

PENNSYLVANIA BULLETIN

Volume 28
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Number 3
Pages 267—348

See Part II page 329 for the
Department of Labor and
Industry's General Provisions
of Act 57 of 1996

Part I

Agencies in this issue:

The General Assembly
The Courts
Department of Banking
Department of Environmental Protection
Department of General Services
Department of Health
Department of Labor and Industry
Department of Public Welfare
Department of Revenue
Department of Transportation
Independent Regulatory Review Commission
Insurance Department
Legislative Reference Bureau
Liquor Control Board
Pennsylvania Council on Aging
Pennsylvania Public Utility Commission
Port of Pittsburgh Commission
State Employees' Retirement Board
Treasury Department
Turnpike Commission

Detailed list of contents appears inside.

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

No. 278, January 1998

PENNSYLVANIA



BULLETIN

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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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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1998.

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Part II

This part contains the
Department of Labor and Industry's
General Provisions of Act 57 of 1996

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THE GENERAL ASSEMBLY

Recent Actions During the 1997 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 1997 Regular Session.

1997 ACTS—Acts 58 through 66 (numerical)

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1997-58	Dec. 16	HB1412	PN2655	Immediately*	Domestic Relations Code (23 Pa.C.S.)—omnibus amendments
1997-59	Dec. 19	SB577	PN1475	Immediately	Public School Code of 1949—sale of unused and unnecessary lands and buildings
1997-60	Dec. 19	SB1160	PN1434	Immediately	Airport Divestiture Act—enactment
1997-61	Dec. 19	HB21	PN2521	Immediately	Municipal Pension Plan Funding Standard and Recovery Act—actuarial valuation report contents
1997-62	Dec. 19	HB474	PN2576	Immediately	Crimes Code (18 Pa.C.S.)—unlawful contact or communication with minor and solvent sale or illegal use
1997-63	Dec. 19	HB836	PN2073	Immediately	New Home Construction Local Tax Abatement Act—exemption procedure
1997-64	Dec. 19	HB959	PN2660	Immediately*	First Class Township Code, The—mercantile and business privilege tax on gross receipts, authorization to levy, assess and collect
1997-65	Dec. 19	HB1125	PN2590	60 days	Crimes Code (18 Pa.C.S.)—unauthorized administration of intoxicant and drug-induced rape penalties
1997-66	Dec. 19	HB1463	PN2699	Immediately	Conveyance—Commonwealth property in Huntingdon and Union counties

1997 APPROPRIATION—Act 45A (numerical)

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1997-45A	Dec. 19	HB7	PN2691	Immediately	General Appropriation Act of 1997—Auditor General and Department of State additional appropriations and Insurance Department Federal appropriation

* with exceptions

Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the Pennsylvania Consolidated Statutes provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this Commonwealth, and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of the statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

Legislative Bills and Documents

Copies of Senate Bills and Documents may be obtained from: Document Room, Senate of Pennsylvania, Room 34A, Main Capitol Building, Harrisburg, PA 17120, (717) 787-6732.

Copies of House Bills and Documents may be obtained from: Document Room, House of Representatives, 35 Main Capitol Building, Harrisburg, PA 17120, (717) 787-5320.

CARL MEASE,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 98-78. Filed for public inspection January 16, 1998, 9:00 a.m.]

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL [234 PA. CODE CH. 305]

Proposed Amendment to Comment to Rule 305 Pretrial Discovery and Inspection

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the *Comment* to Rule of Criminal Procedure 305. This *Comment* revision clarifies that the court may order the attorney for the Commonwealth to disclose any information concerning remuneration, or the promise of remuneration, for information about the case. The following explanatory *Report* highlights the Committee's considerations in formulating this proposal.

Please note that the Committee's *Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

The text of the proposed *Comment* revision precedes the *Report*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Monday, February 16, 1998.

By the Criminal Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 300. PRETRIAL PROCEEDINGS

Rule 305. Pretrial discovery and inspection.

* * * * *

Official Note: Present Rule 305 replaces former Rules 310 and 312 in their entirety. Former Rules 310 and 312 adopted June 30, 1964, effective January 1, 1965. Former Rule 312 suspended June 29, 1973, effective immediately. Present Rule 305 adopted June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; *Comment* revised April 24, 1981, effective June 1, 1981; amended October 22, 1981, effective January 1, 1982; amended September 3, 1993, effective January 1, 1994; amended May 13, 1996, effective July 1, 1996; *Comment* revised July 28, 1997, effective immediately; ***Comment* revised _____, effective _____.**

Comment

This rule is intended to apply only to court cases. However, the constitutional guarantees mandated in *Brady v. Maryland*, 373 U. S. 83 (1963), and the refinements of the *Brady* standards embodied in subsequent

judicial decisions, apply to all cases, including court cases and summary cases, and nothing to the contrary is intended. For definitions of "court case" and "summary case," see Rule 3.

Included within the scope of paragraph (B)(2)(a)(iv) is any information concerning any prosecutor, investigator, or police officer involved in the case who has received either valuable consideration or an oral or written promise or contract for valuable consideration for information concerning the case, or for the production of any work describing the case, or for the right to depict the character of the prosecutor or investigator in connection with his or her involvement in the case.

* * * * *

Committee Explanatory Reports: Report explaining the September 3, 1993 amendments published at 21 Pa.B. 3681 (August 17, 1991).

Final Report explaining the May 13, 1996 amendments published with the Court's Order at 26 Pa.B. 2488 (June 1, 1996).

Final Report explaining the July 28, 1997 Comment revision deleting the references to the ABA Standards published with the Court's Order at 27 Pa.B. 3997 (August 9, 1997).

Final Report explaining the _____, 1998 Comment revision concerning disclosure of remuneration published with the Court's Order at 28 Pa.B. 276 (January 17, 1998).

REPORT

Proposed Revision of the Comment to Pa.R.Crim.P. 305

DISCLOSURE OF REMUNERATION TO INVESTIGATORS OR PROSECUTORS

The Committee is proposing the revision of the *Comment* to Rule 305 (Pretrial Discovery and Inspection) to make it clear that included within the scope of paragraph (B)(2)(a)(iv) is any information concerning any prosecutor, investigator, or police officer involved in the case who has received either valuable consideration or an oral or written promise or contract for valuable consideration for information concerning the case, or for the production of any work describing the case, or for the right to depict the character of the prosecutor or investigator in connection with his or her involvement in the case.

The Committee undertook a review of the provisions of Rule 305 as they would apply to the issue of disclosure of remuneration to prosecutors, investigators, or police officers after receiving correspondence from Senator David J. Brightbill, in which he suggested that Rule 305 should be amended to require "disclosure of information relative to 1) the receipt of anything of value or 2) any oral or written promise or contract for the receipt of anything of value for either (a) information regarding the criminal offense or (b) that individual's character depiction in connection with his or her involvement as an investigator with that criminal offense." Senator Brightbill explained that he thought this information should be given to the defendant prior to trial so the defendant "will have the opportunity for thorough cross-examination. . . . [and to] provide the necessary information to begin to serve the needs of the criminal justice system."

After a thorough review, the Committee agreed that Rule 305 currently provides for the disclosure Senator

Brightbill was requesting. Specifically, paragraph (B)(2)(a)(iv) authorizes the court to order the Commonwealth to allow the defendant's attorney to inspect and copy or photograph any of the following requested items, upon a showing that they are material to the preparation of the defense, and that the request is reasonable:

(iv) any other evidence specifically identified by the defendant, provided the defendant can additionally establish that its disclosure would be in the interest of justice.

However, the members agreed that, given the increase in the number of cases in which remuneration is being offered, it would be helpful to the bench and bar if the Rule 305 Comment explained that disclosure of remuneration falls within the scope of paragraph (B)(2)(a)(iv).

[Pa.B. Doc. No. 98-79. Filed for public inspection January 16, 1998. 9:00 a.m.]

Title 255—LOCAL COURT RULES
WYOMING AND SULLIVAN COUNTIES
Addition to 44th Judicial District Rules—Civil; No. 97-1322

Order of Court

And Now, the 31st day of December, 1997,

It Is Ordered that the Local Rules of the 44th Judicial District—Civil are amended by the addition of Rule 1915.3—Child Custody and Rule 1920.12—Divorce Complaint, as follows and made a part hereof.

It Is Further Ordered that the said addition to the Rules of the 44th Judicial District shall be effective thirty (30) days after publication in the Pennsylvania Bulletin.

By the Court

BRENDAN J. VANSTON,
President Judge

Rule 1915.3. Child Custody.

