapter 131 relating to the deductible program because

the substance of Chapter 131 is sufficiently addressed in the insurance law, and because the regulations in no manner enhance the authorizing statutes.

The final-form regulation contains no changes from the proposed regulation. We did not file any comments on the proposed regulation. Furthermore, we did not receive any negative recommendations on the final-form regulation from the House Insurance Committee or the Senate Banking and Insurance Committee.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 11-143 from the Insurance Department, as submitted to the Commission on October 20, 1997, was deemed approved under section 5(g) of the Regulatory Review Act on November 10, 1997.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 97-1964. Filed for public inspection December 5, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of Bush Insurance Agents and Brokers Under Act 143; Lakeland Mutual Insurance Company; Doc. No. AT97-11-004

The request for review is granted and the scheduled day for review shall be held on January 20, 1998 at 1 p.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

Lakeland Mutual Insurance Company shall provide this office within 15 days the loss ratio for agencies located in the same territory as McCorrison Agency for the past 5 years. The parties are advised that under 40 P. S. § 24 any information or documents exchanged under this order are absolutely privileged and may not be disclosed to any outside party. Failure to maintain the confidentiality of the information or documents may result in enforcement action or other civil penalty.

The agency contract at issue shall remain in force and effect pending the issuance of a Decision in this matter.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1965. Filed for public inspection December 5, 1997, 9:00 a.m.]

Agency Contract Termination of McCorrison Agency Under Act 143; American National Property & Casualty Companies; Doc. No. AT97-11-003

The request for review is granted and the scheduled day for review shall be held on January 21, 1998 at 11 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

American National Property & Casualty Companies shall provide this office within 15 days the loss ratio for agencies located in the same territory as McCorrison Agency for the past 5 years. The parties are advised that under 40 P.S. § 24 any information or documents exchanged under this order are absolutely privileged and may not be disclosed to any outside party. Failure to maintain the confidentiality of the information or documents may result in enforcement action or other civil penalty.

The agency contract at issue shall remain in force and effect pending the issuance of a Decision in this matter.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1966. Filed for public inspection December 5, 1997, 9:00 a.m.]

Appeal of Robert Golembeski Under Acts 78 and 205; Nationwide Insurance Companies; Doc. No. P97-11-011

A hearing involving the cancellation of Automobile Insurance Policy No. 58-C-378-260 and Homeowner Insurance Policy No. 58-MP-801120 shall be conducted on January 8, 1998 at 9 a.m. in the Administrative Hearing Office, Room 200, 901 N. 7th St., Harrisburg, PA 17102. For the convenience of all participants, a consolidated, yet bifurcated hearing involving both automobile and homeowner cancellations shall ensue on the same day with the automobile insurance policy cancellation occurring first followed by the homeowner cancellation hearing. Because there exists a question of timeliness for the insured's request for review for both cancellations, each bifurcated hearing shall begin with the insured presenting testimony and/or evidence to the timeliness issue as to why the Commissioner should retain jurisdiction in this matter; in other words, the insured has the initial burden to prove a justification for the Insurance Commissioner to assume jurisdiction in a matter that appears to be facially untimely. Subsequent to the submission of evidence and testimony by all parties about the timely issue for each cancellation, Nationwide shall have the burden to prove that its cancellations did not violate the respective act.

Since the timeliness of the insured's request for review for both cancellations remains at issue, the insurer's terminations of policies is affirmed pending the outcome of the hearing.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the Company must bring relevant claims files, documents, photographs, drawings, witnesses, and the like, necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. A party intending to offer documents or photographs into evidence shall bring sufficient copies to supply a copy for the record and to each opposing party. The review of the Company's action by the Acting Insurance Commissioner or her designated representative will concern whether the

Company has violated the act. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

A hearing will be held in accordance with the requirements of the Administrative Agency Law, 2 Pa.C.S. §§ 501—508 and 701—704; section 8 of The Unfair Insurance Practices Act (40 P.S. § 1171.8) and the Administrative Rules of Practice and Procedure, 1 Pa. Code § 31.1, et seq.

A written request for continuance of the scheduled hearing, for good cause, will be considered by the Presiding Officer. Prior to requesting a continuance, a party must contact the opposing party to determine whether the opposing party objects. Any request for continuance must indicate whether the opposing party objects to a continuance.

After the hearing, the Acting Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Acting Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Acting Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1967. Filed for public inspection December 5, 1997, 9:00 a.m.]

Appeal of Robert S. Robbins; Pennsylvania Assigned Risk Plan; Doc. No. P97-11-007

Under the Pennsylvania Assigned Risk Plan (Plan), section 19, that was adopted by the Insurance Commissioner under 75 Pa.C.S. § 1741, notice is given that Robert S. Robbins has requested a hearing on the determination by the Pennsylvania Assigned Risk Plan Governing Committee that his certification is revoked and that he will no longer be entitled to submit new applications to the Plan, and may no longer perform certain other activities related to the Plan.

The hearing will be held on January 20, 1998 at 11 a.m. in Hearing Room 200, Capitol Associated Building, 901 North Seventh Street, Harrisburg, PA 17102.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of the Administrative Agency Law, 2 Pa.C.S. §§ 501—508 and 701—704; section 8 of the Unfair Insurance Practices Act (40 P.S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.193, 35.225—35.251, unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written Order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to

those persons participating in the hearing or their designated representatives. The Order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1968. Filed for public inspection December 5, 1997, 9:00 a.m.]

Application for Approval to Redomesticate

Hamilton Insurance Company, a Virginia stock casualty insurance corporation, has submitted a Plan of Redomestication, whereby it proposes to redomesticate from the Commonwealth of Virginia to the Commonwealth of Pennsylvania. The filing was made under the requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. § 1 et seq. Persons wishing to comment on the redomestication are invited to submit a written statement to the Insurance Department (Department) within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 or by fax to (717) 787-8557.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1969. Filed for public inspection December 5, 1997, 9:00 a.m.]

Application for Approval to Reinsure and Assume all of the Insurance Policies of Penn Title Insurance Company by First American Title Insurance Company

First American Title Insurance Company, a California title insurance corporation, has submitted a Reinsurance and Assumption Agreement, whereby it proposes to reinsure and assume all the policies of Penn Title Insurance Company, a domestic title insurance corporation. The filing was made under to the requirements set forth under 40 P. S. § 442(a). Persons wishing to comment on the reinsurance and assumption are invited to submit a written statement to the Insurance Department (Department) within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Company

Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 or by fax to (717) 787-8557.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1970. Filed for public inspection December 5, 1997, 9:00 a.m.]

Application for Voluntary Dissolution by Boyertown Mutual Fire Insurance Company

Boyertown Mutual Fire Insurance Company, a domestic mutual fire insurance company, has submitted an application for approval of the voluntary dissolution of its charter. The filing was made under requirements set forth under the Business Corporation Law of 1988 (15 Pa.C.S. § 1 et seq.). Persons wishing to comment on the grounds of public or private interest concerning the dissolution are invited to submit a written statement to the Insurance Department (Department) within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Carolyn Smith, Licensing Specialist, Company Licensing Division, Room 1345 Strawberry Square, Harrisburg, PA 17120, or by fax to (717) 787-8557.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1971. Filed for public inspection December 5, 1997, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Zarek, Nancy; file no. 97-121-06717; State Auto Insurance Co.; doc. no. P97-11-015; January 13, 1998, at 9 a.m.;

Appeal of Greenwood, Madelon; file no. 97-124-06797; Allstate Insurance Company; doc. no. P97-11-017; January 13, 1998, at 3 p.m.;

Appeal of Apa, Jill E.; file no. 97-121-06517; Prudential Property & Casualty Ins. Co.; doc. no. P97-11-016; January 15, 1998, at 9 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured

may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1972. Filed for public inspection December 5, 1997, 9:00 a.m.]

Review Procedure Hearings under The Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insured's policies.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Clydesdale, John C.; file no. 97-267-35426; Allstate Insurance Company; doc. no. PH97-11-010; January 13, 1998, 11 a.m.;

Appeal of Glatter, Howard and Barbara; file no. 97-280-35465; Allstate Insurance Company; doc. no. PH 97-11-009; January 13, 1998, 1 p.m.;

Appeal of Bray, Russell; file no. 97-181-06742; Pennsylvania National Mutual Ins. Co.; doc. no. P97-11-012; January 14, 1998, 9 a.m.;

Appeal of Jones, Patricia A.; file no. 97-121-06453; Erie Insurance Group; doc. no. P97-11-008; January 14, 1998, 11 a.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1973. Filed for public inspection December 5, 1997, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Lancaster County, Wine & Spirits Shoppe #3610, SWC Lancaster & Poplar Streets, Adamstown, PA 19501.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,200 net useable square feet of new or existing retail commercial space on PA Route 272 within 2 miles of the intersection of Lancaster Avenue and Poplar Street, Adamstown Borough.

Proposals due: January 2, 1998 at 12 Noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Willard J. Rhodes, (717) 657-4228

Lehigh County, Wine & Spirits Shoppe #3906, 643 Main Street, Slatington, PA 18080.

Lease Expiration Date: September 30, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space within 2 miles of the intersection of Main Street (Route 873) and Walnut Street, Slatington Borough.

Proposals due: January 2, 1998 at 12 Noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Willard J. Rhodes, (717) 657-4228

JOHN E. JONES, III
Chairperson

[Pa.B. Doc. No. 97-1974. Filed for public inspection December 5, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before December 29, 1997, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00114452. Philipsburg Emergency Medical Service, Inc., (PO Box 289, Philipsburg, Centre County, PA 16866-0289), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the counties of Centre, Clearfield and Blair, and from points in said territory, to points in Pennsylvania, and return. *Attorney:* David Mason, 409 North Front Street, Philipsburg, PA 16866.

A-00114449. Javy Enterprises, Inc. (1300 Merchant Street, Ambridge, Beaver County, PA 15003), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in the counties of Beaver, Butler, Lawrence and Washington, and from points in said counties and from the county of Allegheny, to points in Pennsylvania, and return.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.

A-00114450. Michael Anthony Pounds, t/d/b/a Mike's Limousine Service (RD 1, Box 119, Penfield, Clearfield County, PA 15849)—persons in limousine service, between points in the counties of Clearfield, Blair, Elk and Jefferson, and from points in said counties, to points in Pennsylvania, and return; subject to the following conditions: (1) that no right, power or privilege is granted to provide service to airports within the said counties, and (2) that any service provided under the authority granted herein shall be rendered in vehicles having a seating capacity of seven passengers or less, excluding the driver; which is to be a transfer of all the rights authorized Clearfield Transportation Services, Inc., under the certificated issued at A-00109577, F. 2, subject to the same limitations and conditions. *Attorney:* Dwight L. Koerber, Jr., PO Box 1320, Clearfield, PA 16830.

Motor Carrier Applications—Property, Excluding Household Goods in Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsyl-

vania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265 on or before December 22, 1997.

A-00114455 Big Town Trucking, Inc.
P. O. Box 315, Glassport, PA 15045

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 97-1975. Filed for public inspection December 5, 1997, 9:00 a.m.]

Telecommunications

A-310608. Bell Atlantic-Pennsylvania, Inc. and Amro Cellular Corporation d/b/a CellularOne of Fayette and Greene Counties. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Amro Cellular Corporation d/b/a CellularOne of Fayette and Greene Counties for approval of an interconnection agreement under section 252(e) of The Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Amro Cellular Corporation d/b/a CellularOne of Fayette and Greene Counties, by its counsel, filed on October 27, 1997, at the Pennsylvania Public Utility Commission, a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Amro Cellular Corporation d/b/a CellularOne of Fayette and Greene Counties Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 97-1976. Filed for public inspection December 5, 1997, 9:00 a.m.]

Telecommunications

A-330850 F0003. GTE North Incorporated and Schuylkill Mobile Fone, Inc. Joint Application of GTE North Incorporated and Schuylkill Mobile Fone, Inc. for approval of an interconnection agreement under sections 251 and 252 of The Telecommunications Act of 1996.

GTE North Incorporated and Schuylkill Mobile Fone, Inc., by its counsel, filed on October 17, 1997, at the Pennsylvania Public Utility Commission, a joint application for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the application and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 20 days after the date of publication of this notice. Copies of the GTE North Incorporated and Schuylkill Mobile Fone, Inc. Joint Application are on file with the Pennsylvania Public Utility Commission and are available for public

inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 97-1977. Filed for public inspection December 5, 1997, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 94-001-FT37—Construction of signing for the Mon/Fayette Expressway, S. R. 0043, Section 50S between M. P. 0.1 and M. P. 9.3 in Fayette County, PA

Bid Opening Date—January 7, 1998, 11 a.m.

Bid Surety—5%

Plans, Cross-Sections, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$45 per set (Do not add sales tax) by check or P. O. Money Order (no cash) to the Turnpike Commission. Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for plans, specifications and contract documents will be made for any reason.

A mandatory prebid meeting of the project under the direction of the Engineer is scheduled for December 17, 1997, at 10 a.m., at the field office of the Construction Manager, Dick Enterprises, Inc., Fairchance Industrial Park, 100 Laurel View Drive, Suite 2, Smithfield, PA 15478, (412)564-2002.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-1978. Filed for public inspection December 5, 1997, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide	REQUIRED DATA DESCRIPTIONS
<h3 style="text-align: center;">Legal Services & Consultation—26</h3> <p style="text-align: center;">① Service Code Identification Number</p> <p style="text-align: center;">② Commodity/Supply or Contract Identification No.</p> <p>B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.</p> <p>Department: General Services Location: Harrisburg, Pa. Duration: 12/1/93-12/30/93 Contact: Procurement Division 787-0000</p> <p style="text-align: center;">③ Contract Information</p> <p style="text-align: center;">④ Department</p> <p style="text-align: center;">⑤ Location</p> <p style="text-align: center;">⑥ Duration</p> <p style="text-align: center;">⑦</p> <p>(For Commodities: Contact:) Vendor Services Section 717-787-2199 or 717-787-4705</p>	<p>① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.</p> <p>② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.</p> <p>③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.</p> <p>④ Department: State Department or Agency initiating request for advertisement.</p> <p>⑤ Location: Area where contract performance will be executed.</p> <p>⑥ Duration: Time estimate for performance and/or execution of contract.</p> <p>⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.</p> <p>(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705</p>

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

1506257 Clothing and individual equipment—420 duffel bags.

Department: Probation and Parole
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1348317 Communication equipment—1 system analog master clock systems, the master clock systems must have the ability and equipment necessary to interface with agency's existing IBM Novell 4.11 computer network systems.

Department: PA Emergency Management Agency
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1510117 Containers, packaging and packing supplies—120,000 each jugs, 1 gallon, round w/cap to be included for each jug.

Department: Correctional Industries
Location: Huntingdon, Huntingdon County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8135130 Containers, packaging and packing supplies—4 each polyethylene tanks.

Department: Transportation
Location: Franklin, Venango County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1513307 Lumber, millwork, plywood and veneer—25 each 3-1/2" x 8"x26' to 30' random lengths Douglas Fir, clear vertical grade, boating plank; 20 each 3-1/2" x 10" x 26' x 30' random length Douglas Fir clear vertical grade boating plank; 15 each 3-1/2" x 12" x 26' to 30' random lengths Douglas Fir clear vertical grade boating plank.

Department: Historical and Museum Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1487117 Paper and printing—20,000M Motor Vehicles Sticker envelopes.

Department: Correctional Industries
Location: Huntingdon, Huntingdon County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1516217 Service and trade equipment—1 each visual packaging systems, four station rotary heat sealer Model ESDS4C.

Department: Public Welfare
Location: Wernersville State Hospital, Wernersville, Berks County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1480117 Textiles—7,500 yards flannel width 60" color Storm Gray (Pantone Color No. 15-4003 TP); 1,000 yards flannel width 60" color Snow White (Pantone Color No. 11-0602 TP).

Department: Correctional Industries
Location: Dallas, Luzerne County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1508117 Textiles—30,000 yards twill, width 60" color Snow White (Pantone Color 11-0602 TP).

Department: Correctional Industries
Location: Huntingdon, Huntingdon County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

SERVICES

Audio/Video—04

1008 Contractor will be required to furnish a complete radio maintenance service, including a preventative maintenance program of such quality and quantity as to provide satisfactory operation of the system.

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: July 01, 1998 to June 30, 2001
Contact: Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

300936 Maintenance on communication system equipment: to perform maintenance service, as needed by institution, on the following equipment: base station, remote control, personal portable radios, car charging unit, car radios and as similar equipment is purchased and when warranty expires, this equipment may be added on the contract (such additional equipment shall be limited to six per contract year).

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: July 1, 1998 to June 30, 2001, a period of three (3) years
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

ME 718240 The Department of Revenue will be issuing an RFP to automate the handling of delinquent taxes collection activities in our Call Center in Harrisburg utilizing a Predictive/Preview Dialer System. The Dialer System must be compatible with our current hardware and software, which includes: IBM System/390 processor, Model 9672/R75, MVS/ESA 5.2.0, Teletext Virtual Call Center telephone system (Centrex-based ISDN architecture), Novell 4.11 LAN, MS Windows 95, IBM Pentium PC's (with CD-ROM), IMS/DB and DB2 databases, and IMS/DC and CICS teleprocessing software. Initially the system requires 50 workstations. Future considerations: up to 75 workstations, access to the agency's imaging system to/from remote field locations. Requests for the RFP should be made in writing to: Department of Revenue, Bureau of Information Services (BIS), 8th Floor Strawberry Square, Harrisburg, PA 17128-0831.

Department: Revenue
Location: Harrisburg, PA
Duration: Three years with option to extend for two one year periods
Contact: Dick Beddow, (717) 772-9639

Computer Related Services—08

IFB-11598KLN The State System of Higher Education, Dixon University Center is soliciting bids for software to be installed at Shippensburg University of PA HUB of the Keystone Library Network for backup procedures. Please call A. Jane Collier (717) 720-4086 to receive a bid package. All bids must be received in the Dixon University Center Office by 4 p.m., December 15, 1997.

Department: Information Technology System/State System of Higher Education
Location: Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110
Duration: NTE 60 days
Contact: A. Jane Collier, (717) 720-4086

ITQ-Consulting The OA/Office for Information Technology (OIT) is requesting vendors to submit a response to ITQ-consulting to provide Information Technology Consulting Services on a Statewide basis. These services will include, but are not limited to operational, organizational, financial and planning related to Information Technology Consulting services. Vendors will be prequalified through an Invitation to Qualify (ITQ) format to provide requesting Commonwealth agencies with Information Technology Consulting Services. This ITQ is for IT Consulting Services only.

Department: OA/Office for Information Technology
Location: Statewide. Agencies will secure services from prequalified vendors identified through the ITQ format
Duration: Initial 2-year agreement with three 1-year extensions
Contact: Heather Matulevich, (717) 772-8046

4300-Software The Department of Transportation, Bureau of Design is in need of the following software packages: 93 copies (estimated) MicroStation 95 for NT 4.0 by Bentley Systems (without CSP or documentation) Bentley Item No. MSA00001A-1/0550. No substitution of software will be permitted.

Department: Transportation
Location: Bureau of Design, 555 Walnut Street, 7th Floor Forum Place, Harrisburg, PA 17101-1900
Duration: n/a
Contact: Nancy Baker or Steve Grimme, (717) 787-3311 or 783-0342

Construction Maintenance—09

Project No. 409-DO Lock Haven University of PA, of the State System of Higher Education (SSHE) is seeking bids for general, plumbing, electrical, mechanical, and sprinkler system construction for the renovation/upgrade of the university's Bentley Dining Hall, Project No. 409-DO. A prebid meeting will be held December 16, 1997 (12:45 p.m.) in Robinson Hall, Hall of Flags Auditorium. All prospective contractors are encouraged to attend. Bids are due and will be opened publicly on January 8, 1997 at 2 p.m. For further information, or to request contract documents at a nonrefundable cost of \$125, bidders can contact Deborah Predmore of Brinjac, Kambic & Associates, 114 North Second Street, Harrisburg, PA 17101, (717) 233-4502. Prevailing Wages and Contract Bonds apply. The System encourages responses from small firms, minority owned firms, women-owned firms, and firms which may not have previously performed work for the System. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and of the State System of Higher Education.

Department: State System of Higher Education
Location: Lock Haven University of PA, Bentley Hall, North Fairview Street, Lock Haven, PA 17745
Duration: Late Spring/Entire Summer, 1998
Contact: Brinjac, Kambic & Associates, Inc., (717) 233-4502

RFP 20-97 Architectural Services Bloomsburg University of the State System of Higher Education, will select a firm for the purpose of professional design services, through all phases of construction for the old Andruss Library renovations from a library to a student services center. Interested professionals should call Joe Quinn, (717) 389-4311 prior to December 23, 1997 to obtain a request for proposal for this project. The services required will be renovations to an existing building at the university. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously worked for the System. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education. The proposal packages will be released in late December or early January 1998, and all required information including, prebid dates; bid response dates; and information related to the responses will be included in that package.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA 17815
Duration: Two years
Contact: Joseph C. Quinn, (717) 389-4311

S49:34-101.1 Susquehanna River Bank work consisting of installation of approximately 495 s. y. of riprap for a distance of approximately 250 feet and placement of approximately 50 feet of concrete fill, and approximately 245 feet of low pressure grouting.

Department: Environmental Protection
Location: Sunbury, Northumberland County, PA
Duration: 90 days after Notice to Proceed, or May 10, 1998, whichever is later
Contact: Construction Contracts Unit, (717) 783-7994

Demolition—11

030-0284 Demolition and removal of a 1-1/2 story frame dwelling, one story frame dwelling, 10 x 50 Princess Mobile Home, 40 x 77 3-story barn, 20 x 30 2-story frame garage, 25 x 65 concrete block equipment shed located along Routes 11 and 15 in Perry County.

Department: Transportation
Location: Perry County, PA
Duration: Ninety (90) days
Contact: Joel K. Hart, (717) 368-4237

030-0284A Demolition and removal of a one story frame and concrete block restaurant, 8 x 8 frame metal shed, advertising sign, one story ranch dwelling located along Route 15 in Tioga County.

Department: Transportation
Location: Tioga County, PA
Duration: Ninety (90) days
Contact: Joel K. Hart, (717) 368-4237

Elevator Maintenance—13

Inquiry No. 250-0056 Contractor to supply all parts, labor and expertise to maintain Facility elevators.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206-1297
Duration: February 01, 1998—June 30, 2000
Contact: Ken Wilson, (412) 665-6728

SC9709 Full elevator service: to provide all parts and labor to accomplish "full service." Elevator safety and maintenance contract on three each Gemco hydraulic passenger elevators.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 01, 1998 through June 30, 2001 with renewals
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

Engineering Services—14

08430AG2145 To provide pre-final design activities and services during construction (shop drawing review and construction consultation) for the S. R. 0222, Section 001 relocation project (Trexlerstown) in Upper Macungie and Lower Macungie Townships, Lehigh County, Engineering District 5-0.

Department: Transportation
Location: Engineering District 5-0
Duration: Twenty-seven (27) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2146 To provide pre-final, final design activities and services during construction (shop drawing and construction consultation) for the S. R. 0222, Section 002 relocation project (Trexlerstown) in Upper Macungie and Lower Macungie Townships, Lehigh County, Engineering District 5-0.

Department: Transportation
Location: Engineering District 5-0
Duration: Twenty-seven (27) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2147 To provide supplementary construction inspection staff of approximately six inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on the S. R. 0061 Section 10M resurfacing and widening project in Ontelaonee and Perry Townships, Berks County.

Department: Transportation
Location: Engineering District 5-0
Duration: Fifteen (15) months
Contact: Consultant Agreement Division, (717) 783-9309

Environmental Maintenance—15

BF 359-101.1 Abandoned Mine Land Reclamation, Erdley Brothers Construction involves an estimated 151,000 c. y. of grading 680 s. y. of rock lining w/filter material and 46 acres of seeding. Eighty-four percent of this project is financed by the Federal Government. Federal funds available for this program total \$30 million for Pennsylvania's 1997 AML Grant.

Department: Environmental Protection
Location: East Franklin and North Buffalo Townships, Armstrong County, PA
Duration: 400 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

BF 403-101.1 Abandoned Mine Land Reclamation, J.D.S. Energy Corporation involves an estimated 31,000 c. y. of grading, 100 s. y. of rock lining w/filter material and 10.5 acres of seeding. Ninety-one percent of this project is financed by the Federal Government. Federal funds available for this program total \$30 million for Pennsylvania's 1997 AML Grant.

Department: Environmental Protection
Location: Menallen Township, Fayette County, PA
Duration: 180 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

C46-1-102.5 Subsurface Exploration, Glenside Area Flood Protection Project, Unit II involves approximately 325 L. F. of overburden drilling and sampling, 65 L. F. of rock coring (NX), 24 L. F. concrete coring (4 inch), 12 tests of field permeability, 126 units of laboratory testing. A prebid conference for this project has been scheduled for December 17, 1997 at 10 a.m., in the parking lot at the intersection of Glenside Avenue and Rices Mill Road near Boring No. D-1. Bid document holders are invited and urged, to attend this conference.

Department: Environmental Protection
Location: Cheltenham and Abington Townships, Montgomery County, PA
Duration: 90 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

Extermination Services—16

1009 Vendor to provide the extermination or control of all pests, insects and rodents at the Quehanna Boot Camp. The anticipated contract will be for a 3 year period.

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: July 01, 1998 to June 30, 2001
Contact: Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

Inquiry No. 7532 Pest control service for the period July 1, 1998 through June 30, 2001.

Department: Public Welfare
Location: Danville State Hospital, Danville, PA 17821-0700
Duration: July 1, 1998—June 30, 2001
Contact: Pamela Bauman, Purchasing Agent, (717) 275-7412

EXT-034 The Hiram G. Andrews Center in Johnstown is soliciting bids for pest control services for a 3-year period. The contractor must service the facility two times monthly and provide emergency service as needed.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, Cambria County, PA 15905
Duration: July 1, 1998 to June 30, 2001 with renewal option not to exceed two 1-year periods
Contact: Robert D. Robinson, Purchasing Agent II, (814) 255-8210

Firefighting Services—18

300933 Hydrostatic testing, recharging and repairs of fire extinguishers and/or air bottles: to perform hydrostatic testing, recharging and, if necessary repairs to fire extinguishers and/or air bottles. Vendor must pick up the extinguishers and/or air bottles within 24 hours after notification. Vendor has 7 working days after pick-up of extinguishers and/or air bottles to return the units to Harrisburg State Hospital.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: July 1, 1998 to June 30, 2003, a period of five (5) years
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

Food—19

7000 Meat and meat products.

Department: Military and Veterans Affairs
Location: Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, P. O. Box 319, Hollidaysburg, PA 16648
Duration: February 1998
Contact: Becky Clapper, Purchasing Agent, (814) 696-5210

HVAC Services—22

Project No. 814 Upgrade renovation, repair retro-fit of a 3 phase electrical service. Combined support maintenance shop.

Department: Military and Veterans Affairs
Location: CSMS, 835 Fifth Avenue, Coraopolis, Allegheny County, PA
Duration: January 1, 1998—September 30, 1998
Contact: Emma Schroff, (717) 861-8518

SP-321159 Contractor shall furnish supplemental maintenance service to air conditioning, heating, refrigeration and ventilation systems. Service shall include all component parts for each system, (for example, Barber Coleman, Trane and Nesbitt).

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July 1, 1998 through June 30, 2001
Contact: Dorthia Claud-Williams, Purchasing Department, (215) 953-6412 or 6405

Janitorial Services—23

FM-40 Furnish all equipment, materials and labor to perform janitorial services including: waste baskets, clean lavatories, sweep floors, machine buff tile floors, vacuum carpets, dust furniture, wash windows inside and outside, semi-annual housecleaning at the discretion of the Station Commander or his designated representative at the Carlisle Station, 1538 Commerce Avenue, Carlisle, PA 17013. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Carlisle Station, 1538 Commerce Avenue, Carlisle, Cumberland County, PA 17013
Duration: February 01, 1998 to June 30, 2000
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

Medical Services—29

Inquiry No. 7534 Portable oxygen rental for the period July 1, 1998 through June 30, 2000.

Department: Public Welfare
Location: Danville State Hospital, Danville, PA 17821-0700
Duration: July 1, 1998—June 30, 2000
Contact: Pamela Bauman, Purchasing Agent, (717) 275-7412

300929 Physical therapy: to provide physical therapy services and also to provide in-service training sessions to nursing, 3—5 days/week. Provider must have a current Physical Therapy license to practice in Pennsylvania.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: July 1, 1998 to June 30, 2001, a period of three (3) years
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

260213 Optometry services including examining the patient and providing prescription for glasses for all Mayview State Hospital patients. Prescription for glasses will be provided immediately after the exam.

Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: March 01, 1998—June 30, 2002
Contact: F. Molisee, Purchasing Agent, (412) 257-6215

SC-97-10 To provide ambulance service for local and long distance transportation.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 01, 1998 to June 30, 1999 with renewal options
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

SC-97-11 To provide dermatology services to residents of the Northeastern Veterans Center.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 01, 1998 through June 30, 2001 with renewal option
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

Property Maintenance—33

040087 Provide window cleaning service to Welcome Center/Rest Area facility on SR 6 and SR 209 in Matamoras, Pike County. Specifications may be obtained by contacting the District Roadside Specialist, Monday through Friday, 8 a.m. to 3 p.m.

Department: Transportation
Location: Pike County, PA
Duration: 2 years with one renewal
Contact: Martha S. Spaide, (717) 963-4048

040088 Replacement of five doors at each of two rest areas located in Luzerne County in Engineering District 4-0 as follows: I81 S. B. between exits 43 and 42, Nuangola; I81 N. B. between exits 42 and 43, Dorrance. Specifications may be obtained by contacting the District Roadside Unit, Monday through Friday 8 a.m. to 3 p.m.

Department: Transportation
Location: Luzerne County, PA
Duration: 18 months
Contact: Martha Spaide, (717) 963-4048

25-1773197 The Department of Conservation and Natural Resources, Pymatuning State Park, Crawford County, is bidding for the purchase and delivery of built-in kitchen cabinets for the five newly constructed modern cabins located in the Linesville Campground area. Cabinets will be installed by park personnel.

Department: Conservation and Natural Resources
Location: Pymatuning State Park, 2660 Williamsfield Road, P. O. Box 425, Jamestown, PA 16134-0425
Duration: June 30, 1998
Contact: Dennis Mihoci, (412) 932-3141

MR 0800-07 Mowing of primary and secondary highways in Perry County. All requests for bid packages must be received via fax at (717) 772-0975 (Attn: Bill Tyson) or telephone (717) 787-7600, 7:30 a.m. to 3:30 p.m., Monday through Friday. (Roadside Mowing Group 8-93-91 M).

Department: Transportation
Location: Primary and secondary highways throughout Perry County, PA
Duration: April 1, 1998 to March 31, 2003; 1 year with four 1-year renewals
Contact: William Tyson, (717) 787-7600

MR 0800-08 Mowing of primary and secondary highways in Western York County. Specifications and bid packages must be received via fax at (717) 772-0975 (Attn: Bill Tyson) or telephone (717) 787-7600, 7:30 a.m. to 3:30 p.m. Monday through Friday. (Roadside Mowing Group 8-93-42 M).