(a) Unless otherwise permitted by order of court, no Decree in Divorce shall be entered in any divorce proceeding commenced after January 15, 1998 wherein the parties are the parents of a child or children who are under the age of 18 years on the date of filing of the complaint, unless the Court Administrator shall have filed with the Prothonotary a certification (Divorce Form "C") of the parties' completion of the "Children Coping with Divorce and Family Conflict" program, "Kids First" program, or other similar program approved by the court.

(b) The Prothonotary shall collect, in addition to all other fees and costs, the sum of Forty (\$40.00) Dollars from all plaintiffs filing Divorce Form "A", indicating that there are minor children born of the marriage, and from all plaintiffs filing a child custody complaint, unless the plaintiff shall have been granted in forma pauperis status. Further, the Prothonotary shall collect the sum of Forty (\$40.00) Dollars from all defendants enrolling in the "Children Coping with Divorce" program or "Kids First" program (Divorce Form "B"), unless in forma pauperis status shall have been granted to him or her. Should the

Court Administrator collect such fee, he or she shall promptly remit the same to the Prothonotary.

(c) The Prothonotary shall remit to the appropriate program on a monthly basis such amounts as shall be set by further court order.

(d) Divorce Forms "A" and "B", attached hereto, are approved and incorporated herein by reference.

(e) Failure by a party to comply with an order of court directing attendance at one of the programs set forth in Subparagraph (a) will result in the initiation of contempt of court proceedings against said party.

(f) A copy of any complaint seeking legal, physical, or partial physical custody shall be delivered upon the Court Administrator by the party or attorney filing same.

Rule 1920.12. Divorce Complaint.

Rule of Civil Procedure of the 44th Judicial District 1915.3 is incorporated herein by reference.

Divorce Form "A"

(CAPTION)

AFFIDAVIT

I, _____, the plaintiff in the above matter, state that—

(Check one)

_____ There are *no* children born of this marriage who are now under the age of eighteen (18) years.

_____ The following children born of this marriage are presently under the age of eighteen (18) years:

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I verify that the above statements are true and correct, and are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Signature

Divorce Form "B"

Please enroll me in the Divorce and Child Custody Education program.

Check one:

_____ Attached is my payment of Forty (\$40.00) Dollars.

_____ I have been granted in forma pauperis status.

Date: _____
Signature

Case No. _____

Divorce Form "C"

(CAPTION)

TO: THE PROTHONOTARY OF THE SAID COUNTY

The Court Administrator of the 44th Judicial District of Pennsylvania hereby certifies that the parties in the

above matter have completed the mandatory divorce/custody education program.

Date: _____
Court Administrator

DIVORCE FORM D-1 (for plaintiffs and defendants who have registered)

(CAPTION)

ORDER OF COURT

AND NOW, the ____ day of _____, _____, pursuant to the Rules of Civil Procedure of the 44th Judicial District of Pennsylvania,

IT IS ORDERED that _____ is directed to appear at the location, and on the date and time, indicated below for the purpose of compulsory attendance at, and completion of, the court's mandatory Divorce and Child Custody Education Program.

_____ Kids First Program, Methodist Church Education Building, corner of Warren and Marion Streets, Tunkhannock, Pennsylvania, on _____, at _____.

_____ Children Cope with Divorce Program, on _____, at _____.

_____ You MUST attend the program indicated. Attendance may be rescheduled only with the approval of the Court Administrator of the 44th Judicial District (717-836-3151). Failure to comply with this order will result in a CONTEMPT OF COURT proceeding brought against you.

By the court,

BRENDAN J. VANSTON,
President Judge

DIVORCE FORM D-2 (for defendants)
(CAPTION)

ORDER AND NOTICE

A divorce and/or child custody complaint has been filed in this court in which you have been named a party. This will require you to attend a mandatory education program concerning how this will affect you and your children.

You MUST complete the enclosed registration form and return it within five (5) days, together with a check or money order in the amount of Forty (\$40.00) Dollars payable to PROTHONOTARY OF WYOMING COUNTY. The form and check must be returned to—

COURT ADMINISTRATOR
1 Courthouse Square
Tunkhannock, PA 18657

You will then receive written notice of when and where to attend the education program. You MUST attend the program indicated. Attendance may be rescheduled only with the approval of the Court Administrator of the 44th Judicial District of Pennsylvania (717-836-3151). Failure to comply with this order will result in a CONTEMPT OF COURT proceeding brought against you.

By the court,

BRENDAN J. VANSTON,
President Judge

[Pa.B. Doc. No. 98-80. Filed for public inspection January 16, 1998, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Suspension

Notice is hereby given that on December 30, 1997, pursuant to Rule 214(d)(1) of the Pa.R.D.E., Robert H. Obringer, who resides outside the Commonwealth of Pennsylvania, was placed on temporary suspension by the Supreme Court until further Order of the Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney has never practiced in Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 98-81. Filed for public inspection January 16, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 9 AND 11]

Transportation, Importation, Disposition and Storage; Purchases and Sales

The Liquor Control Board (Board) amends §§ 9.96, 9.108(a) and (b), 11.1, 11.201(a)—(d) and deletes §§ 11.201(e)—(h) and 11.202 to read as set forth in Annex A.

Section 11.201(e)—(h) is being deleted because it contains essentially the same provisions as those found in the previous version of section 447 of the Liquor Code amended by Act 196 of 1996 (act) (47 P. S. § 4-447).

Amendments to §§ 9.96 and 9.108(a)(b) are necessary to establish Malt Beverage Compliance for dealing with franchise or territorial agreements and brand registration as specified in the act. Amendments to §§ 11.1, 11.201(a)—(d) and the adoption of § 11.203, are being made to establish guidelines for reporting wholesale prices by manufacturers, importing distributors and distributors; monitoring and investigating wholesale price changes; and, to establish procedures for hearings on price changes as prescribed by the act.

Notice of proposed rulemaking is omitted under section 204(1) of the act of July 31, 1968 (CDL) (P. L. 769, No. 240) (45 P. S. § 1204(1)) since these regulatory amendments arise from the interpretation of a self-executing Act of Assembly, and further, are related to agency practice and procedure.

Fiscal Impact

These regulatory changes will impose no new costs upon out-of-State manufacturers, distributors and importing distributors of malt or brewed beverages, the Board or the public.

Paperwork Requirements

These amendments will impose additional paperwork requirements upon malt or brewed beverage manufacturers, distributors and importing distributors to the extent that they will be required to post their wholesale prices with Malt Beverage Compliance on an annual basis,

Statutory Authority

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

Contact Person

Anyone requiring an explanation of these amendments or information related thereto, should contact Jerry Danyluk, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on November 18, 1997, the Board submitted copies of these amendments with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and Senate Committee on Law and Justice. On the same date, the amendments were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys

Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(c) of the Regulatory Review Act, these amendments were deemed approved by the House Liquor Control Committee and by the Senate Law and Justice Committee on December 9, 1997 and were approved by IRRC on December 11, 1997.

Findings

The Board finds that:

(1) The notice of proposed rulemaking is omitted under the authority of section 204(1) of the CDL since these regulatory amendments arise from the interpretation of a self-executing Act of Assembly, and further relate to Board practice and procedure.

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

Order

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

(a) The regulations of the Board, 40 Pa. Code Chapters 9 and 11, are amended by amending §§ 9.96, 9.108, 11.1 and 11.201; by adding §§ 11.203—11.205; and by deleting § 11.202 to read as set forth in Annex A.

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

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

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

JOHN E. JONES, III,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6878 (December 27, 1997).)

Fiscal Note: 54-52. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES

GENERAL PROVISIONS

§ 9.96. Distribution rights.

(a) *Agreements, franchises or statements of distribution rights.* Agreements, franchises or statements of distribution rights given by a manufacturer or by an importing distributor under section 441 of the Liquor Code (47 P. S. § 4-441) shall be in writing, and a correct copy thereof shall be permanently maintained on the licensed premises of each party to the agreement, franchise or statement. The agreement, franchise or statement of distribution rights shall be open to inspection by authorized representatives of the Board at all times.

(b) *Filing and posting.*

(1) An importing distributor and secondary importing distributor deriving rights of distribution by agreement with a manufacturer or importing distributor shall comply with the following:

(i) Post and keep posted at all times on the licensed premises of the importing distributor, in a conspicuous place near to the license issued to the importing distributor by the Board, a schedule designating the territorial areas of, limits of or rights vested in the importing distributor by a manufacturer or importing distributor. The importing distributor shall furnish to distributors and importing distributors in his territory to whom he intends to sell, a schedule in which the territorial areas of the selling distributor or importing distributor are set forth, and he shall obtain the signatures on a copy of the schedule of distributors or importing distributors to whom he intends to sell. These signed copies of schedules shall be kept on file in the selling distributor's office or importing distributor's office.

(ii) File with the Board's Office of Malt Beverage Compliance, a certified copy of each franchise or territorial agreement entered into with a manufacturer or importing distributor.