Department: Transportation
Location: Primary and secondary highways throughout Western York County, PA
Duration: April 1, 1998 to March 31, 2003
Contact: William Tyson, (717) 787-7600

MR 0800-11 Mowing of primary and secondary highways in western Lancaster County. All requests for bid packages must be received via fax at (717) 772-0975 (Attn: Bill Tyson) or telephone (717) 787-7600, 7:30 a.m. to 3:30 p.m. Monday through Friday. (Roadside Mowing Group 8-93-72 M).

Department: Transportation
Location: Western Lancaster County, primary and secondary highways
Duration: April 1, 1998 to March 31, 2003; 1 year with four 1-year renewals
Contact: William Tyson, (717) 787-7600

SP-338409 The Department of Conservation and Natural Resources, Bureau of Forestry, Forest District 13 requires the planting of 16,500 tree seedlings, on approximately 317 acres of State Forest Land, in Shippen Township, Cameron County and Portage Township, Potter County.

Department: Conservation and Natural Resources
Location: Bureau of Forestry, Forest District 13, Canoe Run Site, Whittimore Tower Site, Bender Run Site, Powerline Site, Boot Hill Site, Four Mile Site, Shippen Township, Cameron County, Portage Township, Potter County, PA
Duration: June 30, 1998
Contact: Robert W. Martin Jr., Forest District Manager, (814) 486-3353

Real Estate Service—35

32A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA State Police with 6,614 useable square feet of new or existing office/barracks space in Lancaster County, PA within a 2 mile radius of the Intersection of US Route 222 and US Route 322. Proposals due: February 2, 1998. Solicitation No.: 92594.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1997—98
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

33A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 2,975 useable square feet of new or existing office space, with parking for four vehicles, within the Corporate City Limits of Lancaster, Lancaster Township, Warwick Township, Penn Township, Rapho Township, Manheim Township or East Lampeter Township, Lancaster County, PA. The space must be located within three blocks of a public transportation system. Proposals due: February 2, 1998. Solicitation No.: 92596.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997—98
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

34A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 2,595 useable square feet of new or existing office space, with parking for seven vehicles, within the following boundaries: Townships of Rochester, Vanport and Chippewa, Boroughs of Beaver, Economy, Conway, Fallston, New Brighton, Rochester and the City of Beaver Falls, in Beaver County, PA. Proposals due: February 9, 1998. Solicitation No.: 92597.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997—98
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

35A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA State Police with 6,949 useable square feet of new or existing office/barracks space, with parking for 50 vehicles in Dauphin County, PA, within the following boundaries: along or near US Route 209, beginning at the Intersection of PA Route 225 and US Route 209 and extending East for a distance of 2.5 miles. Proposals due: February 23, 1998. Solicitation No.: 92598.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997—98
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

36A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Corrections with 13,000 useable square feet of new or existing residential/office space with parking for 20 vehicles, within the City limits of Philadelphia, Philadelphia County, PA. Proposals due: February 8, 1998. Solicitation No.: 92599.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997—98
Contact: Doris Deckman or Jennings K. Ward, (717) 787-4394

0504XX Real Estate Fee Appraisals of selected properties as delineated on the official highway R/W Plan S. R. 0222-003; known as Warren Street ByPass, project limits being West Lawn to Old Fritztown Road, Berks County. Fee Appraisers must be on PennDOT pre-approved list.

Department: Transportation
Location: R/W 5-0, 2460 Parkwood Drive, Allentown, PA 18103
Duration: 1997—2002
Contact: Ken Kipp, Chief Appraiser, (610) 791-6010

Vehicle, Heavy Equipment—38

5-037 District 05 anticipates placing under rental agreement the following items. Cranes, trenchers, bucket trucks, tractors and dump trailers, tractors and low boy trailers, milling machines, road wideners, tar kettles, portable concrete breakers, brush cutters, wild flower planting equipment, hydra hammers and wreckers for Northampton and Schuylkill Counties.

Department: Transportation
Location: Berks, Carbon, Lehigh, Monroe, Northampton, Schuylkill Counties, PA
Duration: March 1, 1998 to February 28, 1999
Contact: Curtis Fratamico, (610) 798-4181

Inquiry No. 7531 Housekeeping (floor scrubber) equipment maintenance and repair for the period July 1, 1998 through June 30, 2000.

Department: Public Welfare
Location: Danville State Hospital, Danville, PA 17821-0700
Duration: July 1, 1998—June 30, 2000
Contact: Pamela Bauman, Purchasing Agent, (717) 275-7412

SC-97-12 To provide preventative maintenance, inspection and repairs to nine each Arjo Century whirlpool bathtubs.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 01, 1998 through June 30, 1999 with renewal option
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

Miscellaneous—39

041 Contractor will provide nondenominational Protestant chaplaincy services to the inmate population at the Quehanna Boot Camp. Contractor will provide an estimated 4 hours of services per week. Anticipated contract will be for a 3 year period.

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: July 01, 1998 to June 30, 2001
Contact: Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

1006 Contractor shall furnish and install retro-fit Food Pass Kit, 17" W x 6-1/4" H to approximately 56 existing doors complete with hardware. Complete bid package with all details and specifications available upon request from agency.

Department: Corrections
Location: State Correctional Institution Frackville, 1111 Altamont Boulevard, Frackville, PA 17931
Duration: January 1, 1998 to June 30, 1998
Contact: John C. Lasota, Business Manager, (717) 874-4516

300935 Certified welder: Contract is to purchase the services of a certified welder to make repairs to boilers and high pressure steam lines. Additional services are to: measure, cut and fabricate numerous pressure pipe configurations using weld and slip fittings, flanges, and the like. Perform light machine work such as, repair pump shafts, spray weld and turn down shafts under 2 inches diameter. Repair steam safety valves up to 250 psi and stamp with R stamp required by Labor and Industry.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105
Duration: July 1, 1998 to June 30, 2001, a period of three (3) years
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

321164 Contractor shall provide all necessary parts and labor to properly repair all types of dietary equipment located in the Dietary Department of the Bensalem Youth Development Center.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoese Road, Bensalem, PA 19020
Duration: July 1, 1998 through June 30, 2001
Contact: Dot Williams, (215) 953-6412

464702 Develop and install a forms processing system for the capture of information from reports documenting commercial vehicle roadside safety inspections. The system must operate in a PC-based environment, be capable of recognizing handwritten forms and provide the data in a format acceptable to SAFETYNET—the Federal system used to transfer commercial vehicle inspection data. The selected contractor will be responsible for providing a fully integrated system to include all hardware and software that provides a form scanning station, form processing station, training, system integration, form redesign, software maintenance and system support. Requests for bid packets can be faxed to (717) 787-9890. Bid opening: December 22, 1997 at 2 p.m.

Department: Transportation
Location: Harrisburg, PA
Duration: 18 months
Contact: Shannon M. Opperman, (717) 772-0881

035 The Department of Environmental Protection is soliciting proposals from political subdivisions to provide grants for the construction or renovation of public recreational areas utilizing waste tires and waste tire-derived materials. Proposals are due by noon January 5, 1998. For copies of the Request for Proposal, contact Shuvonna Ballard, Bureau of Land Recycling and Waste Management, 400 Market Street, 14th Floor Rachel Carson State Office Building, Harrisburg, PA 17101-2301.

Department: Environmental Protection
Location: Harrisburg, PA
Duration: January 1998—August 1998
Contact: Shuvonna Ballard, (717) 787-9870

[Pa.B. Doc. No. 97-1979. Filed for public inspection December 5, 1997, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
0057-08	12/01/97	K-B Offset Printing, Inc.	108,332.00
1082207-01	11/21/97	Motorola, Inc.	3,700.00
1099157-01	11/20/97	Pittsburgh Stage, Inc.	68,290.00
1201157-01	11/20/97	Hirtech, Inc.	247,778.00
1232077-01	11/21/97	Cape Cod Tex- tile	61,100.00
1282207-01	11/20/97	Instrument Technology, Inc.	12,750.00
1288157-01	11/21/97	Simplex Time Recorder Co.	20,996.00
1301217-01	11/20/97	Ywabash Val- ley	14,689.15
1337157-01	11/18/97	Stagecraft In- dustries, Inc.	69,357.00
1354217-01	11/21/97	Bellco Drug Corp.	99,630.73
1358237-01	11/20/97	American Wood Fibers	11,745.00
1363117-01	11/21/97	Davis Bus Lines, Inc.	5,000.00
5630-01	12/01/97	Eastern Shore Concrete Products	427,160.36
5630-01	12/01/97	Cayuga Con- crete Pipe, Inc.	57,062.60
5630-01	12/01/97	Kerr Concrete Pipe Co.	75,478.80
5630-01	12/01/97	Irvin Loomis & Sons	36,748.40
8160600-01	11/21/97	Esco Sand Co.	28,864.00

Requisition or Contract #	Awarded On	To	In the Amount Of
8430-08	12/01/97	Back Open Wardrobe Specialists	111,250.00
8504080-01	11/20/97	Motive Suppli- ers, Inc.	27,045.00
8970670-01	11/20/97	Five Star In- ternational Trucks, Inc.	117,233.00
8970680-01	11/20/97	Manheim Chrysler Plymouth GMC Truck	119,100.00
8970690-01	11/20/97	Cleveland Brothers Equipment Co., Inc.	281,955.00
8970710-01	11/18/97	Aspen Aerials, Inc.	929,400.00
8970790-01	11/18/97	Five Star Equipment, Inc.	140,400.00
8970960-01	11/20/97	Regester Chevrolet, Inc.	231,884.00
9905-11	12/01/97	Flex-O-Lite Div. GSI, Inc.	49,725.00
9905-11	12/01/97	Work Area Protection Corp.	172,790.00
9905-11	12/01/97	3M Traffic Control	5,240.16
9905-11	12/01/97	Protection Ser- vices, Inc.	3,460.00
9905-11	12/01/97	Trafix Devices, Inc.	29,418.00

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 97-1980. Filed for public inspection December 5, 1997, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 260—265, 267, 269—270,
260a—266a, 266b AND 268a—270a]
Hazardous Waste Management

The Environmental Quality Board (Board) proposes to delete Chapters 260—265, 266—267 and 269—270 and add or renumber existing new hazardous waste regulations in Chapters 260a—266a, 266b and 268a—270a. The changes are the result of the Department of Environmental Protection's (Department) Regulatory Basics Initiative and Executive Order 1996-1. Under the Regulatory Basics Initiative and Executive Order 1996-1, the Department reviewed the Department's existing hazardous waste regulations to identify where the regulations could be improved.

This proposal was adopted by the Board at its meeting of September 16, 1997.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information contact Rick Shipman, Chief, Division of Hazardous Waste, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-6239, or Leigh B. Cohen, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department's Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of sections 105, 401—403 and 501 of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20). Under sections 105, 401—403 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety and welfare, and the environment of this Commonwealth. Sections 105, 402 and 501 of The Clean Streams Law grant the Board the authority to adopt regulations that are necessary to protect the waters of this Commonwealth from pollution. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

D. *Background and Purpose*

The Department administers the hazardous waste program under numerous State laws, including the SWMA (35 P. S. §§ 6018.101—6018.1003), the Hazardous Sites

Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1304), The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Small Business and Household Pollution Prevention Program Act (35 P. S. §§ 6029.201—6029.209); the Air Pollution Control Act (35 P. S. §§ 4001—4015) and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

Numerous Federal statutes applicable to hazardous waste management activities are administered by Federal agencies, including the Environmental Protection Agency (EPA). The EPA administers the Resource Conservation and Recovery Act (RCRA) (42 U.S.C.A. §§ 6901—6992) and Federal regulations at 40 CFR Parts 260—272 which contain the basic Federal hazardous waste program requirements. RCRA provides that no state "may impose any requirements less stringent than [EPA's RCRA regulations] respecting the same matter governed by such regulations." 42 U.S.C.A. § 6929. A state standard less stringent than the RCRA standard respecting the same matter therefore would be superseded by Federal law.

In addition, RCRA provides that states may apply for and receive authorization from the EPA for all or parts of the state hazardous waste management program, under 42 U.S.C.A. § 6926 and 40 CFR Part 271. The EPA authorization essentially eliminates the dual Federal and state permitting requirements for the hazardous waste management activities that are covered entirely within the scope of the state program authorized by the EPA, and thereby allows the regulated community to comply with state law in lieu of the affected parts of Federal law. RCRA provides that an action taken by a state under an authorized hazardous waste program "shall have the same force and effect" as an action by the EPA under RCRA. 42 U.S.C.A. § 6926(d). The EPA retains enforcement authority over authorized state provisions and Federal law.

RCRA was amended in 1984 to add the Hazardous and Solid Waste Amendments of 1984 (HSWA) which directly impose certain more stringent requirements immediately effective in all states and administered by the EPA unless the state has been expressly authorized to administer the HSWA. The HSWA requirements are listed in tables appearing in 40 CFR Part 271. State law may cover the same subject areas and impose standards that are at least as stringent as the HSWA and may be broader in scope than the HSWA.

The Commonwealth received authorization for the State hazardous waste program, effective January 30, 1986, 51 FR 1791 (January 15, 1986). This authorization relieves the regulated community of the burden of obtaining EPA permits for treatment, storage or disposal facilities (TSDs). However, the regulated community must still comply with all EPA requirements under the HSWA, in addition to all applicable Commonwealth requirements. One purpose of this rulemaking is to adopt the HSWA requirements. The Department intends to seek authorization for the HSWA requirements, so that the regulated community will only need to comply with the Pennsylvania hazardous waste requirements to be in compliance with RCRA.

Since the Commonwealth received its authorization in 1986, the Board has adopted several hazardous waste rules. Pennsylvania's hazardous waste regulations were most recently significantly amended with substantive changes at 23 Pa.B. 363 (January 16, 1993). This regulatory amendment is referred to as PK-4. The basic

framework for the Department's hazardous waste program was amended in that rulemaking through the definition of "waste" and related terms such as "coproduct." These provisions, which differ significantly from the Federal hazardous waste regulations, are currently contained in the Department's regulations. This proposal deletes these requirements and replaces them with the Federal regulations.

The Department has reviewed all of its hazardous waste regulations pursuant to Executive Order 1996-1. As a consequence of its review, the Department has determined that continuing to regulate hazardous waste in this Commonwealth under a regulatory scheme that differs from the schemes found in the Federal regulations and in other states' regulations creates confusion for the regulated community. In addition, the Department has determined that adopting the Federal regulations with some modification that is justified by an identified compelling State interest will protect human health and the environment. The regulatory amendments that are proposed in this rulemaking are intended to align the Department's hazardous waste program with the Federal program by incorporating by reference the applicable Federal hazardous waste regulations and to maintain this consistency in the future as the Federal program evolves. It is expected that the Commonwealth will seek authorization for this proposal after this rulemaking becomes final.

E. Summary of Regulatory Requirements

The proposed amendments delete the current text of the Pennsylvania hazardous waste regulations and add new chapters that incorporate by reference the Federal hazardous waste regulations. The purpose of incorporating by reference is to ensure that Pennsylvania's hazardous waste regulations are consistent with the Federal regulations. For cases in which the Board has determined that this Commonwealth has a compelling State interest to promulgate regulations that are more stringent than the Federal regulations, the Board has promulgated regulations that are more stringent than the Federal regulations.

The proposed regulations are formatted so that the first section of each Pennsylvania chapter contains language to incorporate by reference each corresponding Federal part that the Commonwealth is proposing to incorporate by reference. Individual Pennsylvania sections are identified by a small letter "a" that is included in the section number. These sections contain the Commonwealth's additions to, deletions from or modifications of the Federal regulations that have been incorporated. In most instances, the Commonwealth's chapter numbers should correspond to the parallel Federal part numbers; the Commonwealth's subchapter numbers should correspond to the parallel Federal subpart numbers; and the Commonwealth's section numbers should correspond to the parallel Federal section numbers. In instances in which no Commonwealth's section number exists for a Federal counterpart section, Pennsylvania has decided to incorporate the Federal section without modification.

Although the proposed amendments appear to make major changes to all of the Commonwealth's hazardous waste regulations, most of the amendments to the Commonwealth's hazardous waste regulations are textual changes rather than conceptual changes. Many of the Commonwealth's current hazardous waste regulations intend to accomplish the same result as the Federal hazardous waste regulations, and therefore, many of the requirements currently found in the Commonwealth's

hazardous waste regulations are also found in the Federal hazardous waste regulations.

The proposal was reviewed and approved by the Solid Waste Advisory Committee (SWAC). The Department met with a SWAC subcommittee on January 30, 1997, and February 25, 1997, to identify significant issues that should be raised to the attention of the entire SWAC. The Department met with SWAC on March 13, 1997, and May 8, 1997, to discuss the proposed revisions.

The following is a summary of the proposed amendments that will have a significant impact on the regulated community. Changes in text that do not have a significant impact on the regulated community are not discussed. In addition, the summary includes an explanation of any Commonwealth hazardous waste requirements that the Board intends to retain and that are more stringent than the Federal hazardous waste regulations. Regulations that have been relocated appear as new language in Annex A. The chapter and section headings include both the Federal citation, if the Federal provision was incorporated, and the proposed Commonwealth citation. If no parallel Federal citation is proposed to be incorporated, only a Commonwealth citation appears in the caption. A Federal citation without a parallel Commonwealth citation indicates that the Board is not proposing to modify the Federal provision to be incorporated. Finally, any HSWA requirements that are being added to the Commonwealth's program and that have been in effect in this Commonwealth are not summarized in this Preamble.

25 Pa. Code Chapter 260a and 40 CFR Part 260

25 Pa. Code § 260a.10 and 40 CFR 260.10 Definitions

The Board is proposing to incorporate by reference the Federal definition section found in 40 CFR 260.10 with the exception of those Federal definitions that conflict with the SWMA definition section. In addition, the Board proposes to relocate definitions currently found in § 260.2 to this section. The Board believes that the relocated definitions are necessary to ensure that the proposed regulations are in conformance with SWMA and the HSCA.

25 Pa. Code § 260a.20 and 40 CFR 260.20 General: Rulemaking Petitions

The Board is proposing to incorporate by reference the Federal regulation regarding the general provisions for rulemaking petitions found in 40 CFR 260.20(a). The proposal does not incorporate 40 CFR 260.20(b)–(e) since these provisions set forth the procedural requirements that must be followed by petitioners submitting petitions to the EPA. Since the petitions submitted in this Commonwealth will be submitted to the Board, the Board is proposing to substitute for the Federal procedures the Board's rulemaking petition procedures found in Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy).

40 CFR 260.21 Petitions for Equivalent Testing or Analytical Methods

40 CFR 260.22 Petitions to Amend Chapter 261 to Exclude a Waste Produced at a Particular Facility

The Board is proposing to incorporate by reference 40 CFR 260.21, the Federal regulation regarding petitions for equivalent testing or analytical methods. In addition, the Board is proposing to incorporate 40 CFR 260.22, the Federal regulation regarding petitions to exclude a waste produced at a particular facility. The difference between the Commonwealth's existing regulations and the proposed regulations is that the existing regulations do not

require a rulemaking procedure for approvals for equivalent testing or analytical methods or for amendments to existing Chapter 261 to exclude a waste produced at a particular facility. The Board is proposing to adopt the rulemaking procedure to facilitate authorization of the Commonwealth's hazardous waste program.

40 CFR 260.23 Petitions to Amend the Universal Waste Rule to Include Additional Hazardous Wastes

The Board is proposing to incorporate by reference 40 CFR 260.23, the Federal regulation regarding petitions to amend the universal waste rule to include additional hazardous wastes. The proposed regulation does not change the Department's substantive requirements currently found in §§ 266.280—266.282 and proposed to be relocated to Chapter 266b. The proposal merely moves the universal waste petition procedure to Chapter 260 so that the Commonwealth's regulatory provisions have the same numbering scheme as the Federal regulations.

40 CFR 260.30 Variances from Classification as a Solid Waste

40 CFR 260.31 Standards and Criteria for Variances from Classification as a Solid Waste

40 CFR 260.32 Variance to be Classified as a Boiler

40 CFR 260.33 Procedures for Variances from Classification as a Solid Waste or to be Classified as a Boiler

The Board is proposing to incorporate by reference 40 CFR 260.30—260.33, the Federal regulations regarding variances. The Commonwealth's existing hazardous waste regulations do not contain analogous variance provisions. The proposed regulations allow the Department to grant variances on a case-by-case basis using criteria listed in 40 CFR 260.31 or 260.32. As proposed, the incorporated provisions of 40 CFR 260.30 authorize the Department to grant a variance from classification as a solid waste for certain recycled materials or materials that are reclaimed and then reused or that have been reclaimed but that must be reclaimed further. The proposed incorporation of 40 CFR 260.32 authorizes the Department to grant variances so that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in proposed § 260a.10 or 40 CFR 260.10. The incorporated provisions of proposed 40 CFR 260.33 set forth the variance application procedure.

40 CFR 260.40 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

40 CFR 260.41 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

The Board is proposing to incorporate by reference the Federal provisions regarding additional regulation of certain hazardous waste recycling activities and the procedures used for the regulation of these hazardous waste recycling activities. The Federal provisions are found in 40 CFR 260.40 and 260.41. The incorporated provisions authorize additional regulation of persons who accumulate or store lead acid batteries in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. A similar provision is currently found in § 266.80.

25 Pa. Code Chapter 261a and 40 CFR Part 261

25 Pa. Code § 261a.2 and 40 CFR 261.2 Definition of "Solid Waste"

The Board is proposing to amend the definition of "solid waste" for the hazardous waste program, which now includes the definitions of "byproduct," "coproduct" and "waste." The Board is proposing to delete from its current hazardous waste regulations the definitions of "byproduct," "coproduct," "solid waste" and "waste" and replace these definitions with the Federal regulation found in 40 CFR 261.2. The most significant difference between the current Commonwealth hazardous waste definition of "solid waste" and the Federal definition of "solid waste" is that the Commonwealth's regulations rely upon coproduct determinations to exempt materials from the definition of solid waste, and the Federal regulations rely upon several variances and a narrow definition of "discarded materials" to exempt materials from the definition of "solid waste."

In the Department's experience, applying different regulatory definitions of "solid waste" creates confusion. In addition, under the existing definition of "waste," the Department may be required to regulate as hazardous wastes materials that industries could reuse and that the Federal government does not regulate. The continued regulation of these materials could encourage industries to dispose of these materials rather than to reuse them. Therefore, the Board has decided to adopt the Federal definition of "solid waste" so that the Commonwealth's hazardous waste definition of "solid waste" is consistent with the Federal definition. The Board expects that the use of one definition for both Federal and State hazardous waste regulations will result in a simpler hazardous waste regulatory scheme for the regulated community and for the Department.

25 Pa. Code § 261a.3 and 40 CFR 261.3 Definition of Hazardous Waste

The Board is proposing to incorporate by reference 40 CFR 261.3, with two exceptions. The Board is proposing to continue to regulate as a hazardous waste the waste streams exempted in 40 CFR 261.3(c)(2)(ii)(C) and 261.3(c)(2)(ii)(D). Since the Department has no experience with these waste streams, the Board has determined that these waste streams should not at this time be exempted from hazardous waste regulation in this Commonwealth. The new exceptions contained in the proposed incorporated language are: mixtures of wastes from the extraction beneficiation and processing of ores and minerals that are excluded under section 40 CFR 261.3(a)(2)(I); mixtures of solid waste and listed hazardous wastes that are listed only because they exhibit a characteristic but the resultant mixture does not exhibit any characteristic, 40 CFR 261.3(a)(2)(iii); wastewaters that contain de minimis amounts of certain listed hazardous constituents and are subject to regulation under the Clean Water Act (NPDES), 40 CFR 261.3(a)(2)(iv); waste from burning hazardous waste fuels produced from petroleum coke and oil-bearing hazardous wastes from petroleum refining exempted from regulation by section, 40 CFR 261.3(c)(2)(ii)(B); and hazardous waste debris as defined in the land disposal requirements (40 CFR Part 268) that has been treated or determined by the Department to no longer be contaminated with hazardous waste, 40 CFR 261.3(f).

In addition, the Board is proposing to remove from the existing regulations the State specific hazardous waste designation PA01 for waste oil that contains greater than

1,000 ppm total halogens and use the Federal approach that such oil be designated by the listed halogenated solvent which has been mixed with the oil to cause it to exceed 1,000 ppm total halogen. The proposal retains the rebuttable presumption for used oil at 40 CFR 261.3(a)(2)(v).

25 Pa. Code § 261a.5 and 40 CFR 261.5 Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

The Federal language that the Board is proposing to adopt is contained in the existing Commonwealth hazardous waste regulations in § 261.5. However, the proposed regulation is more stringent than the Federal requirement, because it retains the existing State prohibition against the disposal of conditionally exempt small quantity generator hazardous waste in municipal or residual waste facilities. This is required by State law under section 207(b) of the Small Business and Household Pollution Prevention Act.

25 Pa. Code § 261a.6 and 40 CFR 261.6 Recyclable Materials

The Board is proposing to delete the existing text found in § 261.6 and replace it with language that will incorporate by reference the provisions of 40 CFR 261.6 with one exception. The proposed amendment is more stringent than the Federal requirement, because it requires a recycling permit for owners and operators of facilities that manage recyclable materials. The Federal analog only requires a permit for the storage of recyclable materials before the materials are recycled. Since section 401(a) of the SWMA (35 P. S. § 6018.401(a)), requires operators to obtain a permit for treating hazardous waste, and since recycling hazardous waste falls within the SWMA definition of "treatment," the Commonwealth must require recycling permits for recycling of hazardous wastes.

25 Pa. Code § 261a.7 Residues of Hazardous Waste in Empty Containers

This regulation clarifies that the residues of hazardous waste in empty containers is treated as a residual waste in this Commonwealth. The Federal law has no waste classification equivalent to the Commonwealth's residual waste classification.

40 CFR 261.8 PCB Wastes Regulated under Toxic Substance Control Act

The Board is proposing to incorporate by reference 40 CFR 261.8. The provision clarifies that PCB wastes regulated under TSCA that could also be construed to be regulated under RCRA will be regulated under TSCA.

25 Pa. Code Chapter 262a and 40 CFR Part 262

25 Pa. Code § 262a.22 and 40 CFR 262.22 Number of Copies of Manifest

The Board is proposing to incorporate by reference the Federal regulation regarding number of copies of the manifest. In addition, the Board is proposing to require the use of a six part manifest rather than the four part manifest required by the Federal regulations. The Board has determined that the Commonwealth should require two more copies than the Federal regulation requires, because the two additional copies are sent from the TSD facility to the generator state and from the TSD to the disposal state. The Board believes that hazardous waste cannot be properly monitored unless the generator state and the disposal state can track the waste, and the manifest contains all of the necessary information once it gets to the TSD facility. The existing Commonwealth

regulation requires the use of an eight part manifest. The two copies that the proposed rule will no longer require are copies that the generator sends to the generator state and the copy that the generator sends to the disposal state.

25 Pa. Code Chapter 263a and 40 CFR Part 263

25 Pa. Code § 263a.12 and 40 CFR 263.12 Transfer Facility Requirements

The Board is proposing to incorporate by reference the Federal regulation regarding transfer facility requirements found in 40 CFR 263.12. In addition, the Board is proposing to retain the existing State requirement that requires the use of an in-transit storage preparedness, prevention and contingency plan. This requirement is currently found in § 263.30(g) and (h). The Board considers in-transit storage preparedness, prevention and contingency plans to be necessary to ensure that transfer facilities are able to deal with emergency situations resulting from spills or other accidents since these facilities are not subject to siting requirements.

25 Pa. Code § 263a.13 Licensing

The Board intends to relocate the hazardous waste transporter licensing requirement that is currently found in § 263.13 to § 263a.13. There is no Federal equivalent for this requirement since it is a requirement of section 501 of the SWMA (35 P. S. § 6018.501), and not RCRA.

25 Pa. Code § 263a.23 Hazardous Waste Transportation Fee

The Board intends to relocate the existing hazardous waste transportation fee, without revision, that is currently found in § 263.23 to § 263a.23. This provision requires the submission of fees for the transportation of hazardous wastes which are picked up or delivered in this Commonwealth. There is no Federal equivalent to this requirement since it is a requirement of section 903 of HSCA (35 P. S. § 6020.903).

25 Pa. Code § 263a.24 Documentation of Hazardous Waste Transporter Fee Submission

The Board intends to relocate the hazardous waste transportation fee submission requirement currently found in § 263.24 to § 263a.24. This provision requires that hazardous waste transporters document the submission of hazardous waste transportation fees. There is no Federal equivalent to this provision since the fees are required by the HSCA, and the Department cannot verify the amount of fees submitted without proper documentation.

25 Pa. Code § 263a.26 Assessment of Penalties

The Board intends to relocate the assessment of penalties provision that is currently found in § 263.26 to § 263a.26. There is no Federal equivalent since the Federal law does not require payment of hazardous waste transporter fees. The Department cannot effectively enforce the payment of fees provisions unless it is able to assess penalties against transporters that fail to submit their fees in a timely manner.

25 Pa. Code § 263a.32 Bonding

The Board intends to relocate the bonding requirements for hazardous waste transporters that are currently found in § 263.32 to § 263a.32. This provision requires hazardous waste transporters to retain a minimum \$10,000 bond, with a larger bond proposed for transporters who transport larger amounts of waste. This proposal does not alter the current bonding requirements for hazardous waste transporters. There is no Federal equivalent to this

requirement since it is a requirement of section 505(e) of the SWMA (35 P. S. § 6018.505(e)).

*25 Pa. Code Chapters 264a and 265a and
40 CFR Parts 264 and 265*

Chapters 264a and 265a provide standards for owners and operators of hazardous waste treatment, storage and disposal facilities. Chapter 265a differs from Chapter 264a, because it contains interim status standards that only apply to facilities that are classified as interim status facilities. However, the requirements of the two chapters are often the same. Consequently, any proposed changes to regulatory requirements that are contained in both Chapters 264a and 265a are explained in this Preamble under one heading.

*25 Pa. Code §§ 264a.13 and 265a.13 and 40 CFR 264.13
and 265.13 General and Generic Waste Analysis*

The Board intends to retain the waste analysis requirements currently found in §§ 264.12, 265.12, 264.13, and 265.13. The Board is proposing to relocate these Commonwealth requirements to §§ 264a.13 and 265a.13 so that the Commonwealth's waste analysis citation parallels the Federal waste analysis requirements found in 40 CFR 264.13 and 265.13. The proposed regulations are more stringent than the Federal regulation because they require Department approval before a facility can accept hazardous waste for treatment, storage or disposal (TSD). This approval is done through a Module I application. The Federal regulation only requires an operator to obtain waste stream analyses and keep the analyses onsite but it does not require prior agency approval before the waste stream can be accepted by the operator of the TSD facility. The Board has determined that the Department must approve of waste streams before a facility can accept them in order to ensure that the facility is able to manage the hazardous waste properly. However, to expedite an operator's ability to receive new waste streams, the existing regulations allow operators of TSD's to submit a Generic Module I application that allows operators to accept additional hazardous wastes that are similar to the type of waste for which they have received approval. At least 15 days prior to accepting a waste from a new generator, the operator of the TSD must submit to the Department specific information about the generator and the waste to document that the new generator meets the criteria of the approved Generic Module I. The Board is requesting comments on the proposal to retain the Module I application.