(iii) File with the Board's Office of Malt Beverage Compliance, a certified copy of each revised, altered or modified franchise or territorial agreement revising, altering or modifying previously existing agreements, within 10 days of execution thereof.

(iv) Repost on the licensed premises within 5 days of execution of the revised, altered or modified agreement the schedule required under paragraph (1) indicating changes in territorial areas, limits or rights as a result of revision, alteration or modification of a previously existing agreement; furnish to distributors or importing distributors in his territory to whom he intends to sell, a revised, altered or modified schedule indicating changes in territorial areas, limits or rights as a result of the revision, alteration or modification of a previously existing agreement; and obtain the signatures of the distributors or importing distributors on copies thereof.

(2) Distributors, when making purchases from importing distributors or secondary distributors, have the right to rely upon territorial areas, limits or rights posted on the premises of the importing and secondary distributors.

RECORDS AND REPORTS

§ 9.108. Brand registration.

(a) *Definitions.* For the purpose of malt or brewed beverage brand registration as required by section 445 of the Liquor Code (47 P. S. § 4-445), the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Brand—Malt or brewed beverages, distinguished by a unique prescribed formula and sold under a distinct label. Differences in packaging such as different style, type or size of container are not considered different brands.

Franchisee—A person, corporation, partnership or association in which rights have been conferred by a domestic or nondomestic manufacturer of malt or brewed beverages to offer, sell or deliver products within this Commonwealth to licensed importing distributors.

Malt Beverage Compliance—The section of Special Investigations responsible for handling the various duties of brand registration for the Board.

(b) *Registration.* Each brand of malt or brewed beverages that a manufacturer or franchisee offers, sells or delivers within this Commonwealth shall be first registered with the Board by filing the proper forms with Malt Beverage Compliance. The registration shall be on forms as provided by the Board and shall be renewed annually. An initial application shall be accompanied by:

(1) A label or copy of a label for each brand registered and a Federal label approval containing a copy of the label.

(2) A copy of a territorial franchise agreement between the manufacturer and each Pennsylvania importing distributor.

(3) If the brand registrant is an out-of-State importer/wholesaler the following:

(i) A copy of the agreement designating the United States importer/wholesaler as the authority to market in this Commonwealth.

(ii) A copy of the territorial/franchise agreements between the importer/wholesaler and each Pennsylvania importing distributor. The agreement shall contain the written consent and approval of the out-of-State domestic or nondomestic manufacturer to the appointment of the Pennsylvania importing distributor and the rights conferred thereunder.

(4) If the brand registrant is a licensed Pennsylvania importing distributor holding an agreement as franchisee with a nondomestic manufacturer, a copy of the agreement with the nondomestic manufacturer.

(c) *Notification of changes.* Changes in brand ownership, franchise agreements, territorial agreements or the desire to offer, sell or deliver additional brands of malt or brewed beverages, shall be reported to the Board within 30 days.

CHAPTER 11. PURCHASES AND SALES

Subchapter A. GENERAL PROVISIONS

RETAIL AND WHOLESALE PURCHASE—GENERAL

§ 11.1. Definitions.

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

Market conditions or other good cause—Factors that affect the wholesale price of malt or brewed beverages, including, but not limited to, the following: the availability and cost of raw materials, labor, transportation, weather, natural disaster, or other extraordinary events affecting supply and demand.

Manufacturer—A person engaged in the manufacture, rectification or compounding of liquors, other than wines, or an agent or representative of the manufacturer. The term, as it relates to Subchapter L (relating to manner of changing prices of malt or brewed beverages), is any entity licensed for and engaged in the manufacture of malt or brewed beverages within this Commonwealth or elsewhere.

State, territory or county of origin—The place where liquors other than wines offered for sale to the Board are manufactured, rectified or compounded for the market.

Subchapter L. MANNER OF CHANGING PRICES OF MALT OR BREWED BEVERAGES

§ 11.201. Malt beverage compliance and reporting requirements generally.

(a) This subchapter implements the manner in which wholesale prices of malt or brewed beverages shall be changed by manufacturers, importing distributors and distributors, in accordance with Act 196 of 1996 (Act 196), and for active supervision by the investigative unit specified in Act 196, to be known as Special Investigations, within which is Malt Beverage Compliance. Malt Beverage Compliance is responsible for all aspects of the implementation of Act 196 as specified in this subchapter as well as other duties specified in this title and as the Board may from time to time prescribe.

(b) Manufacturers, importing distributors and distributors shall file their wholesale prices (commonly referred to in the malt beverage industry as "case one" prices) for all configurations sold, including volume discount price structures, with Malt Beverage Compliance between February 1 and April 1 of every calendar year. These wholesale prices shall be those in effect on April 1 of the calendar year in which the prices are reported to Malt Beverage Compliance.

(c) Manufacturers, importing distributors and distributors that do not sell for resale shall so indicate, in writing, to Malt Beverage Compliance by April 1 of each year.

(d) The reporting requirements specified in this subchapter are in addition to those contained in section 447 of the Liquor Code (47 P. S. § 4-447). Price information reported to Malt Beverage Compliance is public information and will be available for inspection upon written request to: Malt Beverage Compliance, Northwest Office Building, Harrisburg, PA 17124-0001.

§ 11.202. (Reserved).

§ 11.203. Hearing procedures.

(a) When a wholesale price is increased within 120 days of a price reduction due to market conditions or any good cause, sales may be made at the new price and Malt Beverage Compliance shall be notified in writing within 48 hours after the change in price. A hearing will be scheduled as soon as possible before a Board Hearing Examiner to determine if the wholesaler can show by admissible evidence that market conditions or other good cause justifies the price increase.

(b) Malt Beverage Compliance will:

(1) Upon receipt of a notice of price increase, conduct a prehearing investigation by visiting the premises of the applicant, completing a price increase report and obtaining any other relevant documentation:

(2) Notify the applicant for price increase of its right to waive the hearing and provide a copy of the waiver of hearing form to the applicant:

(3) Complete its report promptly and submit the report to the Board, upon receipt of a signed waiver of hearing.

(4) Notify the applicant of the time and place of the scheduled hearing if the hearing is not waived.

(5) Immediately send written notice to the applicant by certified mail (return receipt requested) following the Board meeting announcing the decision.

(c) Hearings held before an examiner of the Board shall be conducted under 1 Pa. Code Part II (relating to Rules of Administrative Practice and Procedure). After accepting

evidence, the examiner will submit a report and recommendation within 7 working days to the Board for its determination. The decisions by the Board relating to price changes are final. Appeals shall be filed with the Commonwealth Court under 42 Pa.C.S. § 763 (relating to direct appeals from government agencies) within 30 days of the Board's decision.

(d) A person who can demonstrate a direct interest in an application to raise a wholesale price under this section may file a request to intervene in these proceedings. The request shall include the name, address, telephone number and a statement of the direct interest and reasons for intervention of the person filing. The request shall be received by Malt Beverage Compliance at least 48 hours before the hearing to be considered. Notice of hearing will be provided in writing to persons meeting the filing requirements.

(e) The hearing examiner has the discretion to receive evidence from anyone filing a timely request to intervene. A recommendation on the party status of those requesting intervention will be included in the examiner's report for the Board's consideration.

(f) Upon waiver of hearing, the applicant and anyone requesting intervention shall submit an affidavit of testimony regarding the price change to Malt Beverage Compliance. The affidavits and investigative report will be submitted by Malt Beverage Compliance to the Board for a decision at its next public meeting.

§ 11.204. Refusal to grant price increase.

If the Board refuses to grant the price increase requested, the manufacturer, importing distributor or distributor shall without regard to its right of appeal:

(1) Immediately revert to the price charged before the increase denied by the Board.

(2) Refund, to all wholesale customers, the total difference between the increased price charged for the product purchased and the price which was in effect prior to the increase.

(3) Provide a written statement to Malt Beverage Compliance within 30 days of the Board's decision with an accounting of the refunds made to its customers.

§ 11.205. Noncompliance.

A manufacturer, importing distributor or distributor who is not in compliance with the reporting requirements of section 447 of the Liquor Code (47 P. S. § 4-447) or this subchapter may be granted up to 48 hours by Malt Beverage Compliance to take the necessary steps to come into compliance including, but not limited to, rescinding price changes on its wholesale prices or submitting the proper information, or both. Subsequent noncompliance by the same wholesaler may result in referral to the Pennsylvania State Police, Bureau of Liquor Control Enforcement for citation proceedings to show cause why the license or privilege to transact business within this Commonwealth should not be suspended or revoked or a fine imposed.