*25 Pa. Code §§ 264a.15 and 265a.15 and 40 CFR 264.15
and 265.15 General Inspection and Construction Inspection Requirements*

The Board is proposing to incorporate by reference 40 CFR 264.15 and 265.15, the Federal regulations regarding general inspection requirements. In addition, the Board is proposing to retain a Commonwealth inspection requirement. The added provision requires operators to submit to the Department for approval schedules for the construction of hazardous waste management facilities. The Federal regulations do not require inspection of facilities during construction or approval of schedules for construction. The Board is requesting comments on the proposal to retain the requirement for Department construction inspections and approval of construction schedules.

*25 Pa. Code §§ 264a.52 and 265a.52 and 40 CFR 264.52
and 265.52 Content of Contingency Plan*

The Board is proposing to incorporate by reference 40 CFR 264.52 and 265.52, the Federal provisions for con-

tents of contingency plans. In addition, the Department proposes to relocate to §§ 264a.52 and 265a.52 the existing Commonwealth requirement that operators prepare contingency plans in accordance with Department guidelines rather than in accordance with EPA guidelines. The Department guidelines provide guidance to operators and assure the Department that the contingency plans will adequately address emergency situations that may arise at hazardous waste facilities. The Federal regulation together with the additional State requirement is essentially the same as the current Commonwealth regulation.

*25 Pa. Code §§ 264a.71 and 265a.71 and 40 CFR 264.71
and 265.71 Use of the Manifest System*

The Board is proposing to incorporate by reference the Federal regulations found in 40 CFR 264.71 and 265.71 regarding use of the manifest system. In addition, the Board proposes to relocate the current Commonwealth requirement that TSD facilities submit copies of manifests to the generator State and to the TSD disposal State to §§ 264a.71 and 265a.71. The Federal regulations do not require submission of any copies of manifests from the TSD facility to the generator State or from the TSD to the disposal State. The Board is proposing a regulation that will be more stringent than the Federal analog. The Board's proposed regulation also requires two fewer manifest copies than the current State regulation. The current Commonwealth regulation requires the use of an eight part manifest. The proposed regulation requires the use of a six part manifest. The proposed regulation has two fewer parts than the existing regulation because it does not require generators to submit manifest forms to the generator State or to the disposal State. To ensure the proper management of hazardous waste, the Board believes that the Department must receive copies of manifests so that it can track the movement of the waste.

*25 Pa. Code §§ 264a.78—264a.83 and 25 Pa. Code
§ 265a.78—265a.83 Hazardous Waste Management Fees
and Administrative Fees*

The Board intends to retain these State requirements that have no Federal analog. Section 903 of HSCA (35 P. S. § 6020.903) requires that the Department collect hazardous waste management fees. As stated in the introductory paragraphs of this Preamble, the Board is specifically seeking comment on the Board's proposal to retain the administrative fees contained in §§ 264a.82, 264a.83, 265a.82 and 265a.83.

40 CFR 264.94 Concentration Limits

The Board is proposing to incorporate by reference 40 CFR 264.94, the Federal regulation regarding concentration limits. This regulation has no existing State analog. The proposed regulation establishes alternate concentration limits (ACL) for constituents in groundwater if leakage of hazardous constituents to the groundwater is detected at the facility. The ACL is a standard that the Department will determine to be protective of human health and the environment. Historically, the Commonwealth has required operators of facilities with leakage of hazardous constituents to the groundwater to remediate the groundwater to a background standard. In its experience, however, this standard was often unattainable and the Department had no mechanism for approving ACLs in these situations. The proposed regulation provides the Department with this flexibility.

25 Pa. Code § 264a.96 and 40 CFR 264.96 and Compliance Period, Recordkeeping and Reporting

The Board is proposing to incorporate by reference 40 CFR 264.96, the Federal regulation regarding the compli-

ance period. In addition, the Board is proposing to relocate the current recordkeeping and reporting requirements to § 264a.96. This will result in a regulation that is more stringent than the corresponding Federal analog. The Board has determined that the recordkeeping and reporting requirements are essential to ensuring that the data is received in a timely and consistent manner so that it can be analyzed quickly.

25 Pa. Code § 264a.97 and 40 CFR 264.97 General Groundwater Monitoring Requirements

The Board is proposing to incorporate by reference 40 CFR 264.97, the Federal regulation regarding general groundwater monitoring requirements. The existing Commonwealth regulation that regulates groundwater monitoring is found in § 264.97. The difference between the existing regulation and the proposed regulation is that the proposed regulation is less prescriptive than the existing regulation, because it provides operators with flexibility to allow for innovation in monitoring well design and construction.

25 Pa. Code Chapters 264a and 265a, Subchapter H, §§ 264a.141—264a.169 and §§ 265a.141—265a.169

The Board is proposing to move the financial requirements sections currently found in Chapter 267 to Chapter 264a, Subchapter H and Chapter 265a, Subchapter H to align the Commonwealth's numbering system with the Federal hazardous waste regulatory numbering system. The Federal hazardous waste financial requirements are found in 40 CFR Parts 264, Subpart H and 265, Subpart H. Proposed §§ 264a.162—264a.169 and 265a.162—265a.169 have been relocated without change from Chapter 267 of the existing regulations.

25 Pa. Code §§ 264a.141 and 265a.141 Definitions of terms

The Board is proposing to incorporate by reference the Federal definitions for "financial requirements" in 40 CFR Part 264, Subpart H and 40 CFR Part 265, Subpart H. The Commonwealth's definitions that are contained in the existing § 267.1 and that are necessary to interpret the Commonwealth's financial requirements provisions are proposed to be relocated to §§ 264a.141 and 265a.141.

25 Pa. Code §§ 264a.147 and 265a.147 Liability Requirements

The Board is proposing to move the liability requirements sections from their current location at §§ 267.41—267.46 to §§ 264a.147 and 265a.147. The Federal analog to these requirements are found in 40 CFR 264.147 and 265.147. The proposed amendments will incorporate by reference the Federal liability requirements section to replace the current Commonwealth insurance coverage requirement for sudden and nonsudden accidental pollution occurrences. However, the Federal regulation that the Board proposes to incorporate reduces the required insurance coverage amount to \$1 million per occurrence for sudden accidental pollution occurrences with an annual aggregate of \$2 million and to \$3 million per occurrence for nonsudden accidental pollution occurrences with an annual aggregate of \$6 million. Currently, the Pennsylvania hazardous waste regulations require \$2 million per occurrence for sudden accidental pollution occurrences with an annual aggregate of \$4 million and \$6 million per occurrence for nonsudden accidental pollution occurrences with an annual aggregate of \$12 million. The proposed regulation will retain the SWMA requirement that all permittees have in effect an ordinary public

liability insurance policy (35 P. S. § 6018.502(e)). Ordinary public liability insurance is not required by Federal law.

25 Pa. Code §§ 264a.148 and 265a.148 Incapacity of Owners or Operators, Guarantors, or Financial Institutions

The Board is proposing to move the incapacity section from its current location at § 267.29 to §§ 264a.148 and 265a.148. The proposed amendment will incorporate by reference the Federal definition section found in 40 CFR 264.148 and 265.148. The incorporated provisions are essentially the same as the current provisions found in § 267.29.

25 Pa. Code § 264a.151 Wording of Instruments

The Board proposes to incorporate the text of the Federal financial responsibility forms found in 40 CFR 264.151 to the extent these are consistent with Commonwealth law. In general, the differences between the Federal and State forms arise because there is no Federal insurance law, and the terms and conditions of an insurance policy are generally matters of State law.

25 Pa. Code §§ 264a.153—264a.169 and 265a.153—265.169 Bonding requirements

The Board is proposing to move the bonding requirements from §§ 267.11—267.30 to §§ 264a.153—264a.169 and §§ 265a.153—265a.169. Minor changes are proposed to the current requirements as noted in this Preamble. The bonding requirements for hazardous waste are governed by sections 505 and 506 of the SWMA (35 P. S. §§ 6018.505 and 6018.506) which differ from the bonding requirements found in RCRA.

25 Pa. Code §§ 264a.156 and 265a.156 Special Terms and Conditions for Collateral Bonds

The Board is proposing to add another type of bonding option to the existing bonding options available to hazardous waste facility permittees. Self-bonding will be added to the Pennsylvania regulations by incorporating into the Commonwealth's regulations the Federal financial test and corporate guarantee provisions found in 40 CFR 264.143(f) and 265.143(e). Permittees interested in using this form of bonding must qualify by demonstrating that they meet the financial test contained in 40 CFR 264.143(f) and 265.143(e). This financial test has been a part of the Department's hazardous waste regulations since August 2, 1986, but the Department has used it only for self-insurance determinations.

25 Pa. Code §§ 264a.161 and 265a.161 Cost Estimate for Closure and Post-Closure Care

The Board is proposing to move the cost estimate sections from their current location at § 267.19 to §§ 264a.161 and, for interim status to §§ 265a.161. The corresponding Federal regulations are found in 40 CFR 264.142 and 264.144 and for interim status, the Federal regulations are found in 40 CFR 265.142 and 265.144. The proposed amendments will incorporate by reference the Federal cost estimate sections which are essentially the same as the current cost estimate provisions found in § 267.19.

40 CFR 264.173 and 265.163 Management of Containers

The Board is proposing to incorporate by reference 40 CFR 264.173 and 265.173, the Federal regulations regarding the use and management of containers. In addition, the Board is proposing to retain the existing labeling requirements found in §§ 264.173 and 265.173 and to relocate these requirements to §§ 264a.173 and 265a.173.

The Federal regulations do not require operators to label their containers that contain hazardous waste. Labels are required by section 403(b)(2) of SWMA (35 P. S. § 6018.403(b)(2)). The Board has determined that labeling containers with their contents is essential to the proper management of the containers.

25 Pa. Code §§ 264a.175 and 265a.175 and 40 CFR 264.175 and 265.179 Containment

The Board is proposing to retain the current requirements for height, width and depth of containers used to store waste as well as aisle distances between groups of storage containers. These requirements are currently found in §§ 264.179 and 265.178. These regulations have no Federal analog. The Board has determined that these requirements will ensure uniformity in storage practices and are essential to the safe management of containers that store hazardous waste.

25 Pa. Code § 264a.180 Weighing or Measuring Facilities

The Board is proposing to retain the existing requirements for weighing and measuring facilities currently found at § 264.180. These requirements are necessary to calculate the fees owed under sections 305, 306 and 903 of HSCA (35 P. S. §§ 6020.305, 6020.306 and 6020.903). In addition, the weights and measurements obtained from the requirements in proposed § 264a.180 provide the Department with information that it uses to verify the manifest information that is submitted to the Department.

25 Pa. Code §§ 264a.191 and 265a.191 and 40 CFR 264.191 and 265.191 Tanks: Assessment of Existing Tank System's Integrity

The proposed regulations amend the effective dates of the requirements of 40 CFR 264.191 and 265.191 to match the dates on which these requirements became effective in this Commonwealth under the existing hazardous waste regulations.

25 Pa. Code §§ 264a.193 and 265a.193 and 40 CFR 264.193 and 265.193 Tanks: Containment and Detection of Releases

The proposed regulations amend the effective dates of the requirements of 40 CFR 264.193 and 265.193 to match the dates on which these requirements became effective in this Commonwealth under the existing hazardous waste regulations.

25 Pa. Code §§ 264a.194 and 265a.194 and 40 CFR 264.194 and 265.194 Tanks: General Operating Requirements

The Board is proposing to incorporate by reference 40 CFR 264.194 and 265.194, the Federal regulations regarding general operating requirements for tanks. In addition, the Board is proposing to retain the existing labeling requirements currently found in §§ 264.194 and 265.194 and to relocate these requirements to §§ 264a.194 and 265a.194. The Federal regulation does not require operators to label tanks. The Board has determined that labeling tanks with their contents is essential to the proper management of tanks that contain hazardous wastes.

25 Pa. Code §§ 264a.195 and 265a.195 and 40 CFR 264.195 and 265.195 Tanks: Inspections

The Board is proposing to incorporate by reference 40 CFR 264.195 and 265.195, the Federal regulation regarding tank inspections. In addition, the Board is proposing to relocate the existing Commonwealth requirement to inspect tanks every 72 hours when the facility is not

operating, if the tank waste remains in the tank or tank system components. This Commonwealth requirement is currently found in §§ 264.195 and 265.195, but the Board is proposing to move it to §§ 264a.195 and 265a.195. The Federal regulation requires only that operators inspect tanks once each operating day. The Board has determined that all tanks and tank systems containing hazardous waste must be inspected, regardless of whether or not the facility is operating since all tanks could leak.

25 Pa. Code § 264a.221 and 40 CFR 264.221 Surface Impoundments: Design and Operating Requirements

The Board is proposing to adopt 40 CFR 264.221, the Federal regulation for surface impoundment design and operating requirements. In addition, the Board proposes to retain the minimum groundwater separation distance requirements found in the current regulations at § 264.222. This requirement is proposed to be relocated to § 264a.221. Separation distances provide a layer of soil material that will allow some attenuation of any waste passing through the liner system. In addition, the separation distance reduces the threat of upward hydraulic pressures which could threaten the integrity of the liner system. The Board has determined that since the Commonwealth has a high water table and receives a lot of precipitation, it is a compelling State interest to protect groundwater from contamination that results from leakage from surface impoundment liners. Generally, the proposed regulation is not as prescriptive as the existing Commonwealth design and operating requirements found in §§ 264.221, 264.223 and 264.224 so that owners and operators of facilities are given more flexibility in designing and operating their facilities in an environmentally protective manner. The significant differences between the proposed regulation and the existing State regulations are:

1) The proposed regulation requires double composite liner requirements for new surface impoundments. The current regulation requires a double noncomposite liner system for all surface impoundments. A composite liner system contains two different components that keep the waste from traveling through the liner.

2) The proposed regulation allows for alternative design and operating practices if the alternate design and operating practice is as effective as the design and operating practice prescribed in the regulations. The current regulation does not provide any flexibility in design and operating practices

3) The proposed regulation requires that the Department specify in the permit all design and operating practices. The current regulation does not require this.

4) The current regulation sets forth specific conveyance, storage and treatment requirements for leachate. The proposed regulation does not provide prescriptive requirements. The proposed regulation addresses leachate detection collection but allows the specific storage and treatment design issues to be addressed on a case by case basis.

5) The current regulation sets forth specific operating requirements regarding standby equipment, equipment maintenance, loading areas, and waste tracking. The proposed regulation does not provide prescriptive requirements. The proposed regulation allows permit applicants to address these issues in their permit applications on a case by case basis.

6) The current regulation contains prescriptive capping requirements. The proposed regulation does not contain prescriptive capping requirements, but it does contain

performance requirements so that operators must minimize migration of wastes; minimize maintenance of cap; and utilize a cap that has a permeability that is less than or equal to the permeability of the liner. The proposed regulation also requires the use of a final cover.

25 Pa. Code § 264a.251 and 40 CFR 264.251 Waste Piles: Design and Operating Requirements

The Board is proposing to incorporate by reference 40 CFR 264.251, the Federal regulation regarding design and operating requirements of waste piles. In addition, The Board proposes to relocate the existing Commonwealth provision that requires operators to design waste pile liner systems with 20 inches between the top of the subbase and the seasonal high groundwater table. This provision is currently found in § 264.252(d); the Board is proposing to relocate it to § 264a.251. The Department believes that this additional State requirement will ensure the stability of the liner system and prevent the infiltration of groundwater into the hazardous waste. The protection of groundwater from a leaking liner system is a compelling State interest. Generally, the difference between the proposed regulation and the existing regulation is that the proposed regulation is less prescriptive than the existing regulation. Specific significant differences between the current State regulation and the proposed State regulation are:

1) The current regulation exempts from groundwater monitoring requirements waste piles from which the waste is periodically removed and for which the liner is inspected for cracks. The proposed regulation does not contain this exemption.

2) The proposed regulation allows the depth of leachate over a liner to reach a maximum of 1 foot while the current regulation does not permit any standing liquid over the liner.

3) The proposed regulation requires a composite bottom liner for each new waste pile. The current regulation does not require a composite bottom liner for any waste piles.

4) The proposed regulation allows for alternative design and operating practices, if the alternative design and operating practices prevent migration of waste into the groundwater and detect leaks through the liner at least as effectively as the design requirements contained in the regulations. The current regulation does not provide any flexibility in design and operating practices.

5) The proposed regulation requires that operators design run-on control measures, such as berms and dikes for a 25 year storm. The current regulation requires operators to design run-on control measures for a 100 year storm.

6) The proposed regulation requires that the Department specify in the permit all design and operating practices. The current regulation does not require this.

7) The current regulation sets forth specific conveyance, storage and treatment requirements for leachate. The proposed regulation does not provide prescriptive requirements. The proposed regulation addresses leachate detection and collection while leaving the specific storage and treatment design to be addressed on a case by case basis.

8) The current regulation sets forth specific operating requirements regarding standby equipment, equipment maintenance, loading areas, dust prevention and waste tracking. The proposed regulation does not provide prescriptive requirements. The proposed regulation allows the permit applicant to address operating requirements in

the permit application based on the specific characteristics of the permit applicant's facility.

40 CFR 264.272 Land Treatment: Treatment Program

The Board is proposing to incorporate by reference 40 CFR 264.272, the Federal regulation for treatment demonstration programs for land treatment. The current State analog is found in § 264.272, and it differs from the Federal regulation because the proposed regulation authorizes the Department to issue permits only for the demonstration portion of the land treatment project. The current regulation includes the demonstration permit as a part of the operating permit.

25 Pa. Code § 264a.273 and 40 CFR 264.273 Land Treatment: Design and Operating Requirements

The Board is proposing to incorporate by reference 40 CFR 264.273, the Federal regulation regarding design and operating requirements for land treatment. In addition, the Department proposes to relocate the existing requirements that are currently found in § 264.273(a)(5)–(10). These requirements are proposed to be relocated in § 264a.273. The additional State provisions require specific waste application requirements that include: spreading the waste; turning the waste within 24 hours of its placement on the land; spreading the waste in thin layers, and ensuring that the waste is not spread on frozen ground. The proposed regulation is more stringent than the Federal regulation, because it contains additional State requirements. However, the Board has determined that the additional requirements are consistent with the standard practices employed in the industry to ensure basic environmental protection. The most notable difference between the current regulation and the proposed regulation is that the current regulation contains prescriptive operating requirements for standby equipment, equipment maintenance, loading areas, dust prevention and waste tracking while the proposed regulation allows these requirements to be addressed through the facility specific permitting process.

25 Pa. Code § 264a.276 and 40 CFR 264.276 Land Treatment: Food Chain Crops

The Board is proposing to incorporate by reference 40 CFR 264.276, the Federal regulation for food chain crops. In addition, the Board is proposing to relocate the existing State requirements that are currently found in § 264.276. These requirements are proposed to be found in § 264a.276. The additional State provisions prohibit the growth of tobacco and food crops intended for direct human consumption on hazardous waste land treatment facilities. The Board believes that it is clear that this prohibition is necessary for the protection of human health.

25 Pa. Code § 264a.301 and 40 CFR 264.301 Landfills: Design and Operating Requirements

The Board is proposing to adopt 40 CFR 264.301, the Federal regulation for landfill design and operating requirements. In addition, The Board proposes to relocate the existing Commonwealth requirement for minimum groundwater separation distances. These requirements are currently found in § 264.302(b) and are proposed to be moved to § 264a.301. Separation distances provide a layer of soil material that will allow some attenuation of any waste passing through the liner system. In addition, the separation distance reduces the threat of upward hydraulic pressures which could threaten the integrity of the liner system. The regulation protects groundwater from contamination that results from leakage from landfill liners. Generally, the proposed regulation is not as

prescriptive as the existing Commonwealth design and operating requirements found in §§ 264.301, 264.303 and 264.304. The significant differences between the proposed regulation and the existing Commonwealth regulations are:

1) The proposed regulation requires double composite liner requirements for new landfills. The current regulations require a double noncomposite liner system for all landfills. A composite liner system contains two different components that keep the waste from traveling through the liner.

2) The proposed regulation allows for alternative design and operating practices if the alternate design and operating practice is as effective as the design and operating practice prescribed in the regulations. The current regulation does not provide any flexibility in design and operating practices

3) The proposed regulation requires that operators design run-on control measures such as berms and dikes for a 25 year storm. The current regulation requires operators to design run-on control measures for a 100 year storm.

4) The proposed regulation requires that the Department specify in the permit all design and operating practices. The current regulation does not require this.

5) The current regulation sets forth specific conveyance, storage and treatment requirements for leachate. The proposed regulation does not provide prescriptive requirements. The proposed regulation addresses leachate detection collection but allows the specific storage and treatment design issues to be addressed on a case-by-case basis.

6) The current regulation sets forth specific operating requirements regarding standby equipment, equipment maintenance, loading areas, and waste tracking. The proposed regulation does not provide prescriptive requirements. The proposed regulation allows permit applicants to address these issues in their permit applications on a case by case basis.

7) The current regulation contains prescriptive capping requirements. The proposed regulation does not contain prescriptive capping requirements, but it does contain performance requirements for operators to minimize migration of wastes; minimize maintenance of cap; and utilize a cap that has a permeability that is less than or equal to the permeability of the liner. The proposed regulation also requires the use of a final cover.

40 CFR 264.343 Incinerators: Performance Standards

The Board is proposing to incorporate by reference 40 CFR 264.343, the Federal regulation regarding incinerator performance standards. The proposed regulation differs from the existing regulation, because incinerator owners or operators currently must control total hydrogen halide emissions and the proposed regulation will require the control of hydrogen chlorides only. Although hydrogen halides may contribute to acid gas formation, hydrogen chloride is the most commonly occurring hydrogen halide that contributes to acid gas formation. Using hydrogen chloride as an indicator of acid gas formation is a commonly accepted practice in permitting incinerators. Adoption of this Federal regulation will facilitate compliance monitoring and will not compromise human health or the environment.

40 CFR 265.340 Applicability to Interim Status Incinerators

The Board is proposing to incorporate by reference 40 CFR 265.340, the Federal regulation regarding the applicability of Part 265, Subpart O to interim status incinerators. The adoption of the Federal regulation will result in the addition to the existing Commonwealth regulations of certain exemptions from the requirements of existing Chapter 265, Subchapter O for any interim status incinerators burning low risk hazardous wastes. These exemptions are currently available to hazardous waste incinerators subject to the requirements of existing Chapter 264, Subchapter O and, therefore, the same exemptions should be available for incinerators subject to the interim status standards of existing Chapter 265, Subchapter O. These exemptions are proposed in Chapters 264a, Subchapter O and 265a, Subchapter O.

25 Pa. Code § 265a.382 Thermal Treatment: Open Burning: Waste Explosives

The Board is proposing to retain the existing State prohibition of burning waste explosives in certain air basins delineated in this Commonwealth's air resources regulations. The existing hazardous waste regulation that contains this prohibition is found in § 265.382(b). The air resources regulation that delineates certain air basins is found in § 121.1. The prohibition is based on a broader air quality prohibition that forbids any open burning in the specifically identified air basins. The prohibition is found in the Department's air quality regulations at § 129.14(a). The Federal regulation at 40 CFR 265.382 does not contain this prohibition.

25 Pa. Code Chapter 266a and 40 CFR Part 266

25 Pa. Code § 266a.20 and 40 CFR 266.20 Applicability

The Board is proposing to incorporate by reference 40 CFR 266.20. In addition, the Board is proposing to retain and relocate the existing State requirement that requires producers of products containing or derived from hazardous waste to obtain written approval from the Department prior to applying or placing these products on the land. The Commonwealth requirement is proposed to be relocated to § 266a.20. Although the Federal regulations require producers of these products to satisfy the same conditions as those contained in the State regulations, the Federal regulations do not require prior written approval from the EPA. The Board has determined that prior written approval is required to ensure that this provision is not abused and that this requirement is consistent with most other States' regulatory programs.

25 Pa. Code Chapter 266a, Subchapter E Waste Oil Burned for Energy Recovery

The Board is proposing to relocate all of the existing text of Chapter 266, Subchapter E to Chapter 266a, Subchapter E. The Board is not proposing to make any substantive changes to the existing text.

25 Pa. Code § 266a.103 and 40 CFR 266.103 Interim Status Standards for Burners

The Board is proposing to incorporate by reference 40 CFR 266.103, the Federal regulation regarding interim status standards for burners. In addition, the Board is proposing to retain and relocate the existing State requirement that establishes an 8,000 Btu/lb minimum heating value for hazardous waste being burned as fuel in interim status burners and exempt small quantity on-site burners. Federal regulations establish the minimum heating value at 5,000 Btu/lb. The existing State regulation is found in § 266.30, and the Board is proposing to relocate

this requirement to § 266a.103. The Commonwealth's regulations contain an 8,000 Btu/lb minimum heating value, because the Board determined that the 8,000 Btu/lb minimum provides some assurance that hazardous wastes burned in boilers or industrial furnaces (BIF) operating in interim status were actually burning the hazardous wastes for energy recovery rather than for disposal. The Board has determined that this restriction is necessary only until BIFs are permitted, at which point permitting standards render the 8,000 Btu/lb limitation unnecessary. The 8,000 Btu/lb value contained in the Commonwealth's regulations is equivalent to the Btu/lb value of wood or low-grade coal. Burning wastes with lower heating values presents a potential risk to human health and the environment because these wastes tend to contain a greater amount of hazardous constituents that will not be destroyed by burning. The Board is proposing to retain the 8,000 Btu/lb standard in situations in which hazardous waste is to be burned or processed prior to issuance of a BIF permit or under a permit exemption.

40 CFR Part 266, Subpart F Recyclable Materials Utilized for Precious Metal Recovery

The Board proposes to incorporate by reference 40 CFR Part 266, Subpart F, the Federal regulations for recyclable materials utilized for precious metal recovery. This Federal regulation provides reduced regulatory requirements for generators, transporters or storers of hazardous wastes that are reclaimed to recover economically significant amounts of certain precious metals. The reduced requirements include notification, manifesting and, where the materials are stored, recordkeeping to document that the materials are not accumulated speculatively. Under the current Federal regulatory scheme, the reclamation process itself is exempt from regulation under 40 CFR 261.6(c)(1).

The SWMA, however, requires a permit to be issued by the Department for facilities that perform treatment to recycle hazardous waste. Therefore, even under this proposed rule, facilities that reclaim precious metals from hazardous waste would need to obtain a recycling permit from the Department. Some precious metal-bearing hazardous waste, such as spent photographic fixer solutions classified as spent materials, are not excluded from the definition of solid waste when reclaimed. The Department does not intend to impede the safe reclamation of these materials. The Department specifically seeks comments on the possibility of providing a permit-by-rule for the owners or operators of facilities that reclaim, or otherwise treat hazardous waste to make the waste suitable for further reclamation of economically significant amounts of the precious metals identified in 40 CFR Part 266, Subpart F.

25 Pa. Code Chapter 266b and 40 CFR Part 273

The Board is proposing to relocate the Universal Waste Rule, currently found in Chapter 266, Subchapters J—P, to Chapter 266b. The Board is not proposing to make any changes to the text of these subchapters.

25 Pa. Code Chapter 268a and 40 CFR Part 268

The Board is proposing to incorporate by reference 40 CFR Part 268 (relating to land disposal restrictions). The Board is proposing to locate these requirements in Chapter 268a. Although the Commonwealth will be including these requirements in its regulations for the first time, the land disposal restrictions have been administered and enforceable by the EPA since the passage of HSWA.

25 Pa. Code Chapter 270a and 40 CFR Part 270

The Board proposes to restructure the permitting requirements that are currently found in Chapters 265 and 270 so that all of the permitting requirements are contained in Chapter 270a. The following chart lists the proposed regulatory section numbers and the corresponding section numbers in the existing regulations that contain the similar provisions. Individual sections in this proposed rulemaking that are in Chapter 270a and that contain either significant substantive changes from the existing regulation, or that contain provisions that are more stringent than the Federal regulations, are listed below the chart.

<i>Proposed 25 Pa. Code citation or 40 CFR citation</i>	<i>Existing 25 Pa. Code citation</i>
40 CFR 270.1	265.440 and 270.1
25 Pa. Code § 270a.3	265.447
25 Pa. Code § 270a.10 and 40 CFR 270.10	265.441
25 Pa. Code § 270a.11 and 40 CFR 270.11	265.443
25 Pa. Code § 270a.12 and 40 CFR 270.12	265.446
40 CFR 270.13	270.12
40 CFR 270.14	265.442
40 CFR 270.15—270.28	265.450—265.452 and 265.460
40 CFR 270.30	270.13
40 CFR 270.31	270.21
40 CFR 270.32	270.13
40 CFR 270.33	270.22
25 Pa. Code § 270a.41 and 40 CFR 270.41	265.445, 270.31—270.33
25 Pa. Code § 270a.60 and 40 CFR 270.60	Chapter 266
25 Pa. Code § 270a.61 and 40 CFR 270.61	270.2(a)
40 CFR 270.62—270.66	Chapter 264, Subchapter O
40 CFR 270.70	265.431
25 Pa. Code § 270a.41	270.33
25 Pa. Code § 270a.80	270.41
25 Pa. Code § 270a.81	270.42

40 CFR 270.40 Transfer of Permits

The Board is proposing to incorporate by reference 40 CFR 270.40, the Federal regulation regarding transfer of permits. Currently, the hazardous waste regulations prohibit the transfer of permits in accordance with the existing regulation found in § 270.1(g). In the Department's experience, permit transfers are necessary in some situations including company buyouts and corporate restructuring.

Appendix I for 40 CFR 270.42 Classification of Permit Modification

The Board is proposing to incorporate by reference the Federal regulation and its appendix regarding permit modification at the request of the permittee found in 40 CFR 270.42. The State analog is currently found in § 270.31(c). The proposed regulation includes an appen-

dix that classifies permit modifications as Class 1, Class 2 or Class 3 modifications. The proposed regulations intend to expand the list of modifications considered to be minor modifications in categorizing Class 2 and Class 3 modifications as minor permit modifications.

25 Pa. Code § 270a.60 and 40 CFR 270.60 Permits by Rule

The Board is proposing to incorporate by reference 40 CFR 270.60, the Federal regulation for permits by rule. In addition, the Board proposes to retain the existing State requirements that require the following facilities to operate pursuant to permits by rule: elementary neutralization units; generator treatment in containers, tanks or containment buildings; battery manufacturing facilities reclaiming spent, lead-acid batteries; petroleum refining facilities that reclaim hazardous waste onsite, at the site where it is generated; and facilities that store hazardous waste onsite prior to reclamation. These facilities are exempted from permitting requirements by the Federal law, but since the SWMA requires permitting for the treatment or reclamation of hazardous wastes, the Commonwealth must require permits for these facilities.