[Pa.B. Doc. No. 98-82. Filed for public inspection January 16, 1998, 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 January 6, 1998.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-6-97	Susquehanna Trust Company Lititz Lancaster County	26 North Cedar St. Lititz Lancaster County	Approved

Mutual Holding Company Reorganization

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-30-97	Standard Bank, PaSB Monroeville Allegheny County	Monroeville	Filed

Application represents reorganization into a mutual holding company to be known as "Standard Mutual Holding Company," Monroeville.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-31-97	Penn Security Bank and Trust Company, Scranton, and Penn Security Interim Bank and Trust Company, Scranton Surviving Institution— Penn Security Bank and Trust Company, Scranton	Scranton	Effective

Subject merger is being effected to facilitate the acquisition of Penn Security Bank and Trust Company, Scranton, by Penseco Financial Services Corporation, Scranton, a new bank holding company.

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-5-98	First Commonwealth Bank Indiana Indiana County	<i>To:</i> 545 W. Mahoning St. (300 Feet West) Punxsutawney Jefferson County <i>From:</i> 545 W. Mahoning St. Punxsutawney Jefferson County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-31-97	Fulton Bank Lancaster Lancaster County	820 S. Main St. Akron Lancaster County	Effective

SAVINGS ASSOCIATIONS
Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Savings Association</i>	<i>Location</i>	<i>Action</i>
1-1-98	Feltonville Building and Loan Association, Philadelphia, and Cornerstone Building and Loan Association, Glenside Surviving Institution— Feltonville Building and Loan Association, Philadelphia, with a change in corporate title and principal place of business to Cornerstone-Feltonville Building and Loan Association, Glenside	Philadelphia	Effective

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 98-83. Filed for public inspection January 16, 1998, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of February 1998

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of February, 1998, is 8 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real

property which the individual owns and which the individual occupies or has occupied as the principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 6.06 to which was added 2.50 percentage points for a total of 8.56% that by law is rounded off to the nearest quarter at 8 1/2%.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 98-84. Filed for public inspection January 16, 1998, 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 office noted above the application 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 Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other 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.

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 0057291. Sewage, **Robert and Karen Kottyan**, c/o Carol Arnhold, 1018 West Broad Street, Suite 200, P. O. Box 685, Quakertown, PA 18951.

This application is for issuance of an NPDES permit to discharge treated sewage from a single residence sewage treatment facility in Upper Providence Township, **Delaware County**. This is a new discharge to Broomall's Run.

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

The proposed effluent limits for Outfall 001, 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	10	20
Suspended Solids	10	20
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0051535. Sewage, **Mr. and Mrs. Kenneth Lord**, P. O. Box 244, Eagleville, PA 19408.

This application is for renewal of an NPDES permit to discharge treated sewage from Lord Residence STP in Lower Providence Township, **Montgomery County**. This is an existing discharge to Perkiomen 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:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Ammonia (as N)	20	40
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

Other Conditions:

The EPA waiver is in effect.

PA 0052272. Industrial waste, **Monsey Products Company**, Cold Stream Road, Kimberton, PA 19442.

This application is for renewal of an NPDES permit to discharge treated groundwater and stormwater from the facility in East Pikeland Township, **Chester County**. This is an existing discharge to unnamed tributary to French Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 3,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Trichloroethylene (Influent) (Effluent)	monitor/report 0.0056	monitor/report 0.011	monitor/report 0.014
Temperature			110°F
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 009 for stormwater are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Annual (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	monitor/report		
Phenols		monitor/report	
Dissolved Iron		monitor/report	

The proposed effluent limits for Outfall 010 for stormwater are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Annual (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.

PA 0026166, Amendment No. 1. Sewage, **Warminster Municipal Authority**, 415 Gibson Avenue, P. O. Box 2279, Warminster, PA 18974.

This application is for amendment of an NPDES permit to discharge treated sewage from Warminster wastewater treatment plant in Warminster Township, **Bucks County**. This is an existing discharge to Little Neshaminy Creek and Unnamed tributary to Little Neshaminy Creek.

The receiving stream is classified for the following uses: warm water fishery.

The proposed effluent limits for Total Copper for Outfall 001, for the period from July 1, 1998 to expiration based on an average flow of 8.18 million gallons per day are as follows (The limits are based on site specific hardness and metal translator of 0.944):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Copper	0.025	0.036	0.050

The proposed effluent limits for Total Copper for Outfall 002, for the period from July 1, 1998 and lasting through expiration based on an average flow of 0.3 million gallons per day are as follows (the limits are based on site specific hardness and metal translator of 0.944):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Copper	0.025	0.036	0.050

The EPA waiver is not in effect.

Northcentral Region: Environmental Program Manager; Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 327-3670.

PA 0113166. Sewerage, SIC: 4952, **Lois Bausinger**, 67 Academy Road, Cogan Station, PA 17728.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to Mill Creek in Hepburn Township, **Lycoming County**.

The receiving stream is classified for the following uses: high quality cold water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton.

The proposed effluent limits for Outfall 001, based on a design flow of 0.0004 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10		20
TSS	20		40
Total Cl ₂ Residual	report		report
Fecal Coliforms (5-1 to 9-30)		200 col/100 ml as a geometric mean	
(10-1 to 4-30)		200 col/100 ml as a geometric mean	
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

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

PA 0210293. Sewage, **Vision Quest National Ltd.**, 600 North Swan, P. O. Box 12906, Tucson, AZ 85732-2906.

This application is for renewal of an NPDES permit, to discharge treated sewage to an Unnamed Tributary to Morrison Run in Sandy Creek Township, **Venango 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 Emlenton Municipal Water Company intake on the Allegheny River located at Emlenton, approximately 25 miles below point of discharge.

The proposed discharge limits for Outfall 001, based on a design flow of 0.0205 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report	
CBOD ₅	25	50
Total Suspended Solids	30	60
Ammonia-Nitrogen (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3 mg/l at all times.	
Total Residual Chlorine	1.0	2.3
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0210501. Sewage, **Earl G. Willey**, SRSTP, 3974 Longview Road, West Middlesex, PA 16159.

This application is for renewal of an NPDES permit to discharge treated sewage to Hogback Run in Shenango Township, **Mercer 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 Western PA Water Company on the Shenango River located at New Castle, approximately 16 miles below point of discharge.

The proposed discharge limits for Outfall 001, based on a design flow of 0.0004 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitor and report		
CBOD ₅	25		50
TSS	30		60
Fecal Coliform (05-01 to 09-30)	200/100 ml as a geometric average		
(10-01 to 04-30)	2,000/100 ml as a geometric average		
Total Residual Chlorine	monitor and report		
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.

0997411. Sewerage. **Lower Bucks County Joint Municipal Authority**, 7811 New Falls Road, P. O. Box 460, Levittown, PA 19052-0460. Construction and relocation of the relocated Laurel Bend Pumping Station located in Bristol Township, **Bucks County**.

2397415. Sewerage. **Newtown Township Municipal Authority**, 209 Bishop Hollow Road, Newtown Square, PA 19073. Construction to replace existing sanitary sewer located in Newtown Township, **Delaware County**.

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

A. 0297414. Sewerage, **Plum Borough Municipal Authority**, 4555 New Texas Road, Pittsburgh, PA 15239. Application for the construction and operation of sewers and appurtenances and stream crossing located in the Borough of Plum, **Allegheny County** to serve the Plum Creek Detention Facility and Interceptor Upgrade.

A. 3274407, Amendment No. 2. Sewerage, **Pennsylvania Electric Company**, 1001 Broad Street, Johnstown, PA 15507. Application for the addition of an effluent polishing system to the existing Unit 3 sewage treatment

plant located in the Township of Center, **Indiana County** to serve the Homer City Generating Station.

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

WQM Permit No. 1097410. Sewage, **Best Oil, Inc.**, 2939 Saw Mill Run Boulevard, Pittsburgh, PA 15227. This project is for the construction and operation of a sewage treatment facility to serve the Best Oil Travel Center in Muddy Creek Township, **Butler County**.

SAFE DRINKING WATER

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

Southcentral Regional Office, Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4692.

A. 0197505. Public water supply. **Buckeye, Incorporated**, Littlestown Borough, **Adams County**. *Responsible Official:* Edward Smariga, President, 178 Thomas Johnson Drive, Suite 202L, Frederick, MD 21702; *Type of Facility:* Applicant seeks a public water supply permit for two wells, 0 and 5, to serve the Littlestown Borough Community Water System. The proposed combined yield of the two wells would be 96 gallons per minute. Treatment will consist of disinfection using chlorine gas; *Consulting Engineer:* Steven M. Metzler, P.E., R. E. Wright Environmental, Inc., 125 Airport Drive, Suite 36, Westminster, MD 21157.