40 CFR Subpart EE of Parts 264 and 265 and Subpart M of Part 266 Munitions

The Board is proposing to incorporate by reference the February 12, 1997, Federal regulations that deal with munitions, 62 FR 6621. The specific regulatory provisions regarding munitions are found throughout the Federal hazardous waste regulations since the rulemaking sets forth standards for generators of hazardous waste munitions; transporters of hazardous waste munitions; owners and operators of TSDFs that handle hazardous waste munitions; storage of hazardous waste munitions and explosives; and management of military munitions. The significant elements of the munitions rulemaking include a definition for military munitions that are a solid waste as well as a definition for military munitions that are not a solid waste. In addition, the rulemaking establishes new storage standards for both military and nonmilitary waste munitions and explosives and exempts from RCRA generator, transporter and permitting requirements persons responding to time-critical munitions and explosives emergencies. Finally, the rulemaking exempts generators and transporters from RCRA manifest requirements for the transportation of hazardous waste on public or private right-of-ways on or along the border of contiguous properties under the control of a single owner.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

Benefits

The proposed regulations will incorporate by reference the Federal regulatory requirements for hazardous waste management and will add Pennsylvania requirements to the Federal requirements in instances in which the Department identifies a compelling State interest that requires the Commonwealth to modify or add to the Federal requirements. As a result of the incorporation by reference, the proposed regulations will align more closely the text and numbering system of the Pennsylvania regulations found in Chapters 260a—266a, 266b and 268a—270a with the Federal numbering system found in 40 CFR Parts 260—273. In addition, the rule will eliminate the confusion caused by using two different sets of regulations—those used by the EPA and those used by the Department—for managing hazardous waste in this Commonwealth. Since most states have hazardous waste

regulations that closely resemble the Federal regulations, amending the Commonwealth's hazardous waste regulations to follow the Federal regulations will allow companies to comply more easily on an interstate basis. In addition, most of this Commonwealth's regulations mirror the intent of the Federal rules, and many Commonwealth regulations use the same language that the Federal rules use. Most of the Commonwealth requirements that have Federal analogs use the same section numbers as the Federal numbering system. Consequently, all classes of hazardous waste generators; transporters; and treatment, storage and disposal facilities will benefit from the proposed changes since the proposed regulations provide the regulated community with consistency between the State and Federal regulatory requirements, language and numbering systems.

Compliance Costs

Although this is a large and comprehensive rulemaking, it imposes very few additional costs on the regulated community and the Department. Since the overall purpose of the proposed regulations is to align the Department's hazardous waste regulations with the Federal hazardous waste regulations, the Department expects a decrease in the overall cost of compliance since the regulated community will need to comply with only one set of regulations rather than the two sets with which it must currently comply.

The regulated community will realize an estimated \$400,000 of additional savings through the amendment of the manifest regulation to require a six part manifest rather than the current eight part manifest. The savings will result from reduced clerical and mailing costs. Costs to the Commonwealth will also be reduced as a result of this amendment. The reduction in the amount of mail handled will be significant. The number of manifests scanned and data entered into the Department computer system will be reduced by approximately 50%. This will result in a savings to the Department of an estimated \$30,000 through the elimination of one staff position.

The proposed regulations allow permit applicants to submit information on their own forms rather than on the Department's Module 1 forms. The Department estimates that this will save the regulated community \$35,000 annually. These savings would be a direct result of the elimination of the requirement to transcribe information from an operator's form to a Department form.

Compliance Assistance Plan

The Department will assist the regulated community by developing a series of fact sheets explaining any changes to the regulations. In addition, the Department intends to meet with industry groups whenever and wherever possible to explain the regulatory changes. Department field staff will also provide compliance assistance during routine facility inspections.

Paperwork Requirements

These proposed regulations will result in a net reduction in paperwork requirements. Manifest copies will be reduced from eight to six resulting in substantial paperwork reduction and reduced filing, storage and mailing costs. An additional reduction in paperwork will result from the reduced groundwater monitoring requirements. These forms will only have to be completed and mailed once per year, as opposed to the current requirement that operators complete and mail these forms twice per year. Allowing industry to use their own forms in place of the Department's Module 1 forms will also reduce paperwork requirements. Transcription and storage of duplicate

records will be eliminated. No additional forms are required by these regulations.

G. Pollution Prevention

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, this rulemaking has incorporated the following provision and incentive to meet that goal: § 262.100 provides that any person or municipality that generates hazardous waste must prepare a source reduction strategy that identifies the methods and procedures that the person or municipality intends to implement to reduce the amount of hazardous waste generated. The incentive for a person or municipality to implement their source reduction strategy is to save money in hazardous waste management costs, protect employee health and safety, lower insurance costs and protect the environment by reducing the amount of hazardous waste generated.

H. Sunset Review

This rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on November 19, 1997, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. 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. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the rulemaking.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17105-2301). Comments received by facsimile will not be accepted. Comments, suggestions or objections must be received by February 4, 1998, (within 60 days of publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary shall not exceed one page in length and must also be received by February 4, 1998 (within 60 days following publication in the *Pennsylvania Bulletin*). The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@A1.dep.State.pa.us. A subject heading of the proposal must be included in each transmission. Comments submitted electronically must also be received by the Board by February 4, 1998.

K. Public Hearings

The Board will hold three public hearings at 1 p.m. as follows:

Date	Location
January 12, 1998	Department of Environmental Protection Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA
January 14, 1998	Department of Environmental Protection Southwest Regional Office 500 Waterfront Drive Pittsburgh, PA
January 16, 1998	Department of Environmental Protection 1st Floor Meeting Room Rachel Carson State Office Building 400 Market Street Harrisburg, PA

Persons wishing to present testimony at a hearing are requested to contact Sharon Freeman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation in order to participate should contact Sharon Freeman at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Chairperson

Fiscal Note: 7-328. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

(Editor's Note: The Department is proposing to delete the current version of 25 Pa. Code Chapters 260—270 as it appears in the Pennsylvania Code at pages 260-1—270-28 (serial pages (233837), (233838), (225009)—(225028), (228321), (228322), (225031)—(225038), (228323), (228324), (225041)—(225048), (228325), (228326), (230435)—(230446), (225061), (225062), (228327), (228328), (230447), (230448), (225067), (225068), (230449)—(230474), (225095)—(225110), (230475)—(230482), (225117)—(225276), (230483)—(230488), (225281)—(225324), (230481)—(230492), (225329)—(225340), (230493), (230494), (225343)—(225398), (230495)—(230546), (228335), (228336), (225423)—

(225426), (210143)—(210154), (225427), (225428), (210157), (210158), (228337)—(228340), (210163)—(210178), (230547), (230548), (210181)—(210206), (230549), (230550) and (225431)—(225456).)

CHAPTER 260. (Reserved)

CHAPTER 260a. HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

Subchap.

A. GENERAL

B. DEFINITIONS

C. RULEMAKING PETITIONS

Subchapter A. GENERAL

Sec.

260a.1. Incorporation by reference, purpose, scope and applicability.

260a.2. Availability of information.

260a.3. Terminology and citations related to Federal Regulations.

§ 260a.1. Incorporation by reference, purpose, scope and applicability

(a) Except as expressly provided in this chapter, the requirements of 40 CFR Part 260 (relating to hazardous waste management system: general) are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference, nothing contained in this article relieves or limits a person or municipality who generates, transports, stores, treats or disposes of hazardous waste from complying with the requirements of Pennsylvania law, including The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305); the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); the Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 1406.1—1406.21); the Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70-101—70-1405); and the act of July 9, 1976 (P. L. 931, No. 178) (52 P. S. §§ 27.7-1—27.7-9).

§ 260a.2. Availability of information.

Notwithstanding the requirements incorporated by reference, 40 CFR 260.2 (relating to availability of information) is not incorporated by reference.

§ 260a.3. Terminology and citations related to Federal regulations.

(a) For purposes of interfacing with 40 CFR Parts 260—279, the following terms apply, unless the context clearly indicates otherwise:

(1) “Administrator” and “Regional Administrator” are synonymous with “Department.”

(2) When referring to an operating permit or to the Federal hazardous waste program, “Resource Conservation and Recovery Act” (42 U.S.C.A. §§ 6901—6986), “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C” or “Subtitle C” is synonymous with the “Pennsylvania Solid Waste Management Act” (35 P. S. §§ 6018.101—6018.1003).

(3) “Environmental Protection Agency” is synonymous with “Department.”

(4) Whenever the regulations require publication in the “Federal Register” compliance will be accomplished by publication in the “Pennsylvania Bulletin.”

(5) “Used oil” is synonymous with “waste oil.”

(6) “State,” “authorized state,” “approved state” or “approved program” is synonymous with “the Commonwealth.”

(7) Whenever the regulations require compliance with procedures found in 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program), compliance shall be accomplished by the procedures found in Chapter 270a (relating to hazardous waste permit program).

(8) The Commonwealth equivalent of 40 CFR Part 273 (relating to standards for universal waste management) is found in Chapter 266b (relating to standards for universal waste management).

(b) If a provision of the *Code of Federal Regulations* incorporated by reference in this article includes a section which is inconsistent with the *Pennsylvania Code*, the *Pennsylvania Code* controls to the extent Federal law does not preempt Commonwealth law. If a provision of the *Code of Federal Regulations* incorporated by reference in this article is beyond the scope of authority granted the Department under statute, or is in excess of the statutory authority, the provisions shall be and remain effective only to the extent authorized by Pennsylvania law.

(c) Federal statutes and regulations that are cited in 40 CFR Parts 260—266, 268 and 270 that are not specifically adopted by reference will be used as guidance in interpreting the Federal regulations in 40 CFR Parts 260—266, 268 and 270.

Subchapter B. DEFINITIONS

Sec.

260a.10. Definitions.

§ 260a.10. Definitions.

(a) Notwithstanding the requirements incorporated by reference:

(1) The following terms are not incorporated into this section:

- (i) “Act.”
- (ii) “Disposal.”
- (iii) “Management.”
- (iv) “Storage.”
- (v) “Transportation.”

(2) The definitions for the following terms are incorporated by reference, but the dates contained in 40 CFR 260.10 (relating to definitions) are modified as follows:

(i) *Existing tank system or existing component*—Installation of the tank system or components shall have been on or prior to January 10, 1993.

(ii) *New hazardous waste management facility*—A facility that began operation or for which construction commenced after November 19, 1980.

(iii) *New tank system or new tank component*—Installation of the tank system or components shall have been after January 16, 1993.

(b) In addition to the definitions incorporated by reference, the terms listed as follows have the following meanings:

(1) *Act*—The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

(2) *Disposal*—The incineration, deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is

emitted into the air or is discharged to the waters of this Commonwealth. The term also includes the abandonment of solid waste with the intent of not asserting or exercising control over, or title or interest in the solid waste.

(3) *Fund*—The host municipalities fund.

(4) *Hazardous Sites Cleanup Act*—The Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).

(5) *Hazardous Sites Cleanup Fund*—The fund established by section 901 of the Hazardous Sites Cleanup Act (35 P. S. § 6020.901).

(6) *Hazardous waste management unit*—A contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is a significant likelihood of mixing hazardous waste constituents in the same area. The term includes a surface impoundment, waste pile, land treatment area, landfill cell, incinerator, tank and associated piping and underlying containment system, and container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(7) *Host municipality*—A municipality, other than a county, where a qualifying facility is located, either in whole or in part, within its established corporate boundaries.

(8) *Household waste*—Waste material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

(9) *Identification number*—The number either assigned by the EPA to each generator, transporter and treatment, storage or disposal facility or provisionally assigned by the Department.

(10) *In-transit storage*—The storage of hazardous waste by the transporter at a transfer facility for no more than 10 days if the hazardous waste is manifested and remains in containers that conform to the requirements of 40 CFR 262.30 and 262.33 (relating to packing, labeling and marking; and placarding).

(11) *Manifest document number*—The unique number assigned to a particular manifest form, usually printed in the upper right corner of the form.

(12) *Pennsylvania hazardous waste facilities plan*—A plan required by sections 104(14) and 105(f) of the act (35 P. S. §§ 6018.104(14) and 6018.105(f)) and adopted by the EQB which identifies current and future hazardous waste treatment and disposal facilities necessary for the proper management of hazardous waste in this Commonwealth.

(13) *Permit-by-rule*—A provision of this article whereby a facility or activity is deemed to have a hazardous waste management permit if it meets the applicable requirements of this article.

(14) *Recycling permit*—A treatment permit for a facility that treats hazardous waste to turn the waste into a product or make the waste otherwise suitable for use or reuse, including use as a fuel.

(15) *Registered professional engineer or professional engineer*—An engineer registered to practice engineering in this Commonwealth.

(16) *Registered professional geologist or professional geologist*—A geologist registered to practice geology in this Commonwealth.

(17) *Responsible official*—For corporations, the corporate officers; for limited partnerships, the general partners; for all other partnerships, the partners; for a sole proprietorship, the proprietor; for a municipal, state or Federal authority or agency, an executive officer or ranking elected official responsible for compliance of the hazardous waste activities and facilities of the authority or agency with all applicable rules and regulations.

(18) *Source reduction*—The reduction or elimination of the quantity or toxicity of hazardous waste generated. Source reduction may be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process. The term does not include dewatering, compaction, reclamation, treatment, or the use or reuse of waste.

(19) *State manifest document number*—The state abbreviation, the letter and the unique number assigned to the manifest, usually preprinted on the form, for recording and reporting purposes.

Subchapter C. RULEMAKING PETITIONS

Sec.
260a.20. Rulemaking petitions.

§ 260a.20. Rulemaking petitions.

Notwithstanding the requirements incorporated by reference, each petition shall be submitted in accordance with Chapter 23 (relating to Environmental Quality Board—policy for processing petitions—statement of policy), instead of the procedures in 40 CFR 260.20(b)—(e) (relating to general).

CHAPTER 261. (Reserved)

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchap.
A. GENERAL

Subchapter A. GENERAL

Sec.
261a.1. Incorporation by reference, purpose and scope.
261a.3. Definition of "hazardous waste."
261a.4. Exclusions.
261a.5. Special requirements for hazardous waste generated by small quantity generators.
261a.6. Requirements for recyclable materials.
261a.7. Residues of hazardous waste in empty containers.

§ 261a.1. Incorporation by reference, purpose and scope.

Except as expressly provided in this chapter, the requirements of 40 CFR Part 261 and its Appendices (relating to identification and listing of hazardous waste) are incorporated by reference.

§ 261a.3. Definition of "hazardous waste."

(a) Notwithstanding the requirements incorporated by reference:

(1) Certain nonwastewater residues, such as slag, resulting from high temperature metals recovery processing of K061, K062 or F006 waste in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces are hazardous wastes if they are described in 40 CFR 261.3(c)(2)(ii)(C) (relating to definitions of hazardous waste).

(2) Biological treatment sludge from the treatment of organic waste from the production of carbamates and

carbamoyl oximes, and wastewaters from the production of carbamates and carbamoyl oximes are hazardous wastes if they are described in 40 CFR 261.3(c)(2)(ii)(D).

(b) In addition to the requirements incorporated by reference, waste oil that is hazardous only because it exhibits any characteristic of hazardous waste under 40 CFR Part 261, Subpart C (relating to characteristics of hazardous waste) which has not been mixed with a hazardous waste and which is destined to be recycled or reused in some other manner than burning for energy recovery is not subject to Chapters 260a—266a and 266b. This waste oil is regulated under residual waste regulations in Article IX (relating to residual waste management). Burning waste oil that exhibits any characteristic of hazardous waste is not subject to Chapters 260a—265a, unless otherwise specified in Chapter 266a, Subchapter E (relating to waste oil burned for energy recovery).

§ 261a.4. Exclusions.

(a) Notwithstanding the requirements incorporated by reference, the materials excluded from regulation as solid waste under 40 CFR 261.4 (relating to exclusions) are only excluded from regulation as hazardous wastes in this Commonwealth.

(b) In addition to the requirements incorporated by reference, a copy of the written state agreement required by 40 CFR 261.4(b)(11)(ii) that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed for free phase hydrocarbon recovery operations shall be submitted to: Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, Post Office Box 8471, Harrisburg, Pennsylvania 17105-8471.

§ 261a.5. Special requirements for hazardous waste generated by small quantity generators.

Notwithstanding the requirements incorporated by reference:

(1) A conditionally exempt small quantity generator may not dispose of hazardous waste in a municipal or residual waste landfill in this Commonwealth

(2) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an onsite facility or ensure delivery to an offsite treatment, storage, or disposal facility, either of which, if located in the United States, is:

(i) Permitted, licensed or registered by another State to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258 (relating to criteria for municipal solid waste landfills).

(ii) Permitted, licensed or registered by another State to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5—257.30.

(3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an onsite facility or ensure delivery to an offsite treatment, storage or disposal facility, either of which, if located in the United States, is:

(i) Permitted, licensed or registered by another state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258.

(ii) Permitted, licensed or registered by another state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5—257.30.

§ 261a.6. Requirements for recyclable materials.

Notwithstanding the requirements incorporated by reference, owners or operators of facilities that reclaim or otherwise treat hazardous waste are regulated under, required to obtain a permit under and shall comply with this article.

§ 261a.7. Residues of hazardous waste in empty containers.

Notwithstanding the requirements incorporated by reference:

(1) A container or an inner liner removed from a container, previously used to hold a hazardous waste, which has been emptied in accordance with the standards of this section, and which is being transported to a facility for processing (as defined in § 260a.10 and 40 CFR 260.10 (relating to definitions)) or disposal shall be managed as a residual waste. For purposes of this section, a tank which is transported for processing or disposal shall be considered a container.

(2) The person in control of the container or inner liner removed from a container, when any remaining residue which was present prior to processing or other cleaning is, either accidentally or intentionally, removed therefrom shall have the responsibility to ensure that the waste is managed in compliance with the act and the regulations thereunder.

CHAPTER 262. (Reserved)

CHAPTER 262a. STANDARDS APPLICABLE GENERATORS OF HAZARDOUS WASTE

Subchap.

- A. GENERAL**
- B. THE MANIFEST**
- E. EXPORT OF HAZARDOUS WASTE**
- H. TRANSFRONTIER SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD**
- I. SOURCE REDUCTION STRATEGY**

Subchapter A. GENERAL

Sec.

- 262a.10. Incorporation by reference, purpose, scope and applicability.
- 262a.11. Hazardous waste determination.
- 262a.12. EPA identification numbers.

§ 262a.10. Incorporation by reference, purpose, scope and applicability.

Except as expressly provided in this chapter, the requirements of 40 CFR 262 (relating to standards applicable to generators of hazardous waste) are incorporated by reference.

§ 262a.11. Hazardous waste determination.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR 262.11 (relating to hazardous waste determination).

§ 262a.12. EPA identification numbers.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR 262.12 (relating to EPA identification numbers).

Subchapter B. THE MANIFEST

- Sec.
262a.20. General requirements.
262a.22. Number of copies.
262a.23. Use of the manifest.

§ 262a.20. General requirements.

Notwithstanding the requirements incorporated by reference, a generator shall:

(1) Complete the manifest form in its entirety and in accordance with the instructions included with the manifest.

(2) List no more than four waste streams on one manifest. If the generator is transporting or offering for transportation more than four different hazardous waste streams for offsite treatment, storage or disposal, the generator shall complete additional manifest forms for the remaining waste streams in the shipment, unless the waste stream is a lab pack.

(3) Complete a continuation sheet, EPA Form 8700-22a, when there are more than two transporters, or for lab packs when there are more than four different waste streams in one shipment.

(4) Ensure that the required information on all copies, including photocopies, of the manifest is capable of being read by the Department, transporter and designated facility.

(5) A generator shall designate only one facility which is permitted to handle the waste.

§ 262a.22. Number of copies.

(a) Notwithstanding the requirements incorporated by reference, 40 CFR 262.22 (relating to number of copies) is not incorporated by reference.

(b) The manifest shall consist of at least the number of copies which will provide the generator, each transporter and the owner or operator of the designated facility with one copy each for their records and which will allow the designated facility to send copies to the generator, generator state and destination state.

§ 262a.23. Use of the manifest.

Notwithstanding the requirements incorporated by reference, the generator shall:

(1) Send all manifest copies, except the generator's copy, dated and signed in accordance with the manifest instructions, to the owner or operator of the designated facility or the last water transporter to handle the waste in the United States if exported by water.

(2) For rail shipments, send all manifest copies, except the generator's copy, dated and signed in accordance with the manifest instructions, to one of the following:

- (i) The next nonrail transporter, if any.
- (ii) The designated facility if transported solely by rail.

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

Subchapter E. EXPORTS OF HAZARDOUS WASTE

- Sec.
262a.55. Exception report.
262a.56. Annual reports.
262a.57. Recordkeeping.

§ 262a.55. Exception report.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations)

does not apply to the incorporation by reference of 40 CFR Part 262, Subpart E (relating to exports of hazardous waste).

§ 262a.56. Annual reports.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262 (relating to standards applicable to generators of hazardous waste).

§ 262a.57. Recordkeeping.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262 (relating to standards applicable to generators of hazardous waste).

Subchapter H. TRANSFRONTIER SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

- Sec.
262a.80. Applicability.

§ 262a.80. Applicability.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262, Subpart H (relating to transfrontier shipments of hazardous waste for recovery within the OECD).

Subchapter I. SOURCE REDUCTION STRATEGY

- Sec.
262.100. Source reduction strategy.

§ 262a.100. Source reduction strategy.

(a) By January 17, 1994, a person or municipality that generates hazardous waste shall prepare a source reduction strategy in accordance with this section. Except as otherwise provided in this article, the strategy shall be signed by the person or municipality that generated the waste, shall be maintained on the premises where the waste is generated, shall be available on the premises for inspection by any representative of the Department and shall be submitted to the Department upon request. The strategy may designate certain production processes as confidential and this confidential information may not be made public without the expressed written consent of the generator. Unauthorized disclosure is subject to appropriate penalties as provided by law.

(b) For each type of waste generated, the strategy shall include:

(1) A description of the source reduction activities conducted by the person or municipality in the 5 years prior to the date that the strategy is required to be prepared. The description shall quantify reductions in the weight or toxicity of waste generated on the premises.

(2) A statement of whether the person or municipality has established a source reduction program.

(3) If the person or municipality has established a source reduction program as described in paragraph (2), the strategy shall identify the methods and procedures that the person or municipality will implement to achieve a reduction in the weight or toxicity of waste generated on the premises, shall quantify the projected reduction in weight or toxicity of waste to be achieved by each method

or procedure, and shall specify when each method or procedure will be implemented.

(4) If the person or municipality has not established a source reduction program as described in paragraph (2), the strategy shall include the following:

(i) A waste stream characterization, including source, hazards, chemical analyses, properties, generation rate, management techniques and management costs.

(ii) A description of potential source reduction options.

(iii) A description of how the options were evaluated.

(iv) An explanation of why each option was not selected.

(c) The strategy required by this section shall be updated when either of the following occurs:

(1) There is a significant change in a type of waste generated on the premises or in the manufacturing process, other than a change described in the strategy as a source reduction method.

(2) Every 5 years, unless the Department establishes, in writing, a different period for the person or municipality that generated the waste.

(d) If hazardous waste generated by a person or municipality will be treated, stored or disposed of at a solid waste management facility which has applied to the Department for approval to treat, store or dispose of the waste, the person or municipality that generated the hazardous waste shall submit the source reduction strategy required by this section to the facility upon the request of the facility.

(e) This section does not apply to persons or municipalities that generate a total of less than 1,000 kilograms of hazardous waste in each month of the year.

(f) A person or municipality that generates hazardous waste may reference existing documents it has prepared to meet other waste minimization requirements to comply with this section, including those proposed to comply with 40 CFR 261.41(a)(5)–(7) (relating to biennial report).

CHAPTER 263. (Reserved)

CHAPTER 263a. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Subchap.

A. GENERAL

B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

C. HAZARDOUS WASTE DISCHARGES

D. BONDING

Subchapter A. GENERAL

Sec.

263a.10. Incorporation by reference and scope.

263a.11. EPA identification number.

263a.12. Transfer facility requirements.

263a.13. Licensing.

§ 263a.10. Incorporation by reference and scope.

(a) Except as expressly provided in this chapter, the requirements of 40 CFR Part 263 (relating to standards applicable to transporters of hazardous waste) are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference, when used in 40 CFR 263.10 (relating to scope), the phrase "Commonwealth of Pennsylvania" shall be substituted for the phrase "United States."

§ 263a.11. EPA identification number.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations), does not apply in 40 CFR 263.11 (relating to EPA identification number).

§ 263a.12. Transfer facility requirements.

In addition to the requirements incorporated by reference:

(1) A transporter utilizing in-transit storage of hazardous waste for periods of not more than 10 days but greater than 3 days shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan will be approved in writing by the Department.

(2) A transporter transferring hazardous waste from one vehicle to another at a transfer facility shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan which will be approved in writing by the Department.

§ 263a.13. Licensing.

(a) Except as otherwise provided in subsection (b) or § 263a.30 (relating to immediate actions), a person or municipality may not transport hazardous waste within this Commonwealth without first obtaining a license from the Department.

(b) A person or municipality desiring to obtain a license to transport hazardous waste within this Commonwealth shall:

(1) Comply with 40 CFR 263.11 (relating to EPA identification number).

(2) File a hazardous waste transporter license application with the Department. The application shall be on a form provided by the Department and shall be completed as required by the instructions supplied with the form.

(3) Deposit with the Department a collateral bond which is conditional upon compliance by the licensee with the act, the regulations promulgated thereunder, the terms and conditions of the license and a Department order issued to the licensee. The amount, duration, form, conditions and terms of the bond shall conform to § 263a.32 (relating to bonding).

(4) Supply the Department with the relevant additional information it may require.

(c) Upon receiving the application and the information required in subsection (b), the Department will evaluate the application for a license and other relevant information and issue or deny the license. If a license is denied, the Department will advise the applicant in writing of the reasons for denial.

(d) A license granted or renewed under this chapter will be valid for 2 years unless the Department determines that circumstances justify issuing a license for a period of less than 2 years. The expiration date will be set forth on the license.

(e) A license to transport hazardous wastes is non-transferable and nonassignable and shall be used only by the licensee and employees of the licensee.

(f) The Department may revoke or suspend a license in whole or in part for one or more of the following reasons:

(1) Violation of an applicable requirement of the act or a regulation promulgated under the act.

(2) Aiding or abetting the violation of the act or a regulation promulgated under the act.

(3) Misrepresentation of a fact either in the application for the license or renewal or in information required or requested by the Department.

(4) Failure to comply with the terms or conditions placed upon the license or renewal.

(5) Failure to comply with an order issued by the Department.

(6) Failure to maintain the required bond amount.

(g) The application for a license shall be accompanied by a check for \$500 payable to the "Commonwealth of Pennsylvania." The application for license renewal shall be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania."

(h) In addition to the fees required by subsection (g), the transporter shall also submit a fee of \$5 for each license card requested in excess of ten cards.

(i) The licensee shall notify the Department within 30 days of any change in the information contained in the license application.

Subchapter B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

Sec.

263a.20. The manifest system.

263a.23. Hazardous waste transportation fee.

263a.24. Documentation of hazardous waste transporter fee submission.

263a.25. Civil penalties for failure to submit hazardous waste transporter fees.

263a.26. Assessment of penalties.

§ 263a.20. The manifest system.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply in 40 CFR 263.20 (relating to manifest system), as adopted in this rule.

§ 263a.23. Hazardous waste transportation fee.

(a) A fee is assessed on hazardous waste transportation to or from a location within this Commonwealth which requires a manifest under § 263a.20, 40 CFR 263.20 and 40 CFR 263.21 (relating to the manifest system; and compliance with the manifest). Each of the following shall be considered a separate transportation activity, subject to assessment of a fee:

(1) Transport to a location within this Commonwealth from a location out-of-State.

(2) Transport from a location within this Commonwealth to a location out-of-State.

(3) Transport from one location to another within this Commonwealth.

(b) A hazardous waste transportation fee will not be assessed for:

(1) Onsite shipments of hazardous waste.

(2) Hazardous waste shipments through this Commonwealth not originating from, or destined for, a location within this Commonwealth.

(3) Shipments of hazardous waste derived from the cleanup of a site under the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), the Comprehensive Environmental Response Compensation and Liability Act of 1980 (P. L. 96-510, 94 Stat. 2767), known as the

Federal Superfund Act (42 U.S.C.A. §§ 9601—9675), Title II of the Solid Waste Disposal Act (42 U.S.C.A. §§ 6901—6987) or the act.

(c) A transporter delivering a shipment of hazardous waste to a designated facility or recycler in this Commonwealth shall pay the transportation fees. If a shipment is destined for a location outside this Commonwealth, the transportation fee will be paid by the transporter that accepts the hazardous waste from a Commonwealth generator or other hazardous waste management location within this Commonwealth.

(d) A transporter shall remit to the Department hazardous waste transportation fees due for each quarter, accompanied by the forms required by § 263a.24 (relating to documentation of hazardous waste transporter fee submission).

(e) Payment of the fees, accompanied by the completed forms required by § 263a.24 shall be postmarked or received by the Department by the 20th day of the month following the quarter ending the last day of March, June, September and December of each year. If the submission deadline falls on a weekend or State holiday, the report shall be postmarked or received on or before the next business day after the 20th.

(f) Payment shall be by check or money order, payable to "The Hazardous Sites Cleanup Fund," and forwarded with the accompanying forms to the Department at the address specified on the form. Alternative payment methods may be accepted with prior written approval of the Department.

(g) Fees shall be calculated based on standard tons.

(1) For purposes of this section:

(i) A standard ton equals 2,000 pounds.

(ii) A metric ton shall be converted to a standard ton by dividing the metric ton by a factor of 0.91.

(2) Liquid wastes shall be converted to tons as follows:

(i) Standard measure gallons shall be converted to tons using a factor of 8 pounds per gallon.

(ii) Liters shall be converted to tons using a factor of 2.1 pound per liter.

(3) Cubic yards and cubic meters shall be converted to standard tons using a factor of 1 ton per each of these units, or part thereof.

(h) Quantities reported shall be as indicated on the manifest by the treatment, storage or disposal facility designated on the manifest or, if not indicated by that facility, as specified on the manifest by the generator.

§ 263a.24. Documentation of hazardous waste transporter fee submission.

(a) A transporter receiving or delivering hazardous waste to or from a site in this Commonwealth shall submit specific information to the Department to document that the amount of fees submitted under § 263a.23 (relating to hazardous waste transportation fee) is accurate. This information shall be provided on forms provided or approved by the Department.

(1) A transporter who has transported hazardous waste during a quarter shall submit completed forms ER-WM-55G and ER-WM-55H, or their successor documents, with the appropriate fees.

(2) A transporter who has not transported hazardous waste during a quarter shall submit only form ER-WM-55G.

(b) The required forms shall be completed by the applicant in conformance with instructions provided.

(c) A transporter shall, upon request from the Department, provide additional information or documentation regarding its hazardous waste transportation activities necessary for the Department to assess the accuracy of the information contained on the required forms and the amount of fees due.

§ 263a.25. Civil penalties for failure to submit hazardous waste transporter fees.

(a) The Department may assess a civil penalty for:

(1) Failure to submit the hazardous waste transportation fees as required by § 263a.23(d) (relating to hazardous waste transportation fee), failure to submit properly completed documents required by § 263a.24 (relating to documentation of hazardous waste transporter fee submission) or failure to meet the time schedule for submission established by § 263a.23(e).

(2) Intentional submission of falsified information relating to hazardous waste transportation fees required by this chapter and the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).

(3) Failure of a transporter to submit documentation confirming that no fee was due for the preceding quarter.