A. 2897504. Public water supply. **Valley View Water Company, Inc.**, Fannett Township, **Franklin County**. *Responsible Official:* Merle J. Holsinger, P.E., 1800 East Main Street, Waynesboro, PA 17268; *Type of Facility:* Existing Community Water System seeks approval for addition of a caustic soda feed system and a 12,000 gallon raw water storage tank; *Consulting Engineer:* Merle J. Holsinger, Civil Planning and Design, 1800 E. Main St., Waynesboro, PA 17268.

**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:

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

The Cole Residence, Parkside Borough, **Delaware County**. Michael S. Welsh, P.E., DEE, Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA, 19355, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard. A final report was simultaneously submitted.

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Former Playskool Facility Sewer Release, East Lampeter Township, **Lancaster County**. City of Lancaster, 120 North Duke Street, Lancaster, PA 17608, has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals, solvents, BTEX and PHCs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster Intelligencer Journal/New Era* on December 19, 1997.

Former Eastern Industries, Inc., Reading Concrete Plant, City of Reading, **Berks County**. Berks Products, Inc., P. O. Box 421, Reading, PA 19603, and Eastern Industries, Inc., 4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9454 have submitted a Notice of Intent to Remediate site soils contaminated with BTEX and PAHs and groundwater contaminated with solvents. The applicants propose to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle* on December 18, 1997.

Wedgewood Hills Apartments, Susquehanna Township, **Dauphin County**. Wedgewood Hills Associates, LP, 160 Clubhouse Drive, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate site soils contaminated with PHCs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot* on December 23, 1997.

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

KC Video, City of Lock Haven, **Clinton County**. Scott Laird on behalf of his client Montour Oil Service Company, 112 Broad Street, Montoursville, PA 17754 has submitted a Notice of Intent to Remediate groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lock Haven Express* on November 28, 1997.

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

Greater Erie Industrial Development Corporation, former Mac Erie site, 1110 Walnut Street, **Erie County**, City of Erie, has submitted a Notice of Intent to Remediate groundwater. The site has been found to be contaminated with solvents. The applicant proposes to remediate the site to meet the background standard. The Notice of Intent to Remediate was reported to have been published in the *Erie Daily Times and Morning News* on December 22, 1997.

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 municipi-

pality 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.

Murata-Wiedemann Facility (Former), Upper Merion Township, **Montgomery County**. Michael Gonshor, P.G., RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate groundwater contaminated with solvents. The applicant proposes to remediate the site to meet site-specific standards and Statewide health standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The King of Prussia Courier*, on December 10, 1997.

Pennypack Realty Co., City of Philadelphia, **Philadelphia County**. Stephen B. Fulton, ERM, 855 Springdale Dr., Exton, PA 19341, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with solvents. The applicant proposes to remediate the site to meet site-specific standards for soil and Statewide health standard for groundwater. A summary of the Notice of Intent to Remediate was reported to have been published in *The Northeast Times Newsweekly* on December 24, 1997.

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Hess's Exxon Station, Franklintown Borough, **York County**. Margaret Hess, 9 Stoney Run Road, Dillsburg, PA 17019 and Franklintown Borough, Franklintown, PA 17323 have submitted a Notice of Intent to Remediate site soils and groundwater contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Special Industrial Area standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot News* on December 29, 1997.

AIR POLLUTION OPERATING PERMITS

Operating Permit 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.

8-313-049A: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848) for the operation of two bulk ammonium hydroxide storage tanks, an ammonia railcar loadout operation and associated air cleaning device (a packed bed scrubber) in Departments 319 and 320 in Towanda Borough, **Bradford County**.

8-316-012A: Masonite, Division of International Paper (P. O. Box 311, Towanda, PA 18848) for the

operation of a hardboard tempering operation (Line I tempering) and associated air cleaning device (a regenerative thermal oxidizer) in Wysox Township, **Bradford County**.

14-309-026B: Bellefonte Lime Company, Inc. (P. O. Box 448, Bellefonte, PA 16823) for the operation of a double roll crusher and associated equipment at the Pleasant Gap plant in Spring Township, **Centre County**.

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

OP-03-00188: Carson Industries (189 Foreman Road, Freeport, PA 16229) for the operation of an aluminum sandcasting foundry in South Buffalo Township, **Armstrong County**.

OP-04-00112: Damascus Steel Casting Company (P. O. Box 257, Block House Run Road, New Brighton, PA 15066) for the operation of a steel foundry in New Brighton Borough, **Beaver County**.

OP-11-00353: Ebensburg Power Company (20 S. VanBuren Avenue, P. O. Box 351, Barberton, OH 44203) for a waste coal mining operation at its Revloc Waste Coal Site in Cambria Township, **Cambria County**.

OP-26-00144: Allegheny Dry Kilns, Inc. (P. O. Box 346, Dexter Road, Scottdale, PA 15683) for a lumber processing operation in Upper Tyrone Township, **Fayette County**.

OP-30-00080: B & M Coal Company (P. O. Box 37, Dilliner, PA 15327) for the operation of a coal storage facility at its No. 2 Mine in Dunkard Township, **Greene County**.

OP-32-00053: Homer Center School District (15 Wildcat Lane, Homer City, PA 15748) for the operation of boilers at the elementary school in Center Township, **Indiana County**.

OP-32-00203: Sharp Paving, Inc. (P. O. Box 156, Shelocta, PA 15774) for the operation of a bituminous asphalt plant in Armstrong Township, **Indiana County**.

OP-56-00146: Action Mining, Inc. (1117 Shaw Mines Road, Meyersdale, PA 15552) for a coal crushing operation in Summit Township, **Somerset County**.

OP-56-00158: Turkeyfoot Valley School District (172 Turkeyfoot Road, Confluence, PA 15424) for the operation of a coal-fired boiler at the high school in Lower Turkeyfoot Township, **Somerset County**.

OP-56-00219: Elton Coal Company (509 15th Street, Windber, PA 15963) for the operation of a coal blending facility at Huskins Run Tipple in Shade Township, **Somerset County**.

OP-63-00552: RAS Industries (12 Eighty Four Drive, Eighty Four, PA 15330) for the manufacturing of plastic foam products in South Strabane Township, **Washington County**.

OP-63-00895: Ensinger, Inc. (365 Meadowlands Blvd., Washington, PA 15301) for the manufacture of Engineering Plastics in North Strabane Township, **Washington County**.

OP-65-00619: Brass & Bronze Casting Co., Inc. (1090 Sandy Hill Road, Irwin, PA 15642) for the operation of a Copper Foundry in Penn Borough, **Westmoreland County**.

OP-65-00726: Gutchess Hardwoods, Inc. (P. O. Box 618, Route 981 South, Latrobe, PA 15650) for the processing of hardwood lumber in Unity Township, **Westmoreland County**.

OP-65-00829: Fulmer Co., Inc. (3004 Venture Court, Export, PA 15632) for a Copper Foundry at the Perma-Cast Plant in Export Borough, **Westmoreland County**.

OP-65-00902: Pace Industries Airo Die Cast, Inc. (Loyalhanna Industrial Park, Loyalhanna, PA 15661) for the manufacturing of dies, tools, and industrial molds at its Latrobe Plastics Plant in Loyalhanna Township, **Westmoreland County**.

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.

49-399-021: Arcos Alloys, Division of Hoskins Corporation (One Arcos Drive, Mt. Carmel, PA 17851) for the construction of a welding electrode baking furnace and associated air cleaning device (a cartridge collector) in Mt. Carmel Township, **Northumberland County**.

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

PA-04-227A: Koppel Steel Corporation (P. O. Box 750, Beaver Falls, PA 15010) for the installation of a spray coater at the Ambridge Plant, Harmony Township, **Beaver County**.

PA-11-418A: The Waylite Corporation (R. D. 5, Easton Road, Bethlehem, PA 18015) for the installation of a torching and lancing operation at the 1st Park Hill Slag Bank in East Teylor Township, **Cambria County**.

PA-26-057A: Matt Canestrone Contracting, Inc. (P. O. Box 234, Belle Vernon, PA 15012) for the construction of a coal handling facility at the Labelle Site in Luzerne Township, **Fayette County**.

63-308-035A: Hansen Engineering (167 Laidley's Run Road, West Alexander, PA 15376) for the installation of a thermo oxidizer in West Finley Township, **Washington County**.

PA-63-649C: Polycom Huntsman (55 Galiffa Drive, Donora, PA 15033) for the installation of a thermoplastic compounding facility at the Donora No. 1 Plant in Donegal Township, **Washington County**.

PA-04-701A: Allegheny Asphalt Manufacturing, Inc. (P. O. Box 98100, Pittsburgh, PA 15227) for the construction of a drum mix asphalt plant at the Monaca Plant in Monaca Borough, **Beaver County**.

PA-11-370A: Chambers Laurel Highlands Landfill, Inc. (R. D. 1, Box 10, Vintondale, PA 15061) for the construction of a municipal waste landfill in Jackson Township, **Cambria County**.