(b) This section does not preclude the Department from assessing a civil penalty for a violation of the act, the Hazardous Sites Cleanup Act or this article.

§ 263a.26. Assessment of penalties.

(a) Consistent with section 605 of the act (35 P. S. § 6018.605) and section 1104 of the Hazardous Sites Cleanup Act (35 P. S. § 6020.1104) and the regulations thereunder, this section sets forth civil penalties for certain violations. This section does not limit the Department's authority to assess a higher penalty for the violations identified in this section, or limit the Department's authority to proceed with appropriate criminal penalties.

(b) If a person or municipality fails to submit the hazardous waste transportation fees as required by § 263a.23(d) (relating to hazardous waste transportation fee), fails to submit properly completed documents required by § 263a.24 (relating to documentation of hazardous waste transporter fee submission) or fails to meet the time schedule for submission established by § 263a.23(e), the Department may assess a civil penalty of \$500 for submissions which are less than 15 days late.

(c) If a person or municipality falsifies information relating to hazardous waste transportation fees required by this chapter and the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), the Department may assess a civil penalty of \$1,000.

(d) Failure to comply with the fee payment and documentation requirements of this chapter constitutes grounds for suspension or revocation of a hazardous waste transporter license, denial of issuance or renewal of a license, and for forfeiture of the hazardous waste transporter's collateral bond, in addition to civil penalties set forth in this section.

Subchapter C. HAZARDOUS WASTE DISCHARGES

Sec.
263a.30. Immediate action.

§ 263a.30. Immediate action.

In addition to the requirements incorporated by reference, in the event of a discharge or spill of hazardous

waste during transporting, the transporter shall immediately notify the Department by telephone at (717) 787-4343.

Subchapter D. BONDING

Sec.
263a.32. Bonding.

§ 263a.32. Bonding.

(a) A collateral bond means an indemnity agreement in a certain sum payable to the Department executed by the licensee and which is supported by the deposit with the Department of cash, negotiable bonds of the United States of America, the Commonwealth of Pennsylvania, the Turnpike Commission, the General State Authority, the State Public School Building Authority or a Commonwealth municipality, or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States.

(b) A new, revised or renewed license to transport hazardous waste may not be issued by the Department before the applicant for a license has filed a collateral bond payable to the Department on a form provided by the Department, and the bond has been approved by the Department.

(c) The amount of the bond shall be \$10,000 at a minimum and be in an amount sufficient to assure that the licensee faithfully performs the requirements of the act, the regulations promulgated thereunder, the terms and conditions of the license and any Department order issued to the licensee.

(d) Liability under the bond shall continue at a minimum for the duration of the license, any renewal thereof and for a period of 1 year after expiration, termination, revocation or surrender of the license. The 1-year extended period of liability shall include, and shall be automatically extended for, additional time during which administrative or legal proceedings are pending involving a violation by the transporter of the act, regulations promulgated thereunder, the terms or conditions of a license or a Department order.

(e) The Department may require additional bond amounts at any time if the methods of transporting wastes change, the kinds of wastes transported change or the Department determines the additional bond amounts are necessary to guarantee compliance with the act, regulations, the terms and conditions of the license or a Department order.

(f) Collateral bonds shall be subject to the following conditions:

(1) The Department will obtain possession of and keep in custody all collateral deposited by the licensee until authorized for release as provided in this section.

(2) The Department will value collateral at its current market value.

(3) Collateral shall be in the name of the licensee, not in the name of third parties and shall be pledged and assigned to the Department free and clear of claims.

(g) Letters of credit shall be subject to the following conditions:

(1) The letter may only be issued by a bank organized or authorized to do business in the United States.

(2) Letters of credit shall be irrevocable. The Department may accept a letter of credit which is irrevocable for a term of 3 years if:

(i) The letter of credit is automatically renewable for additional terms, unless the bank gives at least 90 days prior written notice to the Department of its intent to terminate the credit at the end of the current term.

(ii) The Department has the right to draw upon the credit before the end of its term and convert it into a cash collateral bond, if the licensee fails to replace the letter of credit with other acceptable collateral within 30 days of the bank's notice to terminate the credit.

(3) The letter of credit shall be payable to the Department in part or in full upon demand of the Department in the case of a forfeiture or the failure of the operator to replace the letter of credit as provided in this section.

(4) The Department will not accept letters of credit from a bank for a licensee in excess of 10% of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(5) All letters of credit shall be subject to the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 290, including amendments and successor publications.

(6) Letters of credit will provide that the bank will give prompt notice to the licensee and the Department of a notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging violations of regulatory requirements which could result in suspension or revocation of the bank's charter or license to do business.

(7) Upon the incapacity of a bank by reason of bankruptcy, insolvency or suspension or revocation of its charter or license, the licensee shall be deemed to be without collateral bond coverage in violation of § 263a.13 (relating to licensing). The Department will issue a notice of violation against a licensee who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days.

(h) Bonds which are not declared forfeit in accordance with subsection (i) shall be released to the licensee 1 year after expiration, termination, revocation or surrender of the license.

(i) The Department will declare forfeit all the bonds if the Department finds that the licensee has violated any of the requirements of the act, the regulations promulgated thereunder, terms and conditions of a license or a Department order issued to the licensee, and if the Department also finds that the licensee has failed to remedy promptly the violation.

(j) Remedies provided in law for violation of the act, the regulations adopted thereunder or the conditions of the license, are expressly preserved. Nothing in this section may be construed as an exclusive penalty or remedy for the violations of law. An action taken under this chapter does not waive or impair another remedy or penalty provided in law.

CHAPTER 264. (Reserved)

CHAPTER 264a. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Subchap.

- A. GENERAL
- B. GENERAL FACILITY STANDARDS
- D. CONTINGENCY PLAN AND EMERGENCY PROCEDURES
- E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING
- F. RELEASES FROM SOLID WASTE MANAGEMENT UNITS
- H. FINANCIAL REQUIREMENTS

- I. USE AND MANAGEMENT OF CONTAINERS
- J. TANK SYSTEMS
- K. SURFACE IMPOUNDMENTS
- L. WASTE PILES
- M. LAND TREATMENT
- N. LANDFILLS
- S. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS
- W. DRIP PADS
- X. MISCELLANEOUS UNITS
- DD. CONTAINMENT BUILDINGS

Subchapter A. GENERAL

Sec. 264a.1. Incorporation by reference, purpose, scope and reference.

§ 264a.1. Incorporation by reference, purpose, scope and reference.

(a) Except as expressly provided in this chapter, the requirements of 40 CFR Part 264 (relating to standards for owners and operators of hazardous waste treatment, storage, and disposal facilities) and the appendices to Part 264 are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference:

(1) The requirements of 40 CFR 264.1(f)(relating to purpose, scope and applicability) regarding state program authorization under 40 CFR Part 271 (relating to requirements for authorization of state hazardous waste programs), are not incorporated herein.

(2) The requirements of this chapter apply to owners and operators of facilities which treat, store or dispose of hazardous waste in this Commonwealth, except as specifically provided in this chapter or in Chapter 261a (relating to identification and listing of hazardous waste).

(3) The requirements of this chapter do not apply to owners or operators of facilities specifically exempted from compliance with this chapter under 40 CFR 264.1 (relating to purpose, scope and applicability), except that those owners or operators of facilities which are authorized to treat, store or dispose of hazardous waste under a permit-by-rule established under Chapter 270a (relating to hazardous waste permit program) are required to comply with specified provisions of this chapter if an applicable permit-by-rule established in Chapter 270a expressly requires compliance with this chapter.

(4) This chapter does not apply to owners or operators of facilities authorized to treat, store or dispose of hazardous waste under a permit-by-rule and variance established under § 270a.60 (relating to permits by rule).

(5) This chapter does not apply to handlers and transporters of universal wastes identified in 40 CFR Part 273 (relating to standards for universal waste management) or additional Pennsylvania-designated universal wastes identified in Chapter 266b (relating to universal wastes).

(6) With respect to the specific requirements of Subchapters K and N (relating to surface impoundments and landfills), the Department may, upon written application from a person who is subject to either subchapter, grant a variance from one or more specific provisions of that subchapter in accordance with this paragraph. An application for a variance shall:

(i) Identify the specific provisions from which a variance is sought.

(ii) Demonstrate that suspension of the identified provisions will result in a level of protection of the environment and public health equivalent to that which would have resulted from compliance with the suspended provisions.

Subchapter B. GENERAL FACILITY STANDARDS

Sec.

- 264a.11. Identification number and transporter license.
 264a.13. General and generic waste analysis.
 264a.15. General inspection and construction inspection requirements.
 264a.18. Location standards.

§ 264a.11. Identification number and transporter license.

In addition to the requirements incorporated by reference, a person or municipality who owns or operates a hazardous waste management facility may not accept hazardous waste for treatment, storage or disposal from a transporter who has not received an identification number from the EPA and a license from the Department, except as otherwise provided. This provision does not apply to acceptance of waste generated by a small quantity generator or by a conditionally exempt small quantity generator.

§ 264a.13. General and generic waste analysis.

(Editor's Note: Most of the provisions proposed in § 264a.13 are in the existing text of § 264.12 and § 264.13.)

In addition to the requirements incorporated by reference:

(1) Except as provided in paragraphs (4) and (5), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the operator shall submit to the Department for approval, on a form provided by the Department, or on a form approved by the Department, a report which the owner or operator shall retain for 20 years. The report shall include the following information:

(i) A detailed chemical and physical analysis of the waste.

(ii) A description of the waste and the process generating the waste.

(iii) The name and address of the hazardous waste management facility.

(iv) A description of the hazardous waste management facility's treatment, storage and disposal methods.

(v) Results of liner compatibility testing.

(vi) An assessment of the impact of the waste on the hazardous waste management facility.

(vii) A copy of the generator's source reduction strategy unless exempted under § 262a.100 (relating to source reduction strategy). For generators located outside of this Commonwealth, a copy of documentation that the generator has complied with section 3005(h) of the Solid Waste Disposal Act (42 U.S.C.A. § 6925(h)).

(viii) Other information which the Department may prescribe for the Department to determine whether the waste will be treated, stored or disposed of in accordance with this chapter. The chemical and physical analysis of the waste shall be repeated under one or more of the following circumstances:

(A) When necessary to ensure that it is accurate and up-to-date.

(B) When the owner or operator is notified, or has reason to believe, that the process or operation that generates the hazardous waste has changed.

(C) For offsite facilities or onsite facilities receiving waste from offsite sources, when the results of the inspection or analysis, or both, of each hazardous waste

indicates that the waste received at the facility does not match the description of the waste on the accompanying manifest or shipping paper.

(2) The owner or operator shall develop and follow a written waste analysis plan in compliance with 40 CFR 264.13 (relating to general waste analysis) which shall be submitted to the Department for approval at a time in the application process as the Department may prescribe. The plan shall be retained at the facility.

(3) The owner or operator of a facility utilizing a liner shall conduct an evaluation of the liner compatibility with the hazardous waste before accepting the waste for emplacement in a waste pile, surface impoundment or landfill unless the approval to accept the waste is granted in the facility's permit. The evaluation procedure shall meet the approval of the Department prior to its commencement. The evaluation of the liner shall consist of testing the liner in the presence of the waste for a minimum of 30 days or as otherwise approved by the Department. In lieu of actual testing, existing published or documented data on the hazardous waste or waste generated from similar processes proving the liner compatibility may be substituted if approved by the Department. The results of the evaluation of the liner compatibility shall be furnished to the Department for approval of the waste before acceptance by the facility.

(4) The Department may waive prior approval of the report specified in paragraph (1) for wastes that are in containers that are only to be stored at the facility. The Department may waive prior approval of the report only if:

(i) The Department determines that such a waiver does not pose a potential threat to human health or the environment.

(ii) The management of the wastes is allowed in the permit for the facility and properly addressed in the approved waste analysis plan for the facility.

(iii) The report is submitted to the Department within 1 week of the arrival of the wastes at the facility and a copy of the report is maintained in the operating record onsite for 20 years.

(5) Prior Department approval of the report specified in paragraph (1) is not required for offsite reclamation facilities that, under a contractual agreement, supply raw material to a generator and accept the expended material from the generator for storage prior to reclamation.

(6) In lieu of the waste and generator specific report required by paragraphs (1)–(3), the Department may accept from the operator of a treatment, storage or disposal facility a Generic Module I application for similar wastes containing similar hazardous constituents from multiple generators.

(7) An application for a Generic Module I shall include:

(i) The information required by paragraph (1). Generator specific information shall be included for each generator identified in the application.

(ii) Criteria for determining whether the wastes have similar physical and chemical characteristics and contain similar hazardous constituents.

(8) Additional generators may be added to an approved Generic Module I if the operator of the treatment, storage or disposal facility demonstrates that the waste from the new generator is consistent with the waste already approved in the Generic Module I. At least 15 days prior to accepting a waste from a new generator, the operator

of the treatment, storage or disposal facility shall submit to the Department in writing, the generator specific information required by paragraph (1). The Department will not add an additional generator to the Generic Module I if the Department finds that the operator of the treatment, storage or disposal facility has not demonstrated that the waste from the new generator is consistent with that approved under the Generic Module I.

(9) A permit modification and Generic Module I requested under this section shall be accompanied by a fee, as specified in § 270a.3 (relating to payment of fees).

§ 264a.15. General inspection and construction inspection requirements.

In addition to the requirements incorporated by reference, a schedule for construction of a hazardous waste management facility shall be submitted to the Department for approval. At a minimum, the schedule shall provide for inspection and approval by the Department of each phase of construction.

§ 264a.18. Location standards.

In addition to the requirements incorporated by reference, the requirements of Chapter 269a (relating to siting) apply to hazardous waste treatment and disposal facilities.

Subchapter D. CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Sec.
264a.52. Content of contingency plan.
264a.56. Emergency procedures.

§ 264a.52. Content of contingency plan.

In addition to the requirements incorporated by reference:

(1) The contingency plan and revisions and amendments thereto shall be prepared and implemented in accordance with the Department's guidance for contingency plans.

(2) The contingency plan shall be submitted to the Department for approval at the time in the application process that the Department prescribes.

§ 264a.56. Emergency procedures.

In addition to the requirements incorporated by reference:

(1) The emergency coordinator shall immediately notify the Department by telephone at (717) 787-4343 and the National Response Center at (800) 424-8802.

(2) The report to the Department and the National response center shall include the following:

- (i) The name and telephone number of the reporter.
- (ii) The name and address of the facility.
- (iii) The time and type of the incident (for example, release, fire).
- (iv) The name and quantity of materials involved, to the extent known.
- (v) The extent of injuries, if any.
- (vi) The possible hazards to human health, or the environment, outside the facility.

(3) Immediately after an emergency, the emergency coordinator shall provide for treating, storing or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire or explosion at the facility.

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Sec.
264a.71. Use of the manifest system.
264a.72. Manifest discrepancies.
264a.75. Biennial report.
264a.78. Hazardous waste management fee.
264a.79. Documentation of hazardous waste management fee submission.
264a.80. Civil penalties for failure to submit hazardous waste management fees.
264a.81. Assessment of penalties; minimum penalties.
264a.82. Administration fees.
264a.83. Administration fees during closure.

§ 264a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) Except as otherwise provided in 40 CFR 262.23(1) (relating to use of the manifest), an owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by a Pennsylvania manifest.

(2) The Pennsylvania manifest is a six-part hazardous waste manifest form that is obtained from the Department or is approved by the Department.

(3) Within 30 days of the delivery, the owner or operator or the agent of the owner or operator shall send the specified copies of the manifest to the Department and generator state, unless it is known that the generator state does not desire the copies.

§ 264a.72. Manifest discrepancies.

In addition to the requirements incorporated by reference, if a significant discrepancy is not resolved within 15 days, the owner or operator shall immediately notify the appropriate regional office of the Department by telephone and send a letter to the Department describing the discrepancy and attempts to reconcile it, including a copy of the manifest or shipping paper at issue.

§ 264a.75. Biennial report.

(a) Notwithstanding the requirements incorporated by reference, the owner or operator shall submit to the Department its biennial report on EPA form 8700-13B, as modified.

(b) In addition to the requirements incorporated by reference, reports required by this section shall be maintained for the life of the facility as a part of the operating record.

§ 264a.78. Hazardous waste management fee.

(Editor's Note: The text of the existing § 264.78 (relating to hazardous waste management fee) is proposed to be renumbered as § 264a.78.)

§ 264a.79. Documentation of hazardous waste management fee submission.

(Editor's Note: The text of the existing § 264.79 (relating to documentation of hazardous waste management fee submission) is proposed to be renumbered as § 264a.79.)

§ 264a.80. Civil penalties for failure to submit hazardous waste management fees.

(Editor's Note: The text of the existing § 264.80 (relating to civil penalties for failure to submit hazardous waste management fees) is proposed to be renumbered as § 264a.80.)

§ 264a.81. Assessment of penalties; minimum penalties.

(*Editor's Note:* The text of the existing § 264.81 (relating to assessment of penalties; minimum penalties) is proposed to be renumbered as § 264a.81.)

§ 264a.82. Administration fees.

(*Editor's Note:* The text of the existing § 264.82 (relating to administration fees) is proposed to be renumbered as § 264a.82.)

§ 264a.83. Administration fees during closure.

(*Editor's Note:* The text of the existing § 264.113(b) (relating to administration fees—closure; time allowed for closure) is proposed to be renumbered as § 264a.83.)

Subchapter F. RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Sec.

264a.96. Compliance period.

§ 264a.96. Compliance period.

In addition to the requirements incorporated by reference:

(1) The owner or operator shall keep records of analyses and evaluations of groundwater quality, surface elevations, and flow rate and direction determinations required under this subchapter.

(2) The owner or operator shall report the following information in writing to the Department:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in 40 CFR 264.98(a) (relating to detection monitoring program) for an upgradient groundwater monitoring well within 15 days after completing a quarterly analysis and no later than 30 days after the end of a quarter.

(ii) Quarterly after the first year: concentrations or values of the parameters in 40 CFR 264.98(a) and required under 40 CFR 264.97(g) for each groundwater monitoring well, along with the required evaluations for these parameters under 40 CFR 264.97(h) (relating to detection monitoring program), within 15 days after completing a quarterly analysis and no later than 30 days after the end of a quarter.

(iii) Annually: concentrations or values of those parameters for each well which are specified by the facility's permit within 15 days of completing the annual analysis.

(iv) Annually: those determinations for the groundwater flow rate and direction specified in 40 CFR 264.99(e) (relating to compliance monitoring).

(3) The owner or operator shall report the groundwater quality required by paragraph (2) above and 40 CFR 264.97 at a monitoring point established under 40 CFR 264.95 (relating to point of compliance) in a form necessary for the determination of statistically significant increases under 40 CFR 264.98 (relating to detection monitoring program).

Subchapter H. FINANCIAL REQUIREMENTS

Sec.

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§ 264a.141. Definitions.

In addition to the terms defined in 40 CFR 264.141 (relating to definitions of terms as used in this subchapter), which are incorporated by reference, the definitions in section 103 of the act (35 P. S. § 6018.103) and Chapter 260a (relating to hazardous waste management system: general) apply to this chapter. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Amount of liability coverage—The insurance requirements of § 264a.147 (relating to liability requirements).

Applicant—An owner or operator of a hazardous waste treatment, storage or disposal facility which is attempting to demonstrate the capability to self-insure all or part of its liabilities to third persons for personal injury and property damage from sudden or nonsudden pollution occurrences, or both.

Collateral bond—A penal bond agreement in a sum certain, payable to the Department, executed by the permittee and which is supported by the deposit with the Department of cash, negotiable bonds of the United States, the Commonwealth, the Turnpike Commission, the General State Authority, the State Public School Building Authority, or a Commonwealth municipality, Pennsylvania Bank Certificates of Deposit, or irrevocable letters of credit of a bank organized or authorized to transact business in the United States.

Final closure—Successful completion of requirements for closure and postclosure care as required by 40 CFR Part 264, Subpart G (relating to closure and postclosure).

Financial institutions—Banks organized or authorized to transact business in this Commonwealth or the United States, and insurance companies or associations licensed and authorized to transact business in this Commonwealth or designated by the Insurance Commissioner as an eligible surplus lines insurer.

Surety bond—A penal bond agreement in a sum certain, payable to the Department, executed by the permittee, and which is supported by the guarantee of payment on the bond by a corporation licensed to do business as a surety in this Commonwealth.

§ 264a.143. Financial assurance for closure.

Notwithstanding the requirements incorporated by reference, only 40 CFR 264.143(f) (relating to financial test and corporate guarantee for closure) is incorporated by reference. This subsection is incorporated by reference only to the extent that the instruments used for financial assurances for closure comply with the laws and regulations of the Commonwealth.

§ 264a.145. Financial assurance for post-closure care.

Notwithstanding the requirements incorporated by reference, 40 CFR 264.145 (relating to financial assurance for post-closure care) is not incorporated by reference.

§ 264a.147. Liability requirements.

(a) Notwithstanding the requirements incorporated by reference, 40 CFR 264.147 (relating to liability requirements) is incorporated by reference only to the extent that the demonstration of financial responsibility complies with the laws of the Commonwealth and the related regulations.

(b) In addition to the requirements incorporated by reference:

(1) A permit applicant, or permittee of a hazardous waste storage, treatment or disposal facility shall submit proof that the owner or operator has in force comprehensive general liability (ordinary public liability) insurance covering bodily injury and property damage to third parties.

(2) Insurance policies providing comprehensive general liability (ordinary public liability) insurance covering bodily injury and property damage to third parties shall follow the commercial or comprehensive forms approved by the Insurance Department and shall be one of the following:

(i) Per occurrence and aggregate limits apply separately to bodily injury and property damages.

(ii) Per occurrence and aggregate limits apply to bodily injury and property damage combined.

(3) The amount of coverage provided for bodily injury and property damage may be inclusive or exclusive of legal defense costs.

(4) For coverage where per occurrence and aggregate limits apply separately and where legal defense costs are included within the amount of coverage, the minimum amount of coverage for bodily injury shall be \$1.5 million per occurrence, with an annual aggregate of \$3 million and the minimum amount of coverage for property damage shall be \$750,000 per occurrence, with an annual aggregate of \$1.5 million.

(5) For coverage where per occurrence and aggregate limits apply separately and where legal defense costs are excluded from the face amount of coverage, the minimum amount of coverage for bodily injury shall be \$1 million per occurrence, with an annual aggregate of \$2 million and the minimum amount of coverage for property damage shall be \$500,000 per occurrence, with an annual aggregate of \$1 million.

(6) For coverage where per occurrence and aggregate limits apply to bodily injury and property damage combined, and where legal defense costs are included within the amount of coverage, the minimum amount of combined coverage for bodily injury and property damage shall be \$2.25 million per occurrence, with an annual aggregate of \$4.5 million.

(7) For coverage where per occurrence and aggregate limits apply to bodily injury and property damage combined and where legal defense costs are excluded from the amount of coverage, the minimum amount of combined coverage for bodily injury and property damage shall be \$1.5 million per occurrence, with an annual aggregate of \$3 million.

(8) The insurance policy shall provide for the payment of claims up to the full amount of coverage regardless of any deductible amount applicable to the policy. If the policy provides the insurer with a right of reimbursement by the insured for payment of the deductible amount, the insurer shall be liable for payment of the deductible amount. If the policy does not provide the insurer with a right of reimbursement or similar methods of recoupment, the insured shall provide additional coverage amounts by the purchase of excess coverage for the deductible amount.

§ 264a.148. Incapacity of owners or operators, guarantors or financial institutions.

In addition to the requirements incorporated by reference, an owner or operator or guarantor of a corporate guarantee shall also notify the Department by certified mail in accordance with the provisions applicable to notifying the regional administrator of the EPA.

§ 264a.149. Use of state-required mechanisms.

Notwithstanding the requirements incorporated by reference, 40 CFR 264.149 (relating to use of state-required mechanisms) is not incorporated by reference.

§ 264a.150. State assumption of responsibility.

Notwithstanding the requirements incorporated by reference, 40 CFR 264.150 (relating to state assumption of responsibility) is not incorporated by reference.

§ 264a.151. Wording of instruments.

Notwithstanding the requirements incorporated by reference, 40 CFR 264.151 (relating to wording of the instruments) is incorporated by reference only to the extent consistent with the laws and regulations of the Commonwealth. Revisions to financial tests or wording of the standard instruments in 40 CFR 264.151 that are substantially similar to the intent of the Federal text may be approved by the Department as necessary to conform with state law and regulations.

(Editor's Note: Proposed sections 264a.153—264a.169 include provisions of existing Chapter 267, Subchapter B (relating to bonding), which have been updated and conformed to Federal provisions.)

§ 264a.153. Requirement to file a bond.

(a) Hazardous waste storage, treatment and disposal facilities which have been permitted under the act, or which are being treated as having been issued a permit under the act, shall file a bond in accordance with this subchapter, payable to the Department.

(b) The Department will not issue a new, revised, amended, modified or renewed permit for the storage, treatment or disposal of hazardous waste unless the applicant has filed with the Department a bond under this subchapter, payable to the Department, on a form prepared and provided by or approved by the Department, and the bond has been approved by the Department.

(c) An applicant for a new, revised, amended, modified or renewed permit may not disturb surface acreage, start construction of facilities for the storage, treatment or disposal of hazardous waste, or accept hazardous waste prior to receipt from the Department of approval of bond and issuance of a permit to conduct a hazardous waste storage, treatment or disposal operation.

(d) A hazardous waste storage, treatment or disposal facility which is permitted or is being treated as having been issued a permit, shall cease accepting hazardous

waste unless the permittee has submitted a bond under this part. The Department will review and determine whether or not to approve the bond within 1 year after submittal. If, on review, the Department determines the permittee has submitted an insufficient bond amount, the Department will require the permittee to deposit additional bond amounts under § 264a.162 (relating to bond amount adjustments).

§ 264a.154. Form, terms and conditions of bond.

(a) The Department will accept one of the following types of bond:

- (1) A surety bond.
- (2) A collateral bond.
- (3) A bond pledging a corporate guarantee.
- (4) A phased deposit collateral bond as provided in § 264a.157 (relating to phased deposits of collateral).

(b) The Department will prescribe and furnish the forms for bond instruments.

(c) Bonds shall be payable to the Department and conditioned upon the faithful performance of the requirements of the act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.4c, 1396.4e and 1396.15c—1396.25), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), the regulations adopted thereunder, the terms and conditions of any permit issued thereunder, orders of the Department and amendments, revisions and changes to the acts, the regulations and the terms and conditions of the hazardous waste storage, treatment and disposal facility permit as may be lawfully made in the future.

(d) The bond shall cover the hazardous waste storage, treatment or disposal operations from the initiation of the operations until the bond is released as provided in this chapter. The bond shall cover all operations and activities conducted within the permitted area and all effects caused by the hazardous waste activities within or without the permit area.

(e) Bonds will be reviewed for legality and form according to established Commonwealth procedures.

§ 264a.155. Special terms and conditions for surety bonds.

(a) The Department will not accept the bond of a surety company which has failed or unduly delayed in making payment on a forfeited surety bond.

(b) The Department will accept only the bond of a surety authorized to do business in this Commonwealth.

(c) The surety may cancel the bond by sending written notice of cancellation by certified mail to the permittee and the Department. Cancellation may not take effect until 120 days after receipt of the notice of cancellation by the principal and the Department, as evidenced by the return receipts. Within 60 days after receipt of the notice of cancellation the permittee shall provide the Department with a replacement bond under § 264a.158 (relating to replacement of bond). Failure of the permittee to provide a replacement bond within the 60-day period shall constitute grounds for forfeiture of the existing bond under § 264a.168 (relating to bond forfeiture).

(d) The Department will not accept surety bonds from a surety company for a permittee, on all permits held by the permittee, in excess of the company's single risk limit as provided by The Insurance Company Law of 1921 (40

P. S. §§ 341—991), unless the surety has complied with the provisions of the Insurance Company Act of 1921 (40 P. S. §§ 1—297.4) for accepting risk above its single risk limit.

(e) The bond shall provide that full payment will be made on the bond within 30 days of receipt of a notice of forfeiture by the surety notwithstanding judicial or administrative appeal of the forfeiture and that the amount shall be confessed to judgment upon forfeiture.

(f) The bond shall provide that the surety and the permittee shall be jointly and severally liable for payment of the bond amount.

§ 264a.156. Special terms and conditions for collateral bonds and bonds pledging corporate guarantee for closure.

(a) The Department will obtain possession of and keep in custody collateral deposited by the permittee until authorized for release or replacement as provided in this subchapter.

(b) The Department will value governmental securities for both current market value and face value. For the purpose of establishing the value of the securities for bond deposit, the Department will use the lesser of current market value or face value. Government securities shall be rated at least BBB by Standard and Poor's or Baa by Moody's.

(c) Collateral bonds pledging Pennsylvania bank certificates of deposit shall be subject to the following conditions:

(1) The Department will require that certificates of deposit be assigned to the Department, in writing, and the assignment recorded upon the books of the issuing institution.

(2) The Department may accept an individual certificate of deposit for a denomination in excess of \$100,000, or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation (FDIC) or is otherwise secured under Pennsylvania law.

(3) The Department will require the issuing institution to waive all rights of setoff or liens which it has or might have against the certificates.

(4) The Department will only accept automatically-renewable certificates of deposit.

(5) The Department will require that the certificates of deposit are assigned to the Department to assure that the Department will be able to liquidate the certificates prior to maturity, upon forfeiture, for the amount of the bond determined under this chapter.

(6) The Department will accept certificates of deposit only from banks or banking institutions licensed, chartered or otherwise authorized to do business in the United States.

(7) The Department will not accept certificates of deposit from banks which have failed or delayed in making payment on defaulted certificates of deposit.

(d) Collateral bonds pledging a bank letter of credit shall be subject to the following conditions:

(1) The letter of credit shall be a standby or guarantee letter of credit issued only by a bank organized or authorized to do business in the United States, examined by a State or Federal agency and Federally insured or equivalently protected.

(2) The letter of credit may not have been issued without a credit analysis substantially equivalent to a credit analysis applicable to a potential borrower in an ordinary loan situation. A letter of credit so issued shall be supported by the customer's unqualified obligation to reimburse the issuer for monies paid under the letter of credit.

(3) The letter of credit may not have been issued for a customer when the amount of the letter of credit, aggregated with other loans and credits extended to the customer, exceeds the issuer legal lending limits for that customer as defined in the United States Banking Code (12 U.S.C.A. §§ 21—220).

(4) The letter of credit shall be irrevocable and shall be so designated. The Department may accept a letter of credit for which a limited time period is stated if the following conditions are met and are stated in the credit:

(i) The letter of credit is automatically renewable for additional time periods, unless the bank gives at least 90 days prior written notice to the Department and the customer of its intent to terminate the credit at the end of the current time period.

(ii) The Department has the right to draw upon the credit before the end of the time period, if the customer fails to replace the letter of credit with other acceptable bond guarantee within 30 days of the bank's notice to terminate the credit.

(5) Letters of credit shall name the Department as the beneficiary and shall be payable to the Department, upon demand, in part or in full, upon presentation of the Department's drafts at sight. The Department's right to draw upon the letter of credit will not require documentary or other proof by the Department that the customer has violated the conditions of the bond, the permit or another requirement of this chapter.

(6) Letters of credit are subject to 13 Pa.C.S. (relating to the Uniform Commercial Code) and the latest revision of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce. The Department may accept 13 Pa.C.S. Division 5 (relating to letters of credit) in effect in the state of the issuer.

(7) The issuing bank shall waive the rights to setoff or liens which it has or might have against the letter of credit.

(8) The Department will not accept letters of credit from a bank which has failed or delayed in making payment on a letter of credit previously submitted as collateral to the Department.

(e) Bonds pledging a corporate guarantee for closure shall be subject to the requirements of 40 CFR 264.143(f) (relating to financial test and corporate guarantee for closure).

§ 264a.157. Phased deposits of collateral.

(a) A permit applicant or a permittee may post a collateral bond for a hazardous waste storage, treatment or disposal facility which will be continuously operated or used for at least 10 years from the date of issuance of the permit or permit amendment, according to all of the following requirements:

(1) The permittee shall submit a collateral bond to the Department.

(2) The permittee shall deposit \$10,000 or 25%, whichever is greater, of the total amount of bond determined in this chapter in approved collateral with the Department.

(3) The permittee shall submit a schedule agreeing to deposit 10% of the remaining amount of bond, in approved collateral in each of the next 10 years.

(b) The permit applicant or permittee shall deposit the full amount of bond required for the hazardous waste storage, treatment or disposal facility within 30 days of receipt of a written demand by the Department to accelerate deposit of the bond. The Department will make the demand when one of the following occurs:

(1) The permittee has failed to make a deposit of bond amount when required by the schedule for the deposits.

(2) The permittee has violated the requirements of the act, this article, the terms and conditions of the permit or orders of the Department and has failed to correct the violations within the time required for the correction.

(c) Interest earned by collateral on deposit shall be accumulated and becomes part of the bond amount until the operator completes deposit of the requisite bond amount in accordance with the schedule of deposit. Interest so accumulated may not offset or diminish the amount required to be deposited in each of the succeeding years set forth in the schedule of deposit, except that in the last year in which a deposit is due, the amount to be deposited shall be adjusted by applying the total accumulated interest to the amount to be deposited as established by the schedule of deposit.

§ 264a.158. Replacement of bond.

(a) The Department may allow permittees to replace existing surety or collateral bonds with other surety or collateral bonds if the liability which has accrued against the permittee of the hazardous waste storage, treatment or disposal facility is transferred to the replacement bonds. The bond amount for the replacement bond will be determined under this chapter, but in no case may it be less than the amount on deposit with the Department.

(b) The Department will not release existing bonds until the permittee has submitted and the Department has approved acceptable replacement bonds. A replacement of bonds under this section may not constitute a release of bond under this chapter.

(c) Within 60 days after approval of acceptable replacement bonds, the Department will take appropriate action to initiate the release of existing surety or collateral bonds being replaced by the permittee.

§ 264a.159. Reissuance of permits.

Before a permit is reissued to a new permittee, the new permittee shall post a new bond in an appropriate amount determined by the Department under this chapter but in no case less than the amount of bond on deposit with the Department, in the new permittee's name, assuming all accrued liability for the hazardous waste storage, treatment or disposal facility.

§ 264a.160. Bond amount determination.

(a) The Department will determine bond amount requirements for each hazardous waste storage, treatment and disposal facility based upon the total estimated cost to the Commonwealth to complete final closure of the facility in accordance with the requirements of applicable statutes, this article, the terms and conditions of the permit and orders issued thereunder by the Department and to take measures that are necessary to prevent adverse effects upon the environment during the life of the facility and after closure until released as provided by this chapter.

(b) This amount shall be based on the requirements of 40 CFR 264.142 and 264.144 (relating to cost estimate for closure; and cost estimate for post-closure care).

§ 264a.161. Cost estimate for closure and postclosure care.

The permittee or permit applicant shall prepare a detailed written estimate of the cost of closing the facility and providing postclosure care in accordance with the provisions of 40 CFR 264.142 and 264.144 (relating to cost estimate for closure and cost estimate for post-closure care).

§ 264a.162. Bond amount adjustments.

(a) The permittee shall deposit additional amounts of bond, at any time, upon demand of the Department. The Department will require a permittee to deposit additional amounts of bond if one of the following occurs:

(1) The permit is amended to increase acreage, to change the kind of waste handled or for another reason which requires an additional amount of bond determined under 40 CFR 264.142 and 264.144 (relating to cost estimate for closure; and cost estimate for post-closure care).

(2) Inflationary cost factors have exceeded the estimate used for the original bond amount determination under 40 CFR 264.142 and 264.144.

(3) The permit is to be renewed or reissued, or the bond on deposit is to be replaced, which requires an additional amount of bond determined under 40 CFR 264.142 and 264.144.

(4) The Department determines that an additional amount of bond is required as determined by 40 CFR 264.142 and 264.144 to meet the requirements of applicable statutes, this chapter and the terms and conditions of the permit or orders of the Department.

(b) A permit applicant or permittee may request reduction of the required bond amount upon submission of satisfactory evidence proving that the method of operation or other circumstances will significantly reduce the maximum estimated cost to the Department of completing final closure and taking necessary measures to prevent adverse effects on the environment. If the request is made after permit issuance, it will be considered a request for bond release.

§ 264a.163. Failure to maintain adequate bond.

If a permittee fails to post additional bond within 60 days after receipt of a request by the Department for additional bond amounts under § 264a.162 (relating to bond amount adjustments), or fails to make timely deposits of bond in accordance with the schedule submitted under § 264a.157 (relating to phased deposits of collateral), the Department will issue a notice of violation to the permittee, and if the permittee fails to deposit the required bond amount within 15 days of the notice, the Department will issue a cessation order for all of the hazardous waste storage, treatment and disposal facilities operated by the permittee and take additional actions that may be appropriate, including suspending or revoking permits.

§ 264a.164. Separate bonding for a portion of a facility.

(a) The Department may require a separate bond to be posted for a part of a hazardous waste storage, treatment or disposal facility if that part of the facility can be separated and identified from the remainder of the facility and the bond liability for that part will continue

beyond the time provided for the remainder of the facility, or the Department has determined that separate bonding of the facility is necessary to administer and apply applicable statutes, this article, the terms and conditions of the permit or orders of the Department.

(b) If the Department requires a separate bond for part of a facility, the original bond amount for the facility may be adjusted under § 264a.162 (relating to bond amount adjustments).

§ 264a.165. Bond release.

(a) The permittee may file a written application with the Department requesting release of all or part of the bond amount posted for a hazardous waste storage, treatment or disposal facility during the operation of the facility as part of a request for bond adjustment under § 264a.162 (relating to bond amount adjustments), upon completion of closure of the facility and upon expiration of the postclosure care period of liability as specified in 40 CFR Part 264, Subpart G (relating to closure and postclosure care).

(b) The application for bond release shall contain all of the following:

(1) State the name of the permittee and identify the hazardous waste storage, treatment or disposal facility for which bond release is sought.

(2) State the total amount of bond in effect for the facility and the amount for which release is sought.

(3) State in specific detail the reasons why bond release is requested including, but not limited to, the closure, postclosure care and abatement measures taken, the permit amendments authorized or the change in facts or assumptions made during the bond amount determination which demonstrate and would authorize a release of part or all of the bond deposited for the facility.

(4) Provide a revised cost estimate for closure and postclosure care in accordance with 40 CFR 264.142 and 264.144 (relating to cost estimate for closure; and postclosure care).

(5) Provide other information as may be required by the Department.

(c) The Department will evaluate the bond release request as if it were a request for a new bond amount determination under 40 CFR 264.142 and 264.144. If the new bond amount determination would require less bond for the facility than the amount already on deposit, the Department will release the portion of the bond amount which is not required for the facility. If the new bond amount determination would require an additional amount of bond for the facility, the Department will require the additional amount to be deposited for the facility.

(d) The Department will not release a bond amount deposited for a facility if the release would reduce the total remaining amount of bond to an amount which would be insufficient for the Department to complete closure and postclosure care and to take measures that may be necessary to prevent adverse effects upon the environment or public health, safety or welfare in accordance with applicable statutes, this chapter, the terms and conditions of the permits and orders of the Department.

(e) The Department will make a decision on a bond release application within 6 months after receipt unless additional time is authorized by the permittee.

(f) The Department will not release a bond amount for a facility which is causing adverse effects on the public

health, safety or welfare or the environment, creating a public nuisance, or in violation of this chapter, the act or the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)).

§ 264a.166. Closure certification.

(a) The permittee shall submit a request for closure certification upon completion of closure of the facility in accordance with 40 CFR 264.120 (relating to certification of completion of post-closure care).

(b) Within 60 days after receipt of a written request for closure certification, the Department will initiate an inspection of the facility to verify that closure has been effected in accordance with the approved facility closure and postclosure care plan and this article.

(c) If the Department determines that the facility has been closed in accordance with this article, and that there is no reasonable expectation of adverse effects upon the environment or the public health, safety and welfare, the Department will certify in writing to the permittee that closure has been effected in accordance with this chapter. Closure certification may not take effect until 1 year after receipt of the Department's determination.

(d) The closure certification does not constitute a waiver or release of bond liability or other liability existing in law for adverse environmental conditions or conditions of noncompliance existing at the time of the notice or which might occur at a future time, for which the permittee shall remain liable.

(e) The Department will not issue a closure certification for a facility which is causing adverse effects on the public health, safety or welfare or the environment, creating a public nuisance, or in violation of this article, the act or the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)).

(f) At any time after issuance of a certification of closure, if inspection by the Department indicates that additional postclosure care measures are required to abate or prevent any adverse effects upon the environment or the public health, safety and welfare, the Department will issue a written notice to the permittee setting forth the schedule of measures which the permittee shall take in order to bring the facility into compliance.

(g) At least 6 months prior to expiration of the 1 year liability period following closure and postclosure care, the Department will conduct an inspection of the facility. If the Department determines that the facility will continue to cause adverse effects upon the environment or the public health, safety and welfare after expiration of the 1-year liability period, the Department will require the permittee to deposit a separate bond under § 264a.164 (relating to separate bonding for a portion of a facility), or forfeit the bond on deposit with the Department.

§ 264a.167. Public notice and comment.

The original bond amount determination, a decision by the Department to release bond, a request to reduce bond amount after permit issuance and a request for closure certification shall be, for the purpose of providing public notice and comment, considered a major permit modification and shall satisfy the public notice and comment requirements for major permit modifications.

§ 264a.168. Bond forfeiture.

(a) The Department may forfeit the bond for a hazardous waste storage, treatment or disposal facility when it determines that any of the following occur:

(1) The permittee has failed and continues to fail to conduct the hazardous waste storage, treatment or disposal activities in accordance with this article, the act, the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)), the terms and conditions of the permit or orders of the Department.

(2) The permittee has abandoned the facility without providing closure or postclosure care, or has otherwise failed to properly close the facility in accordance with the requirements of this article, the act, the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)), the terms and conditions of the permit or orders of the Department.

(3) The permittee has failed, and continues to fail to take those measures determined necessary by the Department to prevent effects upon the environment before, during and after closure and postclosure care.

(4) The permittee or financial institution has become insolvent, failed in business, been adjudicated bankrupt, had a delinquency proceeding initiated under Article V of The Insurance Department Act of 1921 (40 P. S. §§ 221.1—221.63), filed a petition in bankruptcy, in liquidation, for dissolution or for a receiver, or had a receiver appointed by the court, or had action initiated to suspend, revoke or refuse to renew the license or certificate of authority of the financial institution, or a creditor of the permittee has attached or executed a judgment against the permittee's equipment, materials or facilities at the permit area or on the collateral pledged to the Department; and the permittee or financial institution cannot demonstrate or prove the ability to continue to operate in compliance with this article, the act, the statutes set forth in section 505(a) of the act, the terms and conditions of the permit and orders of the Department.

(b) If the Department determines that bond forfeiture is appropriate, the Department will do the following:

(1) Send written notification by mail to the permittee, the host municipality and the surety on the bond, if any, of the Department's determination to forfeit the bond and the reasons for the forfeiture.

(2) Advise the permittee and surety, if any, of their right to appeal to the EHB under section 1921-A of The Administrative Code of 1929 (71 P. S. § 510-21).

(3) Proceed to collect on the bond as provided by applicable statutes for the collection of defaulted bonds or other debts.

(4) Deposit all money collected from defaulted bonds into the Solid Waste Abatement Fund.

(5) Forfeit all bond deposited for the facility, including all additional amounts of bond posted for the facility.

§ 264a.169. Preservation of remedies.

Remedies provided or authorized by law for violation of statutes, including but not limited to, the act, The Clean Streams Law (35 P. S. §§ 691.1 691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), this article and the terms and conditions of permits and orders of the Department, are expressly preserved. Nothing in this chapter may be construed as an exclusive penalty or remedy for the violations. An action taken under this subchapter may not waive or impair another remedy or penalty provided in law.

Subchapter I. USE AND MANAGEMENT OF CONTAINERS

Sec.

264a.175. Containment.

264a.180. Weighing or measuring facilities.

§ 264a.175. Containment.

In addition to the requirements incorporated by reference:

(1) For indoor storage of reactive or ignitable hazardous waste, the total maximum container height may not exceed 6 feet. The containers shall be grouped so that the maximum width and depth of a group is no greater than the area that would contain four 55-gallon drums wide by four 55-gallon drums deep approximately 8 feet by 8 feet or the containers shall be grouped so that the maximum width of a group is no greater than the area that would contain two 55-gallon drums deep, with the length of the group so limited that at least a 5-foot-wide aisle surrounds the group. Each 8-foot by 8-foot group shall be separated by at least a 5-foot-wide aisle.

(2) For outdoor storage of reactive or ignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of the containers may not exceed the equivalent of eight 55-gallon drums wide by eight 55-gallon drums deep. Each group shall be separated by at least a 5-foot-wide aisle from any adjacent group. A main aisle or accessway at least 12 feet wide shall be maintained through a container storage area. A minimum 40-foot setback from a building shall be maintained for all outdoor container storage of reactive or ignitable hazardous wastes.

(3) For indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of containers shall provide a configuration and aisle space which insures access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application and shall be approved in writing by the Department.

§ 264a.180. Weighing or measuring facilities.

Weighing or measuring facilities, if necessary or when required by the Department, shall be provided for weighing all hazardous wastes brought to the TSD facility, except for captive facilities that handle liquids or flowable wastes—less than 20% solids—which are amenable to accurate flow measurements, or captive facilities that possess other waste inventory controls—volume controls. Weighing facilities shall be capable of weighing the maximum anticipated load plus the weight of the transport vehicle. The precision of weighing devices shall be certified by the Department of Agriculture. For offsite facilities or onsite facilities receiving waste from offsite sources, the hours of operation for the facility shall be prominently displayed on a sign at the entrance. The lettering shall be a minimum of 4 inches in height and of a color contrasting with its background.

Subchapter J. TANK SYSTEMS

Sec.

264a.191. Assessment of existing tank system's integrity.

264a.193. Containment and detection of releases.

264a.194. General operating requirements.

264a.195. Inspections.

§ 264a.191. Assessment of existing tank system's integrity.

Notwithstanding the requirements incorporated by reference, owners or operators of tanks or tank systems

shall obtain and keep on file at the facility a written assessment of the tank or tank system's integrity as of January 17, 1994, which is otherwise in accordance with the requirements of 40 CFR 264.191 (relating to assessment of existing tank system's integrity).

§ 264a.193. Containment and detection of releases.

Notwithstanding the requirements incorporated by reference, owners or operators of existing tank systems shall comply with 40 CFR 264.193 (relating to containment and detection of release) by January 16, 1995, except that owners and operators of existing tank systems for which the age cannot be documented, shall comply with 40 CFR 264.193 by January 16, 1996.

§ 264a.194. General operating requirements.

In addition to the requirements incorporated by reference, tanks shall be labeled to accurately identify the contents.

§ 264a.195. Inspections.

In addition to the requirements incorporated by reference, the owner or operator shall inspect the tank or tank system at least once each operating day, or every 72 hours when not operating, if waste remains in the tank or tank system components.

Subchapter K. SURFACE IMPOUNDMENTS.

Sec.

264a.221. Design and operating requirements.

§ 264a.221. Design and operating requirements.

In addition to the requirements incorporated by reference:

(1) For surface impoundments subject to 40 CFR 264.221(a) or (c) (relating to design and operating requirements), a minimum distance of 4 feet shall be maintained between the bottom of the liner and seasonal high water table without the use of artificial or manmade groundwater drainage or dewatering systems. Soil mottling may indicate the presence of a seasonal high groundwater table. The distance between the top of the subbase and the regional water table shall be a minimum of 8 feet.

(2) For surface impoundments subject to 40 CFR 264.221(c), the requirement relating to leak detection systems not located completely above the seasonal high water table is not incorporated herein.

Subchapter L. WASTE PILES

Sec.

264a.251. Design and operating requirements.

§ 264a.251. Design and operating requirements.

In addition to the requirements incorporated by reference:

(1) For a waste pile subject to the design and operating requirements of 40 CFR 264.251(a) or (c) (relating to design and operating requirements), a minimum distance of 20 inches between the bottom of the liner and seasonal high groundwater table shall be maintained without the use of artificial and manmade groundwater drainage or dewatering systems. Soil mottling may indicate the presence of a seasonal high groundwater table.

(2) For waste pile subject to the design and operating requirements of 40 CFR 264.221(c) (relating to design and operating requirements), the provisions relating to leak detection systems not located completely above the seasonal high water table are not incorporated herein.

Subchapter M. LAND TREATMENT

Sec.
264a.273. Design and operating requirements.
264a.276. Food chain crops.

§ 264a.273. Design and operating requirements.

In addition to the requirements incorporated by reference, land treatment of hazardous waste shall be subject to the following restrictions:

(1) The hazardous waste shall be mixed into or turned under the soil surface within 24 hours of application, unless it is spray irrigated and the spray irrigated hazardous waste:

- (i) Is used for top dressing.
- (ii) Has plant nutrient value.
- (iii) Is applied with proper spray irrigation equipment and through proper spray irrigation methods.

(iv) Is not transported offsite by aerosol transport while being spray irrigated.

(2) Hazardous waste shall be spread or sprayed in thin layers to prevent ponding and standing accumulations of liquids or sludges.

(3) Hazardous waste may not be applied when the ground is saturated, covered with snow, frozen or during periods of rain.

(4) Hazardous waste may not be applied in quantities which will result in vector or odor problems.

(5) Hazardous waste shall only be applied to those soils which fall within the United States Department of Agriculture (USDA) textural classes of sandy loam, loam, sandy clay loam, silty clay loam and silt loam.

(6) The soils shall have sola with a minimum depth of 20 inches and at least 40 inches of soil depth.

§ 264a.276. Food chain crops.

In addition to the requirements incorporated by reference, the growth of food chain crops is subject to the following restrictions:

(1) The Department may allow the growth of food-chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this section. Tobacco and crops intended for direct human consumption may not be grown on hazardous waste land treatment facilities. The Department will specify in the facility permit the specific food-chain crops which may be grown.

(2) Cadmium-containing waste may not be applied on land used for production of tobacco, leafy vegetables or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate may not exceed:

<i>Time period</i>	<i>Annual Cd application rate (kilograms per hectare)</i>
Present to June 30, 1984	2.0
July 1, 1984 to December 31, 1986	1.25
Beginning January 1, 1987	0.5

Subchapter N. LANDFILLS

Sec.
264a.301. Design and operating requirements.

§ 264a.301. Design and operating requirements.

In addition to the requirements incorporated by reference:

(1) For a landfill subject to the design and operating provisions of 40 CFR 264.301(a) or (c) (relating to design and operating requirements), a minimum distance of 4 feet between the bottom of the liner and seasonal high groundwater table shall be maintained without the use of artificial and manmade groundwater drainage or dewatering systems. Soil mottling may indicate the presence of a seasonal high groundwater table. The distance between the bottom of the liner and the regional groundwater table shall be a minimum of 8 feet.

(2) For landfills subject to 40 CFR 264.301(c), the provisions relating to leak detection systems not located completely above the seasonal high water table are not incorporated herein.

Subchapter S. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

Sec.
264a.552. Applicability.

§ 264a.552. Applicability.

Notwithstanding the requirements incorporated by reference, 40 CFR Subpart S (relating to corrective action for solid waste management units) is not incorporated by reference herein.

Subchapter W. DRIP PADS

Sec.
264a.570. Applicability.

§ 264a.570. Applicability.

Notwithstanding the requirements incorporated by reference, this subchapter applies to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation or surface water run-on to an associated collection system. Existing drip pads are those constructed before January 11, 1997.

Subchapter X. MISCELLANEOUS UNITS

Sec.
264a.601. Environmental performance standards.

§ 264a.601. Environmental performance standards.

In addition to the requirements incorporated by reference, a permit for a miscellaneous unit shall contain applicable requirements of Chapter 270a (relating to hazardous waste permit program) that are appropriate for the miscellaneous unit being permitted.

Subchapter DD. CONTAINMENT BUILDINGS

(Editor's Note: The requirements of this subchapter replace identical provisions in the existing text of Subchapter T, §§ 264.520—264.522.)

Sec.
264a.1100. Applicability.
264a.1101. Design and operating standards.

§ 264a.1100. Applicability.

Notwithstanding the requirements incorporated by reference, this subchapter applies to owners or operators who store or treat hazardous waste in units designed and operated under the requirements of 40 CFR 264.1101 (related to design and operating standards) incorporated by reference herein.

§ 264a.1101. Design and operating standards.

Notwithstanding the requirements incorporated by reference:

(1) Owners or operators of existing units described in 40 CFR 264.1101(b)(4) (relating to design and operating standards) seeking a delay in the secondary containment requirement for up to 2 years shall provide written notice

to the Department by July 11, 1997. This notification shall describe the unit and its operating practices with specific reference to the performance of existing containment systems, and specific plans for retrofitting the unit with secondary containment.

(2) For units placed into operation prior to January 11, 1997, certification by a qualified registered professional engineer that the containment building design meets the requirements of 40 CFR 264.1101(a)—(c) shall be placed in the facility's operating record (onsite files for generators who are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit.

(3) For units placed into operation after January 11, 1997, certification by a qualified registered professional engineer that the containment building design meets the requirements of 40 CFR 264.1101(a)—(c) will be required prior to operation of the unit.

CHAPTER 265. (Reserved)

CHAPTER 265a. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

Subchap.

- A. GENERAL
- B. GENERAL FACILITY STANDARDS
- D. CONTINGENCY PLAN AND EMERGENCY PROCEDURES
- E. MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING
- H. FINANCIAL REQUIREMENTS
- I. USE AND MANAGEMENT OF CONTAINERS
- J. TANK SYSTEMS
- P. THERMAL TREATMENT

Subchapter A. GENERAL

Sec.

265a.1. Incorporation by reference, purpose, scope and applicability.

§ 265a.1. Incorporation by reference, purpose, scope and applicability.

(a) Except as expressly provided in this chapter, 40 CFR Part 265 (relating to interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities) and the appendices to Part 265 are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference in this section:

(1) The provisions of 40 CFR 265.1(c)(4)(relating to purpose, scope and applicability) regarding state program authorization under 40 CFR Part 271 (relating to requirements for authorization of state hazardous waste programs), are not incorporated herein.

(2) This chapter applies to owners and operators of facilities which treat, store or dispose of hazardous waste in this Commonwealth, except as specifically provided in this chapter or in Chapter 261a (relating to identification and listing of hazardous waste).

(3) This chapter does not apply to owners or operators of facilities specifically exempted from compliance with this chapter under 40 CFR 265.1, except that those owners or operators of facilities which are authorized to treat, store or dispose of hazardous waste under a permit-by-rule established in § 270a.60 (relating to permits-by-rule) are required to comply with specified provisions of this chapter if an applicable permit-by-rule established in § 270a.60 expressly requires compliance with provisions of this chapter.

(4) This chapter does not apply to owners of facilities authorized to treat, store or dispose of hazardous waste under a permit-by-rule and variance established under § 270a.60.

(5) This chapter does not apply to handlers and transporters of universal wastes identified in 40 CFR Part 273 (relating to standards for universal waste management) or additional Pennsylvania-designated universal wastes identified in Chapter 266b (relating to standards for universal waste management).

(6) With respect to the specific requirements of Subchapters K and N (relating to surface impoundments; and landfills), the Department may, upon written application from a person who is subject to either subchapter, grant a variance from one or more specific provisions of that subchapter in accordance with this paragraph. An application for a variance shall:

(i) Identify the specific provisions from which a variance is sought.

(ii) Demonstrate that suspension of the identified provisions will result in a level of protection of the environment and public health equivalent to that which would have resulted from compliance with the suspended provisions.

Subchapter B. GENERAL FACILITY STANDARDS

Sec.

- 265a.11. Identification number and transporter license.
- 265a.13. General and generic waste analysis.
- 265a.15. General inspection and construction inspection requirements.
- 265a.18. Location standards.

§ 265a.11. Identification number and transporter license.

In addition to the requirements incorporated by reference, a person or municipality who owns or operates a hazardous waste management facility may not accept hazardous waste for treatment, storage or disposal from a transporter who has not received an identification number from the EPA and a license from the Department, except as otherwise provided. This provision does not apply to acceptance of waste generated by a small quantity generator or by a conditionally exempt small quantity generator.

§ 265a.13. General and generic waste analysis.

(Editor's Note: Most of the provisions proposed in § 265a.13 are in the existing text of § 265.12 and § 265.13.)

In addition to the requirements incorporated by reference:

(1) Except as provided in paragraphs (4) and (5), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the operator shall submit to the Department for approval, on a form provided by the Department, or on a form approved by the Department, a report which the owner or operator shall retain for 20 years. The report shall include the following information:

(i) A detailed chemical and physical analysis of the waste.

(ii) A description of the waste and the process generating the waste.

(iii) The name and address of the hazardous waste management facility.

(iv) A description of the hazardous waste management facility's treatment, storage and disposal methods.

- (v) Results of liner compatibility testing.
- (vi) An assessment of the impact of the waste on the hazardous waste management facility.
- (vii) A copy of the generator's source reduction strategy unless exempted under § 262a.100 (relating to source reduction strategy). For generators located outside of this Commonwealth, a copy of documentation that the generator has complied with section 3005(h) of the Solid Waste Disposal Act (42 U.S.C.A. § 6925(h)).
- (viii) Other information which the Department may prescribe for the Department to determine whether the waste will be treated, stored or disposed of in accordance with this chapter. The chemical and physical analysis of the waste shall be repeated under one or more of the following circumstances:

(A) When necessary to ensure that it is accurate and up-to-date.

(B) When the owner or operator is notified, or has reason to believe, that the process or operation that generates the hazardous waste has changed.

(C) For offsite facilities or onsite facilities receiving waste from offsite sources, when the results of the inspection or analysis, or both, of each hazardous waste indicates that the waste received at the facility does not match the description of the waste on the accompanying manifest or shipping paper.

(2) The owner or operator shall develop and follow a written waste analysis plan in compliance with 40 CFR 265.13 (relating to general waste analysis) which shall be submitted to the Department for approval at a time in the application process as the Department may prescribe. The plan shall be retained at the facility.

(3) The owner or operator of a facility utilizing a liner shall conduct an evaluation of the liner compatibility with the hazardous waste before accepting the waste for emplacement in a waste pile, surface impoundment or landfill unless the approval to accept the waste is granted in the facility's permit. The evaluation procedure shall meet the approval of the Department prior to its commencement. The evaluation of the liner shall consist of testing the liner in the presence of the waste for a minimum of 30 days or as otherwise approved by the Department. In lieu of actual testing, existing published or documented data on the hazardous waste or waste generated from similar processes proving the liner compatibility may be substituted if approved by the Department. The results of the evaluation of the liner compatibility shall be furnished to the Department for approval of the waste before acceptance by the facility.

(4) The Department may waive prior approval of the report specified in paragraph (1) for wastes that are in containers that are only to be stored at the facility. The Department may waive prior approval of the report only if:

(i) The Department determines that the waiver does not pose a potential threat to human health or the environment.

(ii) The management of the wastes is allowed in the permit for the facility and properly addressed in the approved waste analysis plan for the facility.

(iii) The report is submitted to the Department within 1 week of the arrival of the wastes at the facility and a copy of the report is maintained in the operating record onsite for 20 years.

(5) Prior Department approval of the report specified in paragraph (1) is not required for offsite reclamation facilities that, under a contractual agreement, supply raw material to a generator and accept the expended material from the generator for storage prior to reclamation.

(6) In lieu of the waste and generator specific report required by paragraphs (1)—(3), the Department may accept from the operator of a treatment, storage or disposal facility a Generic Module I application for similar wastes containing similar hazardous constituents from multiple generators.

(7) An application for a Generic Module I shall include:

(i) The information required by paragraph (1). Generator specific information shall be included for each generator identified in the application.

(ii) Criteria for determining whether the wastes have similar physical and chemical characteristics and contain similar hazardous constituents.

(8) Additional generators may be added to an approved Generic Module I if the operator of the treatment, storage or disposal facility demonstrates that the waste from the new generator is consistent with the waste already approved in the Generic Module I. At least 15 days prior to accepting a waste from a new generator, the operator of the treatment, storage or disposal facility shall submit to the Department in writing, the generator specific information required by paragraph (1). The Department will not add an additional generator to the Generic Module I if the Department finds that the operator of the treatment, storage or disposal facility has not demonstrated that the waste from the new generator is consistent with that approved under the Generic Module I.

(9) A permit modification and Generic Module I requested under this section shall be accompanied by a fee, as specified in § 270a.3 (relating to payment of fees).

§ 265a.15. General inspection and construction inspection requirements.

In addition to the requirements incorporated by reference, a schedule for construction of a hazardous waste management facility shall be submitted to the Department for approval. At a minimum, the schedule shall provide for inspection and approval by the Department of each phase of construction.

§ 265a.18. Location standards.

In addition to the requirements incorporated by reference, Chapter 269a (relating to siting) applies to hazardous waste treatment and disposal facilities.

Subchapter D. CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Sec.
265a.52. Content of contingency plan.
265a.56. Emergency procedures.

§ 265a.52. Content of contingency plan.

In addition to the requirements incorporated by reference:

(1) The contingency plan and revisions and amendments thereto shall be prepared and implemented in accordance with the Department's guidance for contingency plans.

(2) The contingency plan shall be submitted to the Department for approval at the time in the application process that the Department prescribes.

§ 265a.56. Emergency procedures.

In addition to the requirements incorporated by reference:

(1) The emergency coordinator shall immediately notify the Department by telephone at (717) 787-4343 and the National Response Center at (800) 424-8802.

(2) The report to the Department and the National Response Center shall include the following:

- (i) The name and telephone number of reporter.
- (ii) The name and address of facility.
- (iii) The time and type of incident (for example, release, fire).
- (iv) The name and quantity of materials involved, to the extent known.
- (v) The extent of injuries, if any.
- (vi) The possible hazards to human health, or the environment, outside the facility.

(3) Immediately after an emergency, the emergency coordinator shall provide for treating, storing or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire or explosion at the facility.