PA-04-503A: PMAC, Ltd. (4023 Fourth Avenue, Beaver Falls, PA 15010) for the installation of a boiler and metal heating furnaces in Beaver Falls, **Beaver County**.

PA-04-445B: VEKA, Inc. (100 Veka Drive, Fombell, PA 16123) for the installation of a PVC Lineal Lamination operation in Marion Township, **Beaver County**.

PA-63-028B: Cerdec Corporation (P. O. Box 519, Washington, PA 15301) for the installation of two shuttle kilns in Canton Township, **Washington County**.

PA-63-893B: Master Woodcraft, Inc. (100 Stationvue Road, Washington, PA 15301) for the installation of a dust collection system at the Washington Plant in Washington, **Washington County**.

PA-63-893A: Master Woodcraft, Inc. (100 Stationvue Road, Washington, PA 15301) for the construction of a surface coating spray booth at the Washington Plant in Washington, **Washington County**.

PA-04-445A: VEKA, Inc. (100 Veka Drive, Fombell, PA 16123) for the construction of a PVC Lineal Painting operation in Marion Township, **Beaver County**.

PA-63-004A: Molycorp, Inc. (300 Caldwell Avenue, Washington, PA 15301) for the installation of molybdenum roasters in Canton Township, **Washington County**.

PA-04-504A: Mitsui/ZCA Powders Company (300 Frankfort Road, Monaca, PA 15061) for the construction of a high purity zinc powder plant in Potter Township, **Beaver County**.

PA-56-010A: Thompson Scrap Yard (R. D. 8, Box 123, Somerset, PA 15501) for the installation of an aluminum recycling furnace in Somerset Township, **Somerset County**.

PA-04-516A: Vesuvius McDanel Company (510 Ninth Avenue, P. O. Box 560, Beaver Falls, PA 15010) for the installation of a dust collector for the ceramic production line in Beaver Falls, **Beaver County**.

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

Kaiser Aluminum (1015 East 12th Street, Erie, PA 16503) in Erie, **Erie County** for the following:

PA-25-066A: Installation of a scrubber on an existing 5,000 ton press

PA-25-066B: Installation of a scrubber on an existing 8,000 ton press

PA 25-955B: Foam Fabricators, Inc. (6550 West 26th Street, Erie, PA 16503) for the construction of a pre-expander for the polystyrene fabrication process in Erie, **Erie County**.

REASONABLY AVAILABLE CONTROL TECHNOLOGY

(RACT)

Notice of Intent to Issue RACT Plan Approval Approval No. 06-1083

Berks County

The Department of Environmental Protection intends to issue a RACT Plan Approval to Roeberg Enterprises, Inc. (17th and Fairview Streets, Reading, PA 19606) for the Yorgey's Dry Cleaning Plant located in Reading, Berks County, in accordance with 25 Pa. Code § 127.44 and 40 CFR Part 52 (State Implementation Plan).

All of the pertinent documents are available at the Reading District Office. Reviews may be scheduled by contacting Roger Fitterling at (610) 916-0100 between 8:30 a.m. and 3:30 p.m., Monday through Friday, except holidays.

One public hearing will be held for the purpose of receiving comments on the proposal. The hearing will be held on November 19, 1997, from 1 p.m. until all scheduled comments on the proposal are received in the

Reading District Office. The public is invited to present testimony at the hearing and should contact Roger Fitterling at (610) 916-0100 to reserve a time to present testimony. Persons interested in submitting written comments should send their comments to Roger Fitterling, Air Pollution Engineer, 1005 Cross Roads Boulevard, Reading, PA 19605, no later than November 30, 1997.

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 Susan Frank at (717) 540-5010 or through the AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

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.

Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.

Coal Applications Received

17663136. EnerCorp, Inc. (R. D. 2, Box 236, Morrisdale, PA 16858), revision to an existing bituminous surface mine permit for a change in permit acreage from 177.2 to 202.0 acres, receiving streams: unnamed tributary of Mons Run, Flat Run and Mons Run; application received December 18, 1997.

Knox District Office, P. O. Box 669, Knox, PA 16232.

33870112. Colt Resources, Inc. (R. R. 3, Box 48A, Clarion, PA 16214). Renewal of an existing bituminous strip, auger and tippel refuse disposal operation in Perry Township, **Jefferson County** affecting 52.1 acres. This renewal is for reclamation only. Receiving streams: Nicely Run. Application received: December 23, 1997.

33970112. Ed Hanslovan Coal Co., Inc. (R. D. 2, Box 230, Morrisdale, PA 16858). Commencement, operation and restoration of a bituminous strip and auger operation in Washington Township, **Jefferson County** affecting 102.0 acres. Receiving streams: Unnamed tributaries to Rattlesnake Run and Rattlesnake Run. Application received: December 19, 1997.

101157-33970112-E-1. Ed Hanslovan Coal Co., Inc. (R. D. 2, Box 230, Morrisdale, PA 16858). Application for a stream encroachment to conduct support activities within 100 feet but no closer than 50 feet of both sides of unnamed tributary no 1 to Rattlesnake Run in Washington Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Rattlesnake Run and Rattlesnake Run. Application received: December 19, 1997.

10970105. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Commencement, operation and restoration of a bituminous surface strip, auger and blasting operation in Concord and Fairview Townships, **Butler County**, affecting 234.7 acres. Receiving streams: Three unnamed tributaries to Bear Creek and Bear Creek to Allegheny River. Application received: December 24, 1997.

33970113. Falls Creek Energy Company, Inc. (R. D. 6, Box 231, Kittanning, PA 16201). Commencement, operation and restoration of a bituminous strip operation in Young Township, **Jefferson County** affecting 43.0 acres. Receiving streams: Elk Run to Mahoning Creek. Application received: December 26, 1997.

100435-10970105-E-1. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Application for a stream

encroachment to place erosion and sedimentation controls within the 100 foot barrier of Bear Creek, but no closer than 50 feet. Receiving streams: unnamed tributary to Bear Creek. Application received: December 24, 1997.

33880102. Swisher Contracting, Inc. (R. D. 2, Box 81, Clearfield, PA 16830). Renewal of an existing bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 58.0 acres. This renewal is for reclamation only. Receiving streams: Big Run. Application received: December 29, 1997.

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

56900111. Hoffman Mining, Inc. (P. O. Box 130, 118 Runway Road, Friedens, PA 15541), permit revision to change the land use for the premining land use of forestland to be restored to pastureland or land occasionally cut for hay postmining on the Richard L. Merrill, Patricia M. Hankinson and Sally M. Ancona properties in Brothersvalley Township, **Somerset County**, affecting 188.6 acres, receiving streams unnamed tributaries to Buffalo Creek and unnamed tributary to Piney Run; application received December 24, 1997.

11920107. Permit Renewal. **E. P. Bender Coal Company, Inc.** (Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine in Reade Township, **Cambria County**, affecting 54.0 acres, receiving stream Powell Run; application received December 24, 1997.

40A76SM1. Keystone Lime Company (P. O. Box 278, Springs, PA 15562), renewal of NPDES Permit No. PA0212521, Elk Lick Township, **Somerset County**, receiving stream unnamed tributary to Laurel Run. NPDES Renewal application received December 26, 1997.

11920102. Permit Renewal for reclamation only, **L & J Energy Company, Inc.** (P. O. Box I, Grampian, PA 16838), commencement, operation and restoration of bituminous strip mine in Susquehanna Township, **Cambria County**, affecting 113.3 acres, receiving stream unnamed tributaries to Moss Creek; application received December 26, 1997.

56930104. Future Industries, Inc. (P. O. Box 157, Meyersdale, PA 15552), permit revision to change the land use of wildlife habitat to cropland on the Merrill Enterprises, Inc. property in Brothersvalley Township, **Somerset County**, affecting 129.0 acres, receiving stream unnamed tributaries to Buffalo Creek and Buffalo Creek; application received December 31, 1997.

McMurray District Office

63971701. LTV Steel Co., Inc. (200 Public Square, Cleveland, OH 44114-2308), to operate the Clyde Treatment Plant in East Bethlehem Township, **Washington County** to operate wastewater plant to treat mine water from Clyde Mine complex, Ten Mile Creek. Application received November 12, 1997.

32951301. CRA Group (P. O. Box 386, Youngstown, PA 15696), to revise the permit for the Burrell Mine in Burrell Township, **Indiana County** to add permit and subsidence control plan acres, no additional discharges. Application received November 25, 1997.

56911302. Rox Coal, Inc. (P. O. Box 149, Friedens, PA 15541), to revise the permit for the Long T Permit in Stoney Creek Township, **Somerset County** to add surface area for an additional treatment pond and pressure

relief borehole, no additional discharges. Application received December 8, 1997.