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

- Sec.
- 265a.71. Use of the manifest system.
- 265a.72. Manifest discrepancies.
- 265a.75. Biennial report.
- 265a.78. Hazardous waste management fee.
- 265a.79. Documentation of hazardous waste management fee submission.
- 265a.80. Civil penalties for failure to submit hazardous waste management fees.
- 265a.81. Assessment of penalties; minimum penalties.
- 265a.82. Administration fees.
- 265a.83. Administration fees during closure.

§ 265a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) Except as otherwise provided in 40 CFR 262.23(1) (relating to use of the manifest), an owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by a Pennsylvania manifest.

(2) The Pennsylvania manifest is a six-part hazardous waste manifest form that is obtained from the Department or is approved by the Department.

(3) Within 30 days of the delivery, the owner or operator or the agent of the owner or operator shall send the specified copies of the manifest to the Department and generator state, unless it is known that the generator state does not desire the copies.

§ 265a.72. Manifest discrepancies.

In addition to the requirements incorporated by reference, if a significant discrepancy is not resolved within 15 days, the owner or operator shall immediately notify the appropriate regional office of the Department by telephone and send a letter to the Department describing the discrepancy and attempts to reconcile it, including a copy of the manifest or shipping paper at issue.

§ 265a.75. Biennial report.

(a) Notwithstanding the requirements incorporated by reference, the owner or operator must submit to the Department its biennial report on EPA form 8700-13B, as modified.

(b) In addition to the requirements incorporated by reference, reports required by this section shall be maintained for the life of the facility as a part of the operating record.

§ 265a.78. Hazardous waste management fee.

(Editor's Note: The text of the existing § 265.78 (relating to hazardous waste management fee) is proposed to be renumbered as § 265a.78.)

§ 265a.79. Documentation of hazardous waste management fee submission.

(Editor's Note: The text of the existing § 265.79 (relating to documentation of hazardous waste management fee submission) is proposed to be renumbered as § 265a.79.)

§ 265a.80. Civil penalties for failure to submit hazardous waste management fees.

(Editor's Note: The text of the existing § 265.80 (relating to civil penalties for failure to submit hazardous waste management fees) is proposed to be renumbered as § 265a.80.)

§ 265a.81. Assessment of penalties; minimum penalties.

(Editor's Note: The text of the existing § 265.81 (relating to assessment of penalties; minimum penalties) is proposed to be renumbered as § 265a.81.)

§ 265a.82. Administration fees.

(Editor's Note: The text of the existing § 265.82 (relating to administration fees) is proposed to be renumbered as § 265a.82.)

§ 265a.83. Administration fees during closure.

(Editor's Note: The text of the existing § 265.113(b) (relating to closure; time allowed for closure) is proposed to be renumbered as § 265a.83.)

Subchapter H. FINANCIAL REQUIREMENTS

- Sec.
- 265a.141. Definitions.
- 265a.143. Financial assurance for closure.
- 265a.145. Financial assurance for postclosure care.
- 265a.147. Liability requirements.
- 265a.148. Incapacity of owners or operators, guarantors or financial institutions.
- 265a.149. Use of state-required mechanisms.
- 265a.150. State assumption of responsibility.
- 265a.153. Requirements to file a bond.
- 265a.154. Form, terms and conditions of bond.
- 265a.155. Special terms and conditions for surety bonds.
- 265a.156. Special terms and conditions for collateral bonds and bonds pledging corporate guarantee for closure.
- 265a.157. Phased deposits of collateral.
- 265a.158. Replacement of bond.
- 265a.159. Reissuance of permits.
- 265a.160. Bond amount determination.
- 265a.161. Cost estimate for closure and postclosure care.
- 265a.162. Bond amount adjustments.
- 265a.163. Failure to maintain adequate bond.
- 265a.164. Separate bonding for a portion of a facility.
- 265a.165. Bond release.
- 265a.166. Closure certification.
- 265a.167. Public notice and comment.
- 265a.168. Bond forfeiture.
- 265a.169. Preservation of remedies.

§ 265a.141. Definitions.

In addition to the terms defined in 40 CFR 265.141 (relating to definitions of terms as used in this subpart)

which are incorporated by reference, the definitions in section 103 of the act (35 P. S. § 6018.103) and Chapter 260a (relating to definitions and requests for determination) apply to this chapter. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Amount of liability coverage—The insurance requirements of § 265a.147 (relating to liability requirements).

Applicant—An owner or operator of a hazardous waste treatment, storage or disposal facility which is attempting to demonstrate the capability to self-insure all or part of its liabilities to third persons for personal injury and property damage from sudden or nonsudden pollution occurrences, or both.

Collateral bond—A penal bond agreement in a sum certain, payable to the Department, executed by the permittee and which is supported by the deposit with the Department of cash, negotiable bonds of the United States, the Commonwealth, the Turnpike Commission, the General State Authority, the State Public School Building Authority, or a Commonwealth municipality, Pennsylvania Bank Certificates of Deposit, or irrevocable letters of credit of a bank organized or authorized to transact business in the United States.

Final closure—Successful completion of requirements for closure and postclosure care as required by 40 CFR Part 265, Subpart G (relating to closure and postclosure).

Financial institutions—Banks organized or authorized to transact business in this Commonwealth or the United States, and insurance companies or associations licensed and authorized to transact business in this Commonwealth or designated by the Insurance Commissioner as an eligible surplus lines insurer.

Surety bond—A penal bond agreement in a sum certain, payable to the Department, executed by the permittee, and which is supported by the guarantee of payment on the bond by a corporation licensed to do business as a surety in this Commonwealth.

§ 265a.143. Financial assurance for closure.

Notwithstanding the requirements incorporated by reference, only subsection (e) of 40 CFR 265.143 (relating to financial test and corporate guarantee for closure) is incorporated by reference. This subsection is incorporated by reference only to the extent that the instruments used for financial assurances for closure comply with the laws and regulations of the Commonwealth.

§ 265a.145. Financial assurance for postclosure care.

Notwithstanding the requirements incorporated by reference, 40 CFR 265.145 (relating to financial assurance for postclosure care) is not incorporated by reference.

§ 265a.147. Liability requirements.

(a) Notwithstanding the requirements incorporated by reference, 40 CFR 265.147 (relating to liability requirements) is incorporated by reference only to the extent that the demonstration of financial responsibility complies with the laws of the Commonwealth and the related regulations.

(b) In addition to the requirements incorporated by reference:

(i) A permit applicant, or permittee of a hazardous waste storage, treatment or disposal facility shall submit proof that the owner or operator has in force comprehen-

sive general liability (ordinary public liability) insurance covering bodily injury and property damage to third parties.

(2) Insurance policies providing comprehensive general liability (ordinary public liability) insurance covering bodily injury and property damage to third parties shall follow the commercial or comprehensive forms approved by the Insurance Department and shall be one of the following:

(i) Per occurrence and aggregate limits apply separately to bodily injury and property damages.

(ii) Per occurrence and aggregate limits apply to bodily injury and property damage combined.

(3) The amount of coverage provided for bodily injury and property damage may be inclusive or exclusive of legal defense costs.

(4) For coverage where per occurrence and aggregate limits apply separately and where legal defense costs are included within the amount of coverage, the minimum amount of coverage for bodily injury shall be \$1.5 million per occurrence, with an annual aggregate of \$3 million and the minimum amount of coverage for property damage shall be \$750,000 per occurrence, with an annual aggregate of \$1.5 million.

(5) For coverage where per occurrence and aggregate limits apply separately and where legal defense costs are excluded from the face amount of coverage, the minimum amount of coverage for bodily injury shall be \$1 million per occurrence, with an annual aggregate of \$2 million and the minimum amount of coverage for property damage shall be \$500,000 per occurrence, with an annual aggregate of \$1 million.

(6) For coverage where per occurrence and aggregate limits apply to bodily injury and property damage combined, and where legal defense costs are included within the amount of coverage, the minimum amount of combined coverage for bodily injury and property damage shall be \$2.25 million per occurrence, with an annual aggregate of \$4.5 million.

(7) For coverage where per occurrence and aggregate limits apply to bodily injury and property damage combined and where legal defense costs are excluded from the amount of coverage, the minimum amount of combined coverage for bodily injury and property damage shall be \$1.5 million per occurrence, with an annual aggregate of \$3 million.

(8) The insurance policy shall provide for the payment of claims up to the full amount of coverage regardless of any deductible amount applicable to the policy. If the policy provides the insurer with a right of reimbursement by the insured for payment of the deductible amount, the insurer shall be liable for payment of the deductible amount. If the policy does not provide the insurer with a right of reimbursement or similar methods of recoupment, the insured shall provide additional coverage amounts by the purchase of excess coverage for the deductible amount.

§ 265a.148. Incapacity of owners or operators, guarantors or financial institutions.

In addition to the requirements incorporated by reference, an owner or operator or guarantor of a corporate guarantee shall also notify the Department by certified mail in accordance with the provisions applicable to notifying the regional administrator of the EPA.

§ 265a.149. Use of State-required mechanisms.

Notwithstanding the requirements incorporated by reference, 40 CFR 265.149 (relating to use of State-required mechanisms) is not incorporated by reference.

§ 265a.150. State assumption of responsibility.

Notwithstanding the requirements incorporated by reference, 40 CFR 265.150 (relating to State assumption of responsibility) is not incorporated by reference.

(Editor's Note: Proposed §§ 265a.153—265a.169 include provisions of existing Chapter 267, Subchapter B (relating to bonding requirements), which have been updated and conformed to Federal provisions.)

§ 265a.153. Requirement to file a bond.

(a) Hazardous waste storage, treatment and disposal facilities which have been permitted under the act, or which are being treated as having been issued a permit under the act, shall file a bond in accordance with this subchapter, payable to the Department.

(b) The Department will not issue a new, revised, amended, modified or renewed permit for the storage, treatment or disposal of hazardous waste unless the applicant has filed with the Department a bond under this subchapter, payable to the Department, on a form prepared and provided by or approved by the Department, and the bond has been approved by the Department.

(c) An applicant for a new, revised, amended, modified or renewed permit may not disturb surface acreage, start construction of facilities for the storage, treatment or disposal of hazardous waste, or accept hazardous waste prior to receipt from the Department of approval of bond and issuance of a permit to conduct a hazardous waste storage, treatment or disposal operation.

(d) A hazardous waste storage, treatment or disposal facility which is permitted or is being treated as having been issued a permit, shall cease accepting hazardous waste unless the permittee has submitted a bond under this part. The Department will review and determine whether or not to approve the bond within 1 year after submittal. If, on review, the Department determines the permittee has submitted an insufficient bond amount, the Department will require the permittee to deposit additional bond amounts under § 265a.162 (relating to bond amount adjustments).

§ 265a.154. Form, terms and conditions of bond.

(a) The Department will accept one of the following types of bond:

- (1) A surety bond.
- (2) A collateral bond.
- (3) A phased deposit collateral bond as provided in § 265a.157 (relating to phased deposits of collateral).

(b) The Department will prescribe and furnish the forms for bond instruments.

(c) Bonds shall be payable to the Department and conditioned upon the faithful performance of the requirements of the act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), the regulations adopted thereunder, the terms and conditions of any permit issued thereunder, orders of the Department and amendments, revisions and changes

to the acts, the regulations and the terms and conditions of the hazardous waste storage, treatment and disposal facility permit as may be lawfully made in the future.

(d) The bond shall cover the hazardous waste storage, treatment or disposal operations from the initiation of the operations until the bond is released as provided in this chapter. The bond shall cover all operations and activities conducted within the permitted area and all effects caused by the hazardous waste activities within or without the permit area.

(e) Bonds will be reviewed for legality and form according to established Commonwealth procedures.

§ 265a.155. Special terms and conditions for surety bonds.

(a) The Department will not accept the bond of a surety company which has failed or unduly delayed in making payment on a forfeited surety bond.

(b) The Department will accept only the bond of a surety authorized to do business in this Commonwealth.

(c) The surety may cancel the bond by sending written notice of cancellation by certified mail to the permittee and the Department. Cancellation may not take effect until 120 days after receipt of the notice of cancellation by the principal and the Department, as evidenced by the return receipts. Within 60 days after receipt of the notice of cancellation the permittee shall provide the Department with a replacement bond under § 265a.158 (relating to replacement of bond). Failure of the permittee to provide a replacement bond within the 60-day period shall constitute grounds for forfeiture of the existing bond under § 265a.168 (relating to bond forfeiture).

(d) The Department will not accept surety bonds from a surety company for a permittee, on all permits held by the permittee, in excess of the company's single risk limit as provided by The Insurance Company Law of 1921 (40 P. S. §§ 341—991), unless the surety has complied with the provisions of the Insurance Company Act of 1921 (40 P. S. §§ 1—297.4) for accepting risk above its single risk limit.

(e) The bond shall provide that full payment will be made on the bond within 30 days of receipt of a notice of forfeiture by the surety notwithstanding judicial or administrative appeal of the forfeiture and that the amount shall be confessed to judgment upon forfeiture.

(f) The bond shall provide that the surety and the permittee shall be jointly and severally liable for payment of the bond amount.

§ 265a.156. Special terms and conditions for collateral bonds and bonds pledging corporate guarantee for closure.

(a) The Department will obtain possession of and keep in custody collateral deposited by the permittee until authorized for release or replacement as provided in this subchapter.

(b) The Department will value governmental securities for both current market value and face value. For the purpose of establishing the value of the securities for bond deposit, the Department will use the lesser of current market value or face value. Government securities shall be rated at least BBB by Standard and Poor's or Baa by Moody's.

(c) Collateral bonds pledging Pennsylvania bank certificates of deposit shall be subject to the following conditions:

(1) The Department will require that certificates of deposit be assigned to the Department, in writing, and the assignment recorded upon the books of the issuing institution.

(2) The Department may accept an individual certificate of deposit for a denomination in excess of \$100,000, or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation (FDIC) or as otherwise secured under Pennsylvania law.

(3) The Department will require the issuing institution to waive all rights of setoff or liens which it has or might have against the certificates.

(4) The Department will only accept automatically-renewable certificates of deposit.

(5) The Department will require that the certificates of deposit are assigned to the Department to assure that the Department will be able to liquidate the certificates prior to maturity, upon forfeiture, for the amount of the bond determined under this chapter.

(6) The Department will accept certificates of deposit only from banks or banking institutions licensed, chartered or otherwise authorized to do business in the United States.

(7) The Department will not accept certificates of deposit from banks which have failed or delayed in making payment on defaulted certificates of deposit.

(d) Collateral bonds pledging a bank letter of credit shall be subject to the following conditions:

(1) The letter of credit shall be a standby or guarantee letter of credit issued only by a bank organized or authorized to do business in the United States, examined by a state or Federal agency and Federally insured or equivalently protected.

(2) The letter of credit may not have been issued without a credit analysis substantially equivalent to a credit analysis applicable to a potential borrower in an ordinary loan situation. A letter of credit so issued shall be supported by the customer's unqualified obligation to reimburse the issuer for monies paid under the letter of credit.

(3) The letter of credit may not have been issued for a customer when the amount of the letter of credit, aggregated with other loans and credits extended to the customer, exceeds the issuer legal lending limits for that customer as defined in the United States Banking Code (12 U.S.C.A. §§ 21—220).

(4) The letter of credit shall be irrevocable and shall be so designated. The Department may accept a letter of credit for which a limited time period is stated if the following conditions are met and are stated in the credit:

(i) The letter of credit is automatically renewable for additional time periods, unless the bank gives at least 90 days prior written notice to the Department and the customer of its intent to terminate the credit at the end of the current time period.

(ii) The Department has the right to draw upon the credit before the end of the time period, if the customer fails to replace the letter of credit with other acceptable bond guarantee within 30 days of the bank's notice to terminate the credit.

(5) Letters of credit shall name the Department as the beneficiary and shall be payable to the Department, upon demand, in part or in full, upon presentation of the Department's drafts at sight. The Department's right to

draw upon the letter of credit will not require documentary or other proof by the Department that the customer has violated the conditions of the bond, the permit or another requirement of this chapter.

(6) Letters of credit are subject to 13 Pa.C.S. (relating to the Uniform Commercial Code) and the latest revision of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce. The Department may accept 13 Pa.C.S. Division 5 (relating to letters of credit) in effect in the state of the issuer.

(7) The issuing bank shall waive the rights to setoff or liens which it has or might have against the letter of credit.

(8) The Department will not accept letters of credit from a bank which has failed or delayed in making payment on a letter of credit previously submitted as collateral to the Department.

(e) Bonds pledging a corporate guarantee for closure shall be subject to the requirements of 40 CFR 265.143(e) (relating to financial test and corporate guarantee for closure).

§ 265a.157. Phased deposits of collateral.

(a) A permit applicant, or a permittee may post a collateral bond for a hazardous waste storage, treatment or disposal facility which will be continuously operated or used for at least 10 years from the date of issuance of the permit or permit amendment, according to all of the following requirements:

(1) The permittee shall submit a collateral bond to the Department.

(2) The permittee shall deposit \$10,000 or 25%, whichever is greater, of the total amount of bond determined in this chapter in approved collateral with the Department.

(3) The permittee shall submit a schedule agreeing to deposit 10% of the remaining amount of bond, in approved collateral in each of the next 10 years.

(b) The permit applicant or permittee shall deposit the full amount of bond required for the hazardous waste storage, treatment or disposal facility within 30 days of receipt of a written demand by the Department to accelerate deposit of the bond. The Department will make the demand when one of the following occurs:

(1) The permittee has failed to make a deposit of bond amount when required by the schedule for the deposits.

(2) The permittee has violated the requirements of the act, this article, the terms and conditions of the permit or orders of the Department and has failed to correct the violations within the time required for the correction.

(c) Interest earned by collateral on deposit shall be accumulated and becomes part of the bond amount until the operator completes deposit of the requisite bond amount in accordance with the schedule of deposit. Interest so accumulated may not offset or diminish the amount required to be deposited in each of the succeeding years set forth in the schedule of deposit, except that in the last year in which a deposit is due, the amount to be deposited shall be adjusted by applying the total accumulated interest to the amount to be deposited as established by the schedule of deposit.

§ 265a.158. Replacement of bond.

(a) The Department may allow permittees to replace existing surety or collateral bonds with other surety or collateral bonds if the liability which has accrued against

the permittee of the hazardous waste storage, treatment or disposal facility is transferred to the replacement bonds. The bond amount for the replacement bond will be determined under this chapter, may not be less than the amount on deposit with the Department.

(b) The Department will not release existing bonds until the permittee has submitted and the Department has approved acceptable replacement bonds. A replacement of bonds under this section may not constitute a release of bond under this chapter.

(c) Within 60 days after approval of acceptable replacement bonds, the Department will take appropriate action to initiate the release of existing surety or collateral bonds being replaced by the permittee.

§ 265a.159. Reissuance of permits.

Before a permit is reissued to a new permittee, the new permittee shall post a new bond in an appropriate amount determined by the Department under this chapter but in no case less than the amount of bond on deposit with the Department, in the new permittee's name, assuming all accrued liability for the hazardous waste storage, treatment or disposal facility.

§ 265a.160. Bond amount determination.

(a) The Department will determine bond amount requirements for each hazardous waste storage, treatment and disposal facility based upon the total estimated cost to the Commonwealth to complete final closure of the facility in accordance with the requirements of applicable statutes, this article, the terms and conditions of the permit and orders issued thereunder by the Department and to take measures that are necessary to prevent adverse effects upon the environment during the life of the facility and after closure until released as provided by this chapter.

(b) This amount shall be based on the requirements of 40 CFR 265.142 and 265.144 (relating to cost estimate for closure; and cost estimate for post-closure care).

§ 265a.161. Cost estimate for closure and postclosure care.

The permittee or permit applicant shall prepare a detailed written estimate of the cost of closing the facility and providing postclosure care in accordance with 40 CFR 265.142 and 265.144 (relating to cost estimates for closure; and cost estimates for postclosure care).

§ 265a.162. Bond amount adjustments.

(a) The permittee shall deposit additional amounts of bond, at any time, upon demand of the Department. The Department will require a permittee to deposit additional amounts of bond if one of the following occurs:

(1) The permit is amended to increase acreage, to change the kind of waste handled or for another reason which requires an additional amount of bond determined under 40 CFR 265.142 and 265.144 (relating to cost estimate for closure; and cost estimate for postclosure care).

(2) Inflationary cost factors have exceeded the estimate used for the original bond amount determination under 40 CFR 265.142 and 265.144.

(3) The permit is to be renewed or reissued, or the bond on deposit is to be replaced, which requires an additional amount of bond determined under 40 CFR 265.142 and 265.144.

(4) The Department determines that an additional amount of bond is required as determined by 40 CFR

265.142 and 265.144 to meet the requirements of applicable statutes, this chapter and the terms and conditions of the permit or orders of the Department.

(b) A permit applicant or permittee may request reduction of the required bond amount upon submission of satisfactory evidence proving that the method of operation or other circumstances will significantly reduce the maximum estimated cost to the Department of completing final closure and taking necessary measures to prevent adverse effects on the environment. If the request is made after permit issuance, it will be considered a request for bond release.

§ 265a.163. Failure to maintain adequate bond.

If a permittee fails to post additional bond within 60 days after receipt of a request by the Department for additional bond amounts under § 265a.162 (relating to bond amount adjustments), or fails to make timely deposits of bond in accordance with the schedule submitted under § 265a.157 (relating to phased deposits of collateral), the Department will issue a notice of violation to the permittee, and if the permittee fails to deposit the required bond amount within 15 days of the notice, the Department will issue a cessation order for all of the hazardous waste storage, treatment and disposal facilities operated by the permittee and take additional actions that may be appropriate, including suspending or revoking permits.

§ 265a.164. Separate bonding for a portion of a facility.

(a) The Department may require a separate bond to be posted for a part of a hazardous waste storage, treatment or disposal facility if that part of the facility can be separated and identified from the remainder of the facility and the bond liability for that part will continue beyond the time provided for the remainder of the facility, or the Department has determined that separate bonding of the facility is necessary to administer and apply applicable statutes, this article, the terms and conditions of the permit or orders of the Department.

(b) If the Department requires a separate bond for part of a facility, the original bond amount for the facility may be adjusted under § 265a.162 (relating to bond amount adjustments).

§ 265a.165. Bond release.

(a) The permittee may file a written application with the Department requesting release of all or part of the bond amount posted for a hazardous waste storage, treatment or disposal facility during the operation of the facility as part of a request for bond adjustment under § 265a.162 (relating to bond amount adjustments), upon completion of closure of the facility and upon expiration of the postclosure care period of liability as specified in 40 CFR Part 265, Subpart G (relating to closure and postclosure care).

(b) The application for bond release shall contain the following:

(1) The name of the permittee and shall identify the hazardous waste storage, treatment or disposal facility for which bond release is sought.

(2) The total amount of bond in effect for the facility and the amount for which release is sought.

(3) The reasons why, in specific detail, bond release is requested, including, but not limited to, the closure, postclosure care and abatement measures taken, the permit amendments authorized or the change in facts or

assumptions made during the bond amount determination which demonstrate and would authorize a release of part or all of the bond deposited for the facility.

(4) Provide a revised cost estimate for closure and postclosure care in accordance with 40 CFR 265.142 and 265.144 (relating to cost estimate for closure; and postclosure care).

(5) Provide other information as may be required by the Department.

(c) The Department will evaluate the bond release request as if it were a request for a new bond amount determination under 40 CFR 265.142 and 265.144. If the new bond amount determination would require less bond for the facility than the amount already on deposit, the Department will release the portion of the bond amount which is not required for the facility. If the new bond amount determination would require an additional amount of bond for the facility, the Department will require the additional amount to be deposited for the facility.

(d) The Department will not release a bond amount deposited for a facility if the release would reduce the total remaining amount of bond to an amount which would be insufficient for the Department to complete closure and postclosure care and to take measures that may be necessary to prevent adverse effects upon the environment or public health, safety or welfare in accordance with applicable statutes, this chapter, the terms and conditions of the permits and orders of the Department.

(e) The Department will make a decision on a bond release application within 6 months after receipt unless additional time is authorized by the permittee.

(f) The Department will not release a bond amount for a facility which is causing adverse effects on the public health, safety or welfare or the environment, creating a public nuisance, or is in violation of this chapter, the act or the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505).

§ 265a.166. Closure certification.

(a) The permittee shall submit a request for closure certification upon completion of closure of the facility in accordance with the provisions of 40 CFR 265.120 (relating to certification of completion of post-closure care).

(b) Within 60 days after receipt of a written request for closure certification, the Department will initiate an inspection of the facility to verify that closure has been effected in accordance with the approved facility closure and postclosure care plan and this article.

(c) If the Department determines that the facility has been closed in accordance with this article, and that there is no reasonable expectation of adverse effects upon the environment or the public health, safety and welfare, the Department will certify in writing to the permittee that closure has been effected in accordance with this chapter. Closure certification may not take effect until 1 year after receipt of the Department's determination.

(d) The closure certification does not constitute a waiver or release of bond liability or other liability existing in law for adverse environmental conditions or conditions of noncompliance existing at the time of the notice or which might occur at a future time, for which the permittee shall remain liable.

(e) The Department will not issue a closure certification for a facility which is causing adverse effects on the public health, safety or welfare or the environment,

creating a public nuisance, or is in violation of this article, the act or the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)).

(f) At any time after issuance of a certification of closure, if inspection by the Department indicates that additional postclosure care measures are required to abate or prevent any adverse effects upon the environment or the public health, safety and welfare, the Department will issue a written notice to the permittee setting forth the schedule of measures which the permittee shall take in order to bring the facility into compliance.

(g) At least 6 months prior to expiration of the 1 year liability period following closure and postclosure care, the Department will conduct an inspection of the facility. If the Department determines that the facility will continue to cause adverse effects upon the environment or the public health, safety and welfare after expiration of the 1 year liability period, the Department will require the permittee to deposit a separate bond under § 265a.164 (relating to separate bonding for a portion of a facility), or forfeit the bond on deposit with the Department.

§ 265a.167. Public notice and comment.

The original bond amount determination, a decision by the Department to release bond, a request to reduce bond amount after permit issuance and a request for closure certification shall be, for the purpose of providing public notice and comment, considered a major permit modification and shall satisfy the public notice and comment requirements for major permit modifications.

§ 265a.168. Bond forfeiture.

(a) The Department may forfeit the bond for a hazardous waste storage, treatment or disposal facility when it determines that any of the following occur:

(1) The permittee has failed and continues to fail to conduct the hazardous waste storage, treatment or disposal activities in accordance with this article, the act, the statutes set forth in section 505(a) of the act (35 P. S. § 6018.505(a)), the terms and conditions of the permit or orders of the Department.

(2) The permittee has abandoned the facility without providing closure or postclosure care, or has otherwise failed to properly close the facility in accordance with this article, the act, the statutes set forth in section 505(a) of the act, the terms and conditions of the permit or orders of the Department.

(3) The permittee has failed, and continues to fail to take those measures determined necessary by the Department to prevent effects upon the environment before, during and after closure and postclosure care.

(4) The permittee or financial institution has become insolvent, failed in business, been adjudicated bankrupt, had a delinquency proceeding initiated under Article V of The Insurance Department Act of 1921 (40 P. S. §§ 221.1—221.63), filed a petition in bankruptcy, in liquidation, for dissolution or for a receiver, or had a receiver appointed by the court, or had action initiated to suspend, revoke or refuse to renew the license or certificate of authority of the financial institution, or a creditor of the permittee has attached or executed a judgment against the permittee's equipment, materials or facilities at the permit area or on the collateral pledged to the Department; and the permittee or financial institution cannot demonstrate or prove the ability to continue to operate in compliance with this article, the act, the statutes set forth in section 505(a) of the act, the terms and conditions of the permit and orders of the Department.

(b) If the Department determines that bond forfeiture is appropriate, the Department will do the following:

(1) Send written notification by mail to the permittee, the host municipality and the surety on the bond, if any, of the Department's determination to forfeit the bond and the reasons for the forfeiture.

(2) Advise the permittee and surety, if any, of their right to appeal to the EHB under section 1921-A of The Administrative Code of 1929 (71 P. S. § 510-21).

(3) Proceed to collect on the bond as provided by applicable statutes for the collection of defaulted bonds or other debts.

(4) Deposit all money collected from defaulted bonds into the Solid Waste Abatement Fund.

(5) Forfeit all bond deposited for the facility, including all additional amounts of bond posted for the facility.

§ 265a.169. Preservation of remedies.

Remedies provided or authorized by law for violation of statutes, including but not limited to, the act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19c), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), this article, the terms and conditions of permits and orders of the Department, are expressly preserved. Nothing in this chapter may be construed as an exclusive penalty or remedy for the violations. An action taken under this subchapter may not waive or impair another remedy or penalty provided in law.

Subchapter I. Use and Management of Containers

Sec.
265a.175. Containment and collection systems.
265a.179. Containment and collection system.

§ 265a.175. Containment and collection systems.

In addition to the requirements incorporated by reference:

(1) For indoor storage of reactive or ignitable hazardous waste, the total maximum container height may not exceed 6 feet. The containers shall be grouped so that the maximum width and depth of a group is no greater than the area that would contain four 55-gallon drums wide by four 55-gallon drums deep approximately 8 feet by 8 feet or the containers shall be grouped so that the maximum width of a group is no greater than the area that would contain two 55-gallon drums deep, with the length of the group so limited that at least a 5-foot-wide aisle surrounds the group. Each 8-foot by 8-foot group shall be separated by at least a 5-foot-wide aisle.

(2) For outdoor storage of reactive or ignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of the containers may not exceed the equivalent of eight 55-gallon drums wide by eight 55-gallon drums deep. Each group shall be separated by at least a 5-foot-wide aisle from any adjacent group. A main aisle or accessway at least 12 feet wide shall be maintained through a container storage area. A minimum 40-foot setback from a building shall be maintained for all outdoor container storage of reactive or ignitable hazardous wastes.

(3) For indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of containers shall provide a configuration and aisle space which insures access for purposes of inspec-

tion, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application and shall be approved in writing by the Department.

§ 265a.179. Containment and collection system.

(Editor's Note: The provisions of existing § 265.178 (relating to containment and collection system) are proposed to be renumbered as § 265a.175.)

Subchapter J. TANK SYSTEMS

Sec.
265a.191. Assessment of existing tank system's integrity.
265a.193. Containment and detection of releases.
265a.194. General operating requirements.
265a.195. Inspections.

§ 265a.191. Assessment of existing tank system's integrity.

Notwithstanding the requirements incorporated by reference, owners or operators of tanks or tank systems shall obtain and keep on file at the facility a written assessment of the tank or tank system's integrity as of January 17, 1994, which is otherwise in accordance with the provisions of 40 CFR 265.191 (relating to assessment of existing tank system's integrity).

§ 265a.193. Containment and detection of releases.

Notwithstanding the requirements incorporated by reference, owners or operators of existing tank systems shall comply with 40 CFR 265.193 (relating to containment and detection of releases) by January 16, 1995, except that owners and operators of existing tank systems for which the age cannot be documented, shall comply with 40 CFR 265.193 by January 16, 1996.

§ 265a.194. General operating requirements.

In addition to the requirements incorporated by reference, tanks shall be labeled to accurately identify the contents.

§ 265a.195. Inspections.