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

65860105R. M. B. Energy, Inc. (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Donegal and Mt. Pleasant Townships, **Westmoreland County**. Receiving streams: unnamed tributaries to Four Mile Run to Loyalhanna Creek to Conemaugh River and unnamed tributary to Jacob's Creek to the Youghiogheny River. Renewal application received December 15, 1997.

Knox District Office, P. O. Box 669, Knox, PA 16232.

Noncoal Applications Received

20970305. Meadville Redi-Mix Concrete, Inc. (P. O. Box 418, Meadville, PA 16335), commencement, operation and restoration of a sand and gravel operation in Wayne Township, **Crawford County** affecting 140.0 acres. Receiving streams unnamed tributary to Deckard Run and Deckard Run. Application received December 29, 1997.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (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 provisions 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 Encroachment Permit, or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the 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.

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

E09-656. Encroachment Permit. **Commissioners of Bucks County**, Administration Building, Broad and

Court Streets, Doylestown, PA 18901. To reissue Permit No. E09-460, which proposes to remove the existing Walnut Street Bridge, and to construct and maintain a replacement bridge (County Bridge No. 13) having three clear spans of 67 feet each and an underclearance of 8.75 feet across the East Branch of Perkiomen Creek. This bridge is located 200 feet northwest of the intersection of Walnut Street and Constitution Avenue (Telford, PA Quadrangle N: 21.3 inches; W: 6.15 inches) in Perkasioe Borough, **Bucks County**.

Northeast Regional Office, Regionals Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E48-266. Encroachment. **Kravco Company**, 234 Mall Boulevard, King of Prussia, PA 19406. To place fill in a de minimis area of PEM wetlands, less than or equal to 0.05 acre and to construct and maintain a 300-foot long extension of an existing stream enclosure and a 400-foot long channel change in a tributary to Bushkill Creek (HQ-CWF). This work is associated with the parking lot extension project for a proposed Boscov's Department Store at Palmer Park Mall, located northeast of the intersection of S. R. 0248 (Nazareth Road) and Park Avenue (Nazareth, PA Quadrangle N: 13.2 inches; W: 0.9 inch) in Palmer Township, **Northampton County** (Philadelphia District, Army Corps of Engineers).

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

E05-257. Encroachment. **PA Department of Transportation, Engineering District 9-0**, Alfred Laich, 1620 North Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a new concrete spread box beam bridge having a normal clear single span of 32 feet on 82 degrees skew with a minimum underclearance of 8.1 feet across Piney Creek on SR 0026, Section 005, Segment 0130, Offset 0000 and to fill in 0.02 acre of de minimis wetland in order to realign the roadway of SR 0026. The new bridge will be located about 20 feet downstream of the existing bridge and about 500 feet northwest of the SR 0026 and LR 05011 intersection (Chaneyville, PA Quadrangle N: 9.1 inches; W: 3.88 inches) in Mann Township, **Bedford County**.

E06-507. Encroachment. **PA Historical and Museum Commission**, Brent Glass, 400 Daniel Boone Drive, Birdsboro, PA 19508. To remove silt and sediment from the channel of a tailrace downstream of Daniel Boone Lake at a point just upstream of its confluence with Owatin Creek (Birdsboro, PA Quadrangle N: 8.15 inches; W: 7.9 inches) in Exeter Township, **Berks County**.

E28-249. Encroachment. **PA Department of Transportation, Engineering District 8-0**, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To remove the existing bridge and to construct and maintain an 18-foot × 7-foot concrete box culvert in the channel of an unnamed tributary to Conococheague Creek on SR 1008 Section 002, Segment 0002, Offset 1612 located about 600 feet downstream of US 30 in West Fayetteville Village (Scotland, PA Quadrangle N: 7.62 inches; W: 10.7 inches) in Guilford Township, **Franklin County**.

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

E04-251. Encroachment. **Alex E. Paris**, P. O. Box 369, Route 18, Atlasburg, PA 15004. To place and maintain fill in approximately 0.28 acre of wetlands (PEM) on the right bank of Wingfield Run for the purpose of expanding

the existing Paris Flyash Disposal Site located approximately 2,000 feet northwest from the intersection of Frankfort Springs—Murdockville Road and Keifer School Road (Burgettstown, PA Quadrangle N: 19.2 inches; W: 7.2 inches) in Hanover Township, **Beaver County**.

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

E20-453. Encroachment. **PA Department of Transportation, Engineering District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing two span pony truss bridge and to construct and maintain a two span prestressed concrete box beam bridge with each clear span measuring 45.5 feet with an underclearance of 12.9 feet on S. R. 2027 (Newtown Road) across Oil Creek (CWF, Trout stocked). The project is located on S. R. 2027 (Newtown Road) across Oil Creek approximately 100 feet south of the intersection of S. R. 2027 (Newtown Road) and S. R. 1011 (Mystic Park Road) located in Troy Township, **Crawford County**.

E25-562. Encroachment. **The Cafaro Company**, 2445 Belmont Avenue, Youngstown, OH 44504-0186. To place fill in a total of 4.69 acres of three separate wetland areas as part of a commercial retail development known as Millcreek Pavilions adjacent to the existing Millcreek Mall. A portion of this application includes the authorization of existing fill placed in 0.62 acre of the three separate wetlands without permits. The Millcreek Pavilion site is located in the Walnut Creek watershed (CWF, MF) directly northeast of the intersection of Interchange Road (S. R. 4012) and Interstate I-79 (Interchange 180). (Erie South, PA Quadrangle N: 12.4 inches; W: 14.1 inches), Millcreek Township, **Erie County**.

This project will include the creation of 5.31 acres of replacement wetlands. Of this 5.31 acres, 1.24 acres will be created to replace those areas impacted (0.62 acre) without permits and 4.07 acres for the remaining areas. The applicant will create the 5.31 acre wetland replacement area at either the Hess site or the English site.

The Hess site is located within the Walnut Creek watershed (CWF, MF) north of townhall (Godard) Road approximately 1,600 feet east of the intersection of Townhall (Godard) Road and S. R. 0097. (Erie South, PA Quadrangle N: 7.1 inches; W: 1.8 inches), Summit Township, Erie County.

The English site is located in the Conneaut Creek watershed (CWF, MF) west of S. R. 0215 approximately 1,200 feet south of the intersection of S. R. 0215 and Old Albion Road (S. R. 0215). (East Springfield, PA Quadrangle N: 8.7 inches; W: 3.3 inches), located in Springfield Township, Erie County.

E33-197. Encroachment. **Pennsylvania Department of Conservation and Natural Resources**, Bureau of Forestry, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing multiple I-beam bridge and to construct and maintain a single span prestressed concrete spread box beam bridge with a total clear span of 9.15 meters (30.0 feet) and a minimum underclearance of 1.37 meters (4.49 feet) on Callen Run Road across Callen Run (HQ-CWF, trout stocked, wild trout). This project will also include a de minimis wetland impact associated with placing fill for the new, wider structure. The project is located on Callen Run Road across Callen Run approximately 2,000 feet south of the intersection of Callen Run Road and S. R. 0949 located in Heath Township, **Jefferson 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 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.

PA0054771. Sewerage. **Peter Paul**, 2614 Bean Road, Norristown, PA 19403. Located in Worcester Township, **Montgomery County** into unnamed tributary to Stony Creek.

PA0052647. Industrial waste. **Borough of Pottstown Authority**, 650 Old Reading Pike, Pottstown, PA 19464-5599. Located in West Pottsgrove Township, **Montgomery County** into Schuylkill River.

PA0057274. Sewerage. **Michael and Antianette Hughes**, 305 Auburn Drive, Downingtown, PA 19335. Located in Upper Uwchlan Township, **Chester County** into unnamed tributary to Marsh Creek.

PA0052892. Sewerage. **Donald F. Byrne**, 2201 North Ridley Creek Drive, Media, PA 19063-1968. Located in Upper Providence Township, **Delaware County** into unnamed tributary to Ridley Creek.

WQM Permit No. 2397409. Sewerage. **Nether Providence Township**, 214 Sykes Lane, Wallingford, PA 19086. Construction and operation of a sewage pump station and force main to serve the Mills at Rose Valley residential development in Nether Providence Township, **Delaware County**.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

Permit No. PA0009202. Industrial waste. **Cerro Metal Products Company**, P. O. Box 388, Bellefonte, PA 16823. Permittee renewed application to discharge from industrial waste treatment plant serving this metal processing facility. The facility location is Spring Township, **Centre County**.

Permit No. PA0008923. Industrial waste. **Corning Asahi Video Products Company**, P. O. Box P-9, State College, PA 16801-0009. Permittee renewed application to discharge industrial wastewater from their facility located at College Township, **Centre County**.