In addition to the requirements incorporated by reference, the owner or operator shall inspect the tank or tank system at least once each operating day, or every 72 hours when not operating, if waste remains in the tank or tank system components.

Subchapter P. THERMAL TREATMENT

Sec.
265a.382. Open burning; waste explosives.

§ 265a.382. Open burning; waste explosives.

In addition to the requirements incorporated by reference, the open burning of waste explosives as specified in 40 CFR 265.382 (relating to open burning; waste explosives) is not permitted in air basins as defined in § 121.1 (relating to definitions).

CHAPTER 266. (Reserved)

CHAPTER 266a. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Subchap.
C. RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL
E. WASTE OIL BURNED FOR ENERGY RECOVERY
H. HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

Subchapter C. RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

Sec.

266a.20. Incorporation by reference and applicability.

§ 266a.20. Incorporation by reference and applicability.

(a) Except as expressly provided in this chapter, 40 CFR Part 266 and its Appendices (relating to standards for the management of specific hazardous wastes; and specific types of hazardous waste management facilities) are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference, producers of a product that is not presently subject to regulation and that is to be used by the general public in a manner that constitutes disposal and that contains recyclable materials, shall demonstrate, by obtaining the Department's written approval, that the recyclable materials have undergone the chemical reaction described in 40 CFR 260.20(b) (relating to general).

Subchapter E. WASTE OIL BURNED FOR ENERGY RECOVERY

(*Editor's Note:* This subchapter contains the existing text in Chapter 266, Subchapter E. The text is being relocated and renumbered only)

Subchapter H. HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

Sec.

266a.103. Interim status standards for burners.

266a.108. Small quantity onsite burner exemption.

§ 266a.103. Interim status standards for burners.

Notwithstanding the requirements incorporated by reference:

(1) An 8,000 Btu/lb minimum heating value requirement is substituted for the Federal 5,000 Btu/lb minimum heating value requirement.

(2) "Existing or in existence" means a boiler or industrial furnace, excluding sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. For sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, "existing or in existence" means that on or before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal), these units are either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. A facility has commenced construction if the owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and one of the following applies:

(i) A continuous onsite, physical construction program has begun.

(ii) The owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the facility to be completed within a reasonable time."

(c) Hazardous waste may be burned under the exceptions of the restrictions contained in 40 CFR 266.103(a)(6) (relating to interim status standards for burners) if the Department has documentation to show that, prior to August 21, 1991, for all boilers or industrial furnaces,

except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators and plasma arc incinerators the following apply:

(1) The boiler or industrial furnace is operating under the interim status standards for incinerators provided by 40 CFR Part 265, Subpart O (relating to incinerators), or the interim status standards for thermal treatment units provided by 40 CFR Part 265, Subpart P and Chapter 265, Subchapter P (relating to thermal treatment).

(2) The boiler or industrial furnace met the interim status eligibility requirements under 40 CFR Part 265, Subpart O or Chapter 265a, Subchapter P.

(3) Hazardous waste with a heating value less than 8,000 Btu/lb was burned prior to that date.

(d) The owner or operator shall provide the Department with the certification of precompliance required by 40 CFR 266.103(b). The owner or operator shall submit the certification by August 21, 1991, for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators and plasma arc incinerators.

(e) The owner or operator shall submit to the Department a complete and accurate certification of compliance under 40 CFR 266.103(c). The owner or operator shall submit the certification by August 21, 1991, for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators and plasma arc incinerators.

(f) If the owner or operator does not submit a complete certification of compliance for all of the applicable emissions standards of 40 CFR 266.104—266.107 by August 21, 1991, for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and by _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, the owner or operator shall do one of the following:

(1) Stop burning hazardous waste and begin closure activities under 40 CFR 266.103(c)(1).

(2) Limit hazardous waste burning only for purposes of compliance testing (and pretesting to prepare for compliance testing) a total period of 720 hours for the period of time beginning August 21, 1992, for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and, for the period of time beginning _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators. Submit a notification to the director by August 21, 1992, for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators or submit a notice to the Department by _____ (*Editor's Note:* The blank refers to a date 1 year after the effective date of adoption of this proposal) for sludge dryers,

carbon regeneration units, infrared incinerators, and plasma arc incinerators, stating that the facility is operating under restricted interim status and intends to resume burning hazardous waste, and submit a complete certification of compliance by August 23, 1993 for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, or by _____. (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this proposal) for sludge dryers, carbon regeneration units, infrared incinerators and plasma arc incinerators.

(3) Obtain a case-by-case extension of time under 40 CFR 266.103(c)(7)(ii).

§ 266a.108. Small quantity onsite burner exemption.

Notwithstanding the requirements incorporated by reference, the hazardous waste burned in an onsite boiler or industrial furnace have a minimum heating value of 8,000 Btu/lb to be exempt from this subchapter.

CHAPTER 266b. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

(*Editor's Note:* All of the existing text of Chapter 266 Subchapters J—O is being relocated to Chapter 266b.)

Subchap.

- A. GENERAL
- B. STANDARDS FOR SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE
- C. STANDARDS FOR LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE
- D. STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS
- E. STANDARDS FOR DESTINATION FACILITIES

Subchapter A. GENERAL

Sec.

266b.1. Incorporation by reference and scope.

§ 266b.1. Incorporation by reference and scope.

Except as expressly provided in this chapter, the requirements of 40 CFR Part 273 (relating to standards for universal waste management) are incorporated by reference.

Subchapter B. STANDARDS FOR SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE

Sec.

266b.10. Applicability.

§ 266b.10. Applicability.

In addition to the requirements incorporated by reference, a small quantity handler of universal waste complying with this subchapter is deemed to have a permit for the storage of universal wastes.

Subchapter C. STANDARDS FOR LARGE QUANTITY HANDLERS OF UNIVERSAL WASTES

Sec.

266b.30. Applicability.

§ 266b.30. Applicability.

In addition to the requirements incorporated by reference, a large quantity handler of universal waste complying with this subchapter is deemed to have a permit for the storage of universal wastes.

Subchapter D. STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Sec.

266b.50. Applicability.

§ 266b.50. Applicability.

In addition to the requirements incorporated by reference, a universal waste transporter complying with this subchapter is deemed to have a license for the transportation of universal wastes.

Subchapter E. STANDARDS FOR DESTINATION FACILITIES

Sec.

266b.60. Applicability.

§ 266b.60. Applicability.

Notwithstanding the requirements incorporated by reference, 40 CFR 273.60(b) (relating to applicability) is not incorporated by reference.

CHAPTER 267. (Reserved)

(*Editor's Note:* All of the existing text of Chapter 267 is proposed to be deleted and the financial responsibility requirements are proposed to be relocated to Subchapter H of Chapters 264a and 265a.)

CHAPTER 268a. LAND DISPOSAL RESTRICTIONS

Subchap.

- A. GENERAL

Subchapter A. GENERAL

Sec.

268a.1. Incorporation by reference, purpose, scope and applicability.

§ 268a.1. Incorporation by reference, purpose, scope and applicability.

(a) Except as expressly provided in this chapter, the requirements of 40 CFR Part 268 (relating to land disposal restrictions) except for 40 CFR 268.5, 268.6, 268.42(b) and 268.44 and its appendices are incorporated by reference.

(b) Notwithstanding the requirements incorporated by reference, the substitution of the term "EPA" in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to 40 CFR 268.1(e)(3) (relating to purpose, scope and applicability).

CHAPTER 269. (Reserved)

CHAPTER 269a. SITING

(*Editor's Note:* All of the existing text of Chapter 269 is being renumbered as Chapter 269a. No changes, except citation changes, are being proposed to the existing text of Chapter 269. All citations contained within the existing text of Chapter 269 are also being renumbered to reflect the numbering changes proposed in this regulation.)

CHAPTER 270. (Reserved)

CHAPTER 270a. HAZARDOUS WASTE PERMIT PROGRAM

Subchap.

- A. GENERAL INFORMATION
- B. PERMIT APPLICATION
- D. TRANSFER OF PERMITS
- E. EXPIRATION AND CONTINUATION OF PERMITS
- F. SPECIAL FORMS OF PERMITS
- G. INTERIM STATUS
- H. PUBLIC NOTICE AND HEARINGS

Subchapter A. GENERAL INFORMATION

Sec.

- 270a.1. Incorporation by reference, scope and applicability.
- 270a.2. Definitions.
- 270a.3. Payment of fees.
- 270a.4. Effect of permit.
- 270a.5. Noncomplying and program reporting by Director.
- 270a.6. References.

§ 270a.1. Incorporation by reference, scope and applicability.

Except as expressly provided in this chapter 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) and its Appendices (relating to hazardous waste permit program) are incorporated by reference.

§ 270a.2. Definitions.

Notwithstanding the requirements incorporated by reference:

(1) The definitions for “disposal,” “hazardous waste,” “person,” “storage” and “treatment” are not incorporated by reference.

(2) The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply for the terms “Administrator,” “Director,” “Environmental Protection Agency” and “Regional Administrator” found in 40 CFR 270.2 (relating to definitions).

§ 270a.3. Payment of fees.

Notwithstanding the requirements incorporated by reference, 40 CFR 270.3 is not incorporated by reference and the following fees are established:

(1) Applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the “Commonwealth of Pennsylvania” according to the following schedule:

(i) Land disposal facilities—commercial—\$125,000.

(ii) Land disposal facility—captive—\$71,400.

(iii) Surface impoundments:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(iv) Postclosure permits—\$25,000.

(v) Treatment facilities:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(vi) Storage facilities:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(vii) Incinerators:

(A) Commercial—\$93,000.

(B) Captive—\$54,000.

(viii) For applications for determination of applicability under § 266.100 (relating to applicability and requirements)—\$1,125.

(2) If more than one permitted activity is located at a site, or more than one activity occurs, the fees shall be cumulative.

(3) Module I applications and permit modification applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the “Commonwealth of Pennsylvania” according to the following schedule:

(i) Module I and Generic Module I applications:

(A) Module I—\$300.

(B) Generic Module I—\$1,500.

(ii) Class 2 and Class 3 permit modifications—50 % of fees listed in subsection (1).

(iii) Class 1 permit modifications—\$700.

(4) An application for a permit modification shall be considered a major modification if the application involves one or more of the following:

(i) A change in the site volume-waste capacity.

(ii) A change in excavation contours, including final elevations and slopes.

(iii) A change in permitted acreage.

(iv) A change in the approved groundwater monitoring plan, except for the addition of wells or parameters.

(v) A change in approved leachate collection and treatment plan.

(vi) A change in gas monitoring or management plan, or both.

(vii) A change in the approved type, amount, origin or application of daily, intermediate or final cover materials.

(viii) A change in the approved closure plan.

(ix) A change in approved design.

(Editors Note: The language contained in § 270a.3 of this rulemaking is the language that is being deleted from § 265.447 by this rulemaking.)

(Editor's Note: The Department is deleting the existing text at 25 Pa. Code § 270.4 (relating to research, development and demonstration permits) and adopting the Federal 40 CFR 270.65 (relating to research, development and demonstration permits) by reference.)

§ 270a.4. Effect of permit.

Notwithstanding the requirements incorporated by reference, 40 CFR 270.4 (relating to effect of a permit) is not incorporated by reference.

§ 270a.5. Noncomplying and program reporting by Director.

Notwithstanding the requirements incorporated by reference, 40 CFR 270.5 (relating to noncompliance and program reporting by the Director) is not incorporated by reference.

§ 270a.6. References.

Notwithstanding the requirements incorporated by reference, the term “*Federal Register*” shall retain its meaning and may not be replaced by the term “*Pennsylvania Bulletin*” when used in 40 CFR 270a.6 (relating to references).

Subchapter B. PERMIT APPLICATION

Sec.

270a.10. General application requirements.

270a.11. Signatories to permit applications and reports.

270a.12. Confidentiality of information.

270a.29. Permit denial.

§ 270a.10. General application requirements.

(a) Notwithstanding the requirements incorporated by reference:

(1) The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) for the terms “administrator,” “*Federal Register*” and “EPA” does not apply to 40 CFR 270.10(c)(2) (relating to general application requirements).

(2) The substitution of terms in § 260a.3 for the term “administrator” does not apply to 40 CFR 270.10(e) and (f)(3).

(3) Applicants are only required to submit the application to the Department under 40 CFR 270.10(f)(2) and (g)(1)(i).

(b) In addition to the requirements incorporated by reference, an application shall include the application fees required by § 270a.3 (relating to payment of fees).

§ 270a.11. Signatories to permit applications and reports.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) for the term “administrator” does not apply to 40 CFR 270.11(a)(3) (relating to signatories to permit applications and reports).

§ 270a.12. Confidentiality of information.

Notwithstanding the requirements incorporated by reference, confidentiality of information shall be as follows:

(1) Information submitted to the Department under this subsection may be claimed as confidential by the applicant. Any claim shall be asserted at the time of submission in the manner prescribed in paragraph (2) and the application form or instructions by stamping the words “confidential business information” on each page containing the information. If a claim is not made at the time of submission, the Department will make the information available to the public without further notice.

(2) Claims of confidentiality for permit application information shall be substantiated at the time the application is submitted and shall address the following:

(i) The portions of the information claimed to be confidential.

(ii) The length of time the information is to be treated as confidential.

(iii) The measures taken to guard against undesired disclosure of the information to others.

(iv) The extent the information has been disclosed to others and the precautions taken in connection with that disclosure.

(v) A copy of any pertinent confidentiality determinations by EPA or another Federal agency.

(vi) The nature of the substantial harm to the competitive position by disclosure of the information, the reasons it should be viewed as substantial and the relationship between the disclosure and the harm.

(3) The Department will keep confidential information in a secure repository and will not make the information available for inspection by the general public.

(4) The Department will make confidential information available to any State or Federal agency for the purpose of administration of any State or Federal law.

(Editors Note: The language contained in § 270a.12 of this rulemaking is the language that is being deleted from § 265.446 by this rulemaking.)

§ 270a.13. Contents of Part A of the permit application.

In addition to the requirements incorporated by reference, Part A of the permit application shall include information to demonstrate compliance with the siting criteria in Chapter 269a (relating to siting).

§ 270a.29. Permit denial.

Notwithstanding the requirements incorporated by reference, in 40 CFR 270.29 (relating to permit denial), the

phrase “25 Pa. Code, Chapter 270a, Subchapter H” shall be substituted for the phrase “Part 124.”

Subchapter D. CHANGES TO PERMITS

Sec.

270a.41. Modification or revocation and reissuance of permits.

§ 270a.41. Modification or revocation and reissuance of permits.

In addition to the requirements incorporated by reference:

(1) A person who requires a permit under the hazardous waste program shall complete, sign and submit to the Department an application for a hazardous waste permit.

(2) The Department will not begin the processing of a permit until the applicant has complied with the application requirements for that permit and complied with the signature and certification requirements of § 270a.11 (relating to signatories to permit applications and reports) and 40 CFR 270.11 (relating to certification by responsible official).

(3) The Department will review for completeness every hazardous waste permit application for a new or existing hazardous waste management facility—both Parts A and B of the application. Upon completing the review, the Department will notify the applicant in writing whether the application is complete. If the application is incomplete, the Department will list the information necessary to make the application complete. When the application is for an existing hazardous waste management facility, the Department will specify in the notice of deficiency a date for submitting the necessary information. If the applicant thereafter submits a complete application, the Department will notify the applicant that the application is complete. After the application is completed, the Department may request additional information from an applicant if necessary to clarify, modify or supplement previously submitted material. Requests for additional information will not render an application incomplete.

(4) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under applicable statutory provisions.

(5) If the Department decides that a site visit is necessary in conjunction with the processing of an application, it will notify the applicant. The applicant shall provide the Department access for a site visit at a reasonable time.

(6) The effective date of an application is the date on which the Department notifies the applicant that the application is complete as provided in paragraph (3).

(7) Once an application is complete, the Department will tentatively decide whether to prepare a draft permit or to deny the application.

(8) If the Department tentatively decides to deny the permit application, it will issue a notice of intent to deny the application. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as a draft permit prepared under this section. If, after issuing a notice of intent to deny, the Department’s final decision is to issue the permit, the notice of intent to deny will be withdrawn and the Department will proceed to prepare a draft permit under paragraph (9).

(9) A draft permit prepared by the Department will contain the following information:

(i) Conditions under 40 CFR Subpart C (relating to conditions applicable to all permits).

(ii) Proposed compliance schedules under 40 CFR 270.33 (relating to schedules of compliance).

(iii) Monitoring requirements under Chapters 264a and 265a; 40 CFR Parts 264 and 265 and 40 CFR 270.14.

(iv) Hazardous waste permit standards for treatment, storage and disposal and other permit conditions under this chapter and 40 CFR, Subpart C (relating to permit conditions).

(10) A draft permit prepared under this section shall be accompanied by a statement of basis, under paragraph (11) or a fact sheet under paragraph (12), publicly noticed under § 270a.80 (relating to public notice and comment requirements) and made available for public comment under § 270a.81 (relating to public hearings). The Department will give notice of the opportunity for a public hearing under § 270a.81 and respond to comments under paragraph (13).

(11) The Department will prepare a statement of basis for every draft permit for which a fact sheet under paragraph (12) is not prepared. The statement of basis will briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or revoke, reasons supporting the tentative decision. The statement of basis will be sent to the applicant and, on request, to other persons.

(12) Preparation of fact sheets shall comply with the following:

(i) A fact sheet will be prepared by the Department for every draft permit for a major hazardous waste management facility or activity, and for every draft permit which the Department determines is the subject of widespread public interest or raises major issues. The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Department will send this fact sheet to the applicant and, on request, to other persons.

(ii) The fact sheet shall include the following when applicable:

(A) A brief description of the type of facility or activity which is the subject of the draft permit.

(B) The type and quantity of wastes which are proposed to be or are being treated, stored or disposed of.

(C) A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions.

(D) Reasons why requested variances or alternatives to required standards do or do not appear justified.

(E) A description of the procedures for reaching a final decision on the draft permit including the following:

(I) The beginning and ending dates of the comment period under § 270a.81 and the address where comments will be received.

(II) Procedures for requesting a hearing and the nature of that hearing.

(III) Other procedures by which the public may participate in the final decision.

(IV) The name and telephone number of a person to contact for additional information.

(13) At the time that a final permit is issued, the Department will also issue a response to comments. The response will state the following:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decisions, and the reasons for the change.

(ii) Briefly describe the response to significant comments on the draft permit raised during the public comment period or during a hearing.

(14) The Department will make available to the public its response to public comments.

(15) The Department will follow the following procedures if it modifies, revokes and reissues, or revokes a permit:

(i) The Department may modify, revoke and reissue, or revoke a permit either at the request of an interested person—including the permittee—or upon the Department's initiative for reasons specified in 40 CFR 270.41 (relating to modification or revocation and reissuance of permits) and for a reason authorized under the act, this article or the terms and conditions of the permit. A request shall be in writing and contain facts or reasons supporting the request.

(ii) If the Department decides the request is not justified, the Department will send a brief written response giving a reason for the decision to the requestor. The Department's refusal to modify, revoke and reissue or revoke a permit under a request is not subject to public notice, comment or hearings.

(iii) If the Department tentatively decides to modify or revoke and reissue a permit, in accordance with the incorporated provisions of 40 CFR 270.41, it will prepare a draft permit under paragraphs (7)—(9) incorporating the proposed changes. The Department may request additional information from the permittee and may require the permittee to submit an updated permit application. In the case of revoked and reissued permits the Department will require the submission of a new application. The permittee shall submit additional information or an updated or new application under a request by the Department within the time specified by the Department.

(iv) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. Other aspects of the existing permit shall remain in effect for the duration of the permit. When the permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued. During a revocation and reissuance proceeding. The permittee shall comply with all conditions of the existing permit until a new final permit is issued.

(v) If the Department tentatively decides to revoke a permit in accordance with the incorporated provisions of 40 CFR 270.41, it will issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit which follows the same procedures as a draft permit prepared under paragraphs (7)—(9).

(vi) Class 1 modifications as listed in the Appendix I to 40 CFR 270.42 (relating to classification of permit modification) are not subject to the requirements of this section.

Subchapter E. EXPIRATION AND CONTINUATION OF PERMITS

Sec.

270a.51. Continuation of existing permits.

§ 270a.51. Continuation of existing permits.

Notwithstanding the requirements incorporated by reference, 40 CFR 270.51 (relating to continuance of expiring permits) is not incorporated by reference.

Subchapter F. SPECIAL FORMS OF PERMITS

Sec.

270a.60. Permits-by-rule.

270a.61. Emergency permits.

270a.64. Interim permits for UIC wells.

§ 270a.60. Permits-by-rule.

(a) Notwithstanding the requirements incorporated by reference, the following shall be substituted for the introductory paragraph in 40 CFR 270.60 (relating to permits by rule):

Notwithstanding other provisions of this chapter, the activities listed in this section shall be deemed to have a hazardous waste management permit if the conditions listed are met. The Department may require an owner or operator with a permit-by-rule under this section to apply for, and obtain, an individual permit when the facility is not in compliance with the applicable requirements or is engaged in an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(b) In addition to the requirements incorporated by reference, the following requirements apply:

(1) The owner or operator of an elementary neutralization unit or a wastewater treatment unit is deemed to have a permit-by-rule, if the following requirements are complied with:

(i) The facility is a captive facility and the only waste treated is generated onsite, or was a captive facility prior to September 4, 1982, and the only waste treated is generated onsite or on an interconnected adjacent site which was previously part of an integrated facility.

(ii) The facility has an NPDES permit, if required, and complies with the conditions of that permit.

(iii) Section 264a.11 (relating to identification number and transporter license) and 40 CFR 264.11 (relating to identification number).

(iv) Chapter 264a, Subchapter D and 40 CFR Subparts C and D (relating to standards for owners and operators of hazardous waste treatment, storage and disposal facilities; transfer of permits; and preparedness and prevention, and preparedness, prevention and contingency (PPC) plan and emergency procedures).

(v) 40 CFR Part 265, Subpart Q (relating to chemical, physical and biological treatment), except for 40 CFR 265.400 (relating to applicability).

(vi) Except for the characteristic of ignitability, the hazardous waste is not being rendered nonhazardous via dilution by merely mixing it with nonhazardous material.

(2) A generator that treats its own hazardous waste in containers, tanks or containment buildings is deemed to have a permit-by-rule, if the following requirements are complied with:

(i) The facility is a captive facility and the only waste treated is generated onsite.

(ii) The notification requirements of 40 CFR 264.11 (relating to notification of hazardous waste activities) and the applicable requirements of 40 CFR Part 264, Subparts A—D, I, J and DD and Chapter 264a, Subchapters A, B, D, I, J and DD.

(iii) The applicable requirements of 40 CFR 262.34 (relating to accumulation).

(3) The owner or operator of a battery manufacturing facility reclaiming spent, lead-acid batteries is deemed to have a permit-by-rule, if the following requirements are complied with:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—E and I—L and Chapter 264a, Subchapters A, B, D, E and I—L.

(4) The owner or operator of a petroleum refining facility refining hazardous waste along with normal process streams to produce petroleum products is deemed to have a permit-by-rule, if the following requirements are complied with:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—E, and I—L and Chapter 264a, Subchapters A, B, D, E and I—L.

(5) The owner or operator of a facility that reclaims hazardous waste onsite, at the site where it is generated is deemed to have a recycling permit for the reclamation, if the following requirements are complied with:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of Chapter 262a and Chapter 264a, Subchapters A, B, D, E and I—L and 40 CFR Part 262 and 264, Subparts A—E and I—L.

(iii) For the purposes of this subsection, onsite reclamation includes reclamation of materials generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262a.20 (relating to general requirements) and 40 CFR Part 262.20 (relating to manifest).

(iv) The Department may, under special circumstances, approve on a case-by-case basis the receipt and reclamation of wastes generated offsite by a different generator for reclamation at a facility regulated under this subsection without the reclamation of the wastes resulting in the loss of onsite reclamation status under this subsection.

(6) The owner or operator of a facility storing hazardous waste onsite in tanks, containers or containment buildings under paragraph (5) is deemed to have a hazardous waste storage permit for the storage of hazardous waste prior to reclamation if the following requirements are complied with:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—D, I, J and DD and Chapter 264a, Subchapters A, B, D, I, J and DD.

(c) In addition to the requirements incorporated by reference:

(1) With respect to any permit-by-rule facility under paragraphs (b)(3)-(6) of this section, the Department may, upon written application from any person subject to these paragraphs, grant a variance from one or more specific provision of those paragraphs in accordance with this subsection.

(2) In granting an variance, the Department may impose specific conditions reasonably necessary to assure that the subject activity will result in a level of protection of the environment and public health equivalent to that

which would have resulted from compliance with the suspended provisions. Any variance granted under this section shall be no less stringent than the requirements of section 3010 of the RCRA (42 U.S.C.A. § 6930) and regulations adopted thereunder.

§ 270a.61. Emergency permits.

In addition to the requirements incorporated by reference, the Department may waive the procedural requirements for a hazardous waste management permit under section 504(g) of the Hazardous Sites Cleanup Act (35 P. S. § 6020.504(g)), for site cleanup response actions conducted entirely on the site. For the purposes of this paragraph "site" is as defined in section 103 of the Hazardous Sites Cleanup Act (35 P. S. § 6020.103).

§ 270a.64. Interim permits for UIC wells.

Notwithstanding the requirements incorporated by reference, the requirements at 40 CFR 270.64 (relating to interim permits for UIC wells) are not incorporated by reference.

Subchapter G. INTERIM STATUS

Sec.

270a.72. Changes during interim status.

§ 270a.72. Changes during interim status.

Notwithstanding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) for the term "EPA" does not apply to 40 CFR 270.72(a)(5) and (b)(5) (relating to changes during interim status).

Subchapter H. PUBLIC NOTICE AND HEARINGS

Sec.

270a.80. Public notice and comment requirements.

270a.81. Public hearings.

270a.82. Public availability of information.

§ 270a.80. Public notice and comment requirements.

In addition to the requirements incorporated by reference:

(1) The Department will give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under § 270a.29 (relating to permit denial), 40 CFR 270.29 (relating to permit denial) and § 270a.41 (relating to modification or revocation and reissuance of permits).

(ii) A draft permit has been prepared under § 270a.41(9).

(iii) A hearing has been scheduled under § 270a.81(2) (relating to public hearings).

(iv) A closure/postclosure plan has been received in accordance with the incorporated requirements of 40 CFR 264.112(d) or 264.118(a) (relating to closure plan; amendment of plan; and postclosure plan; amendment of plan).

(2) A public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under paragraph (1) will provide for at least 45 days for public comment.

(3) The Department will give public notice of a public hearing at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit, and the two notices may be combined.

(4) The Department will give public notice of activities described in paragraph (1) by the following methods:

(i) By mailing a copy of a notice to the following (persons otherwise entitled to receive notice under this paragraph may waive the right to receive notice for classes and categories of permits):

(A) The applicant.

(B) An agency which the Department knows has issued or is required to issue an RCRA, underground injection control, prevention of significant deterioration, NPDES or 404 permit for the same facility or activity, including EPA .

(C) An appropriate Federal or State agency with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, State historic preservation officers, advisory council on historic preservation and other appropriate government authorities, including affected states.

(D) A person on a mailing list developed by the Department, which will include a person who submits to the Department a request in writing to be on the list, a person solicited for area lists from participants in past permit proceedings in that area, and a member of the public notified of the opportunity to be put on the mailing list through periodic publication in the public press and in regional and State-funded newsletters, environmental bulletins or State law journals. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of a person who fails to respond to the request.

(E) A unit of local government having jurisdiction over the area where the facility is proposed to be located.

(F) A State agency having authority under State statute with respect to the construction or operation of the facility.

(ii) Publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(iii) In a manner constituting legal notice to the public under State statute.

(iv) By other methods reasonably calculated to give actual notice of the action in question to a person potentially affected by it, including press releases or another form or medium to elicit public participation.

(5) The content of a public notice issued under this section shall contain the following minimum information:

(i) The name and address of the office processing the permit action for which notice is being given.

(ii) The name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit.

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit.

(iv) The name, address and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit, the statement of basis or fact sheet, and the application.

(v) A brief description of the comment procedures required by § 270a.81 (relating to public hearings), and the time and place of a hearing that will be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final permit decision.

(vi) Additional information which the Department considers necessary or proper.

(6) In addition to the general public notice described in paragraph (5), the public notice of a hearing under § 270a.81 shall contain the following information:

(i) A reference to the date of previous public notices relating to the permit.

(ii) The date, time and place of the hearing.

(iii) A brief description of the nature and purpose of the hearing, including the applicable procedures.

(7) In addition to the general public notice described in paragraph (5), a person identified in paragraph (4)(i)(A)—(C) will be mailed a copy of the fact sheet or statement of basis, the draft permit and, if applicable, the permit application.

§ 270a.81. Public hearings.

In addition to the requirements incorporated by reference:

(1) During the public comment period provided under § 270a.80 (relating to public notice and comment requirements), an interested person may submit written comments on the draft permit and may request a public hearing, if a hearing has not already been scheduled. A request for a public hearing shall be in writing and state the nature of the issues proposed to be raised in the hearing. The Department will consider comments in making its final decision and will answer these comments as provided in § 270a.41(13) (relating to modification or revocation and reissuance of permits).

(2) The Department will follow the following procedures in a public hearing held under this subchapter:

(i) The Department will hold a public hearing whenever, on the basis of requests received under paragraph (1), it determines that a significant degree of public interest in a draft permit exists.

(ii) The Department may hold a public hearing whenever a hearing might clarify issues involved in the permit decision.

(iii) The Department will hold a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice, under § 270a.80.

(iv) The Department will, when possible, schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(v) The Department will give public notice of the hearing under § 270a.80.

(vi) A person may submit oral or written statements and data concerning the draft permit before, during or

after the public hearing. The Department may set reasonable limits upon the time allowed for oral statements and may require the submission of statements in writing. The public comment period under § 270a.80 will automatically be extended to the close of a public hearing under this section. The Department's hearing officer may also extend the comment period by so stating at the hearing.

(vii) The Department will make a tape recording or written transcript of the hearing available to the public.

§ 270a.82. Public availability of information.

In addition to the requirements incorporated by reference:

(1) Information provided to the Department under this article will be made available to the public in accordance with the current Departmental policy on public information. The Department will make every effort to respond to written requests in a timely manner by providing the materials requested or a written response explaining why the request cannot be honored.

(2) The Department will release material obtained regarding facilities and sites for the treatment, storage and disposal of hazardous waste, unless the material is subject to a claim of confidentiality under § 270a.12 (relating to confidentiality of information) or other law or regulation. These records include:

(i) Permit applications and modifications.

(ii) Annual reports.

(iii) Closure plans.

(iv) Notification of facility closure.

(v) Contingency plan incidence reports.

(vi) Delisting petitions and other petitions for variances or waivers.

(vii) Financial responsibility instruments.

(viii) Environmental monitoring data, such as groundwater monitoring data.

(ix) Transporter spill reports.

(x) International shipment reports.

(xi) Manifest exception, discrepancy and unmanifested waste reports.

(xii) EPA facility identification numbers.

(xiii) General correspondence with the facility.

(xiv) Enforcement orders.

(xv) Inspection reports.

(xvi) Results of corrective action investigations.

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