NPDES Permit No. PA0209571. Sewerage. **Romain Dorman, Jr.**, R. R. 4, Mifflinburg, PA 17844. Issuance of an NPDES permit to discharge treated domestic waste to an existing malfunctioning system. The facility is located at W. Buffalo Township, **Union County**.

NPDES Permit No. PA0209538. Sewerage. **North Penn Gas Company**, P. O. Box 688, Wellsboro, PA 16901. Issuance of permit to discharge to unnamed tributary at Catlin Hollow Creek. Facility located at Charleston Township, **Tioga County**.

NPDES Permit No. PA0112551. Sewerage. **Randall B. Moyer**, P. O. Box 38, Madisonburg, PA 16852. Renewal of NPDES permit to discharge treated domestic waste to an unnamed tributary of Elk Creek. The facility is located at Miles Township, **Centre County**.

NPDES Permit No. PA0100099. Sewerage. **Harmony School District**, R. D. 1, Box 96, Westover, PA 16692. Applicant renewed its NPDES permit to discharge treated sewage from the treatment plant serving Harmony Area School District. The facility is located at Burnside Township, **Clearfield County**.

WQM Permit No. 6097402. Sewerage. **Romain Dorman, Jr.**, R. R. 4, Mifflinburg, PA 17844. Issuance of permit for single residence to correct a malfunctioning onlot system. Located at West Buffalo Township, **Union County**.

WQM Permit No. 1491407-A1. Sewerage. **Julian Woods Community**, R. D. 1, Box 420, Julian, PA 16844. Issuance of amendment permit fulfills the Special Condition C requirement concerning test data and reports of performance. Facility located at Huston Township, **Centre County**.

WQM Permit No. 0897202. Industrial waste. **Masonite Corporation Subsidiary of International Paper Company**, P. O. Box 311, Towanda, PA 18848. Issuance of permit for a bypass from the primary clarifier to the secondary clarifier. Facility located at Wysox Township, **Union County**.

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

Permit No. 3097402. Sewerage. **Michele Williams**, R. R. 3, Box 239B, Smithfield, PA 15478. Construction of Riviera Mobile Home Park STP located in the Township of Dunkard, **Greene County** to serve the Riviera Mobile Home Park.

Permit No. 6597406. Sewerage, **Westmoreland County Industrial Development Corporation**, 601 Courthouse Square, Greensburg, PA 15601. Construction of gravity sewers, pump station and force main located in the Township of East Huntingdon, **Westmoreland County** to serve the Sony Technology Park II.

NPDES Permit No. PA0092932. Sewage, **Dante Fashions**, Berardo Maragni, 162 Penn-Adamsburg Road, Jeannette, PA 15644 is authorized to discharge from a facility located at Dante Fashions Sewage Treatment Plant, Hempfield Township, **Westmoreland County** to unnamed tributary of Brush Creek.

NPDES Permit No. PA0093165, Amendment No. 1. Sewage, **Claysville Donegal Joint Municipal Authority**, 314 Main Street, P. O. Box 467, Claysville, PA 15323 is authorized to discharge from a facility located at Claysville Water Pollution Control Plant, Donegal Township, **Washington County**.

NPDES Permit No. PA0096628. Sewage, **Hamill Manufacturing**, 500 Pleasant Valley Road, Trafford, PA 15085 is authorized to discharge from a facility located at Hamill Manufacturing STP, Penn Township, **Westmoreland County** to Lyons Run.

NPDES Permit No. PA0205621. Sewage, **Keystone Coal Mining Corporation**, P. O. Box 729, Indiana, PA 15701 is authorized to discharge from a facility located at Emilie No. 2 Slope Portal STP, Plumcreek Township, **Armstrong County** to Unnamed Tributary of Crooked Creek.

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

WQM Permit No. 4397414. Sewage. **PEC Management II**, 1250 Tower Lane, Erie, PA 16505. This project is for the construction and operation of a package sewage treatment facility for the proposed commercial development in East Lackawannock Township, **Mercer County**.

WQM Permit No. 6297409. Sewerage, **Derek L. Robeson**, SRSTP, R. D. 1, Box 1779, Russell, PA 16345. Construction of Derek L. Robeson SRSTP located in Pine Grove Township, **Warren County**.

NPDES Permit No. PA0103225. Sewage. **KRS Development, Quick Stop Food Mart**, R. R. 3, Box 177, Shippensburg, PA 16254 is authorized to discharge from a facility located in Paint Township, **Clarion County** to an unnamed tributary to the Clarion River.

NPDES Permit No. PA0102768. Sewage. **Penncrest School District, Maplewood Jr.-Sr. High School**, Box 808, Suite 101, Saegertown, PA 16433 is authorized to discharge from a facility located in Randolph Township, **Crawford County** to an unnamed tributary to Woodcock Creek.

NPDES Permit No. PA0210480. Sewage. **Soldier Wesleyan Methodist Church Ministeries, Inc.**, R. D. 2, Box 241, Reynoldsville, PA 15851 is authorized to discharge from a facility located in Winslow Township, **Jefferson County** to an unnamed tributary to Soldier Run.

INDIVIDUAL PERMITS

(PAS)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10K020	Greater Erie Industrial Development Corporation 2103 East 33rd Street Erie, PA 16510	Erie County Fairview Township	Brandy Run

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

*List of NPDES and/or other
General Permit Type*

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

<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>
Union Township Adams County	PAR-10-0024-R	J & J Enterprises 94 Baumgardner Road Hanover, PA 17331	S. Branch Conewago Creek	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Straban Township Adams County	PAR-10-0035-R	KBC Development Co. 1655 Herrs Ridge Rd. Gettysburg, PA 17325	Rock Creek	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Berwick Township Adams County	PAR-10-0036-R	Donald B. Smith 450 Spangler Rd. New Oxford, PA 17350	Pine Run	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Tyrone Township Adams County	PAR-10-0038-R	Imperial of North Carolina Assoc. 585 Martin Rd. Gettysburg, PA 17325	Conewago Crk.	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Franklin Township Adams County	PAR-10-0039-R	David F. Kuhn P. O. Box 95 Cashtown, PA 17310	Muskrat Run	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Conewago Township Adams County	PAR-10-0044-R	Utz Quality Foods, Inc. 900 High St. Hanover, PA 17331	Slagle Run	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Bedford Bedford County	PAR-10-0430	Bedford County Dev. Assoc. 203 South Juliana St. Bedford, PA 15522	Brush and Dunning Crks.	Bedford CCD 702 West Pitt St. Suite 4 Bedford, PA 15009 (814) 623-6706
Caernarvon Township Berks County	PAR-10-0136-R	Titanium Herarth Technolo- gies Hemlock Rd. Morgantown Business Park Morgantown, PA 19543	Conestoga River	Berks CCD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Blair Township Blair County	PAR-10-0663	Hamerview Associates Wm. J. Holtzinger, Esq. 6720 Carpenter Rd. Frederick, MD 21703	UNT Beaverdam Branch of the Juniata	Blair CCD 1407 Blair St. Hollidaysburg, PA 16648 (814) 696-0877

<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>
South Middletown Twp. Cumberland County	PAR-10-H143	Whirlpool Corporation 2000 N M63, MB 3003 Benton Harbor, MI 49022	Alexander Spring Crk.	Cumberland CCD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Franklin Co.	PAR-10-M143	Maizefield Mobile Home Park Frank A. and Mabel E. Cressler 9410 Molly Pitcher Highway Shippensburg, PA 17257	Muddy Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-8074
Manor Twp. Lancaster Co.	PAR-10-O- 042-R	Manor Oaks Associates 111 Centerville Rd. Lancaster, PA 17603	Little Conestoga Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Lititz Borough Lancaster County	PAR-10-O- 047-R	H.A.D.C. Inc. 131 E. Woods Drive Lititz, PA 17543	Lititz Run	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Warwick Twp. Lancaster County	PAR-10-O- 058-R	Jeffrey Levine 292 Smithville Rd. New Providence, PA 17560	Lititz Run	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
West Earl Twp. Lancaster Co.	PAR-10-O- 069-R	Millway Acres, Inc. 336 West King St. Lancaster, PA 17603	Cocalico Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
West Donegal Twp. Lancaster Co.	PAR-10-O- 084-R	Four Star Associates 897-C Mount Joy Rd. Mount Joy, PA 17552	UNT Conewago Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Penn Twp. Lancaster Co.	PAR-10-O- 131-R	RDF Capital Group 350 Centerville Rd. Lancaster, PA 17601	UNT Chickies Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Mount Joy Twp. Lancaster Co.	PAR-10-O- 132-R	Four Star Associates 897-C Mount Joy Rd. Mount Joy, PA 17552	UNT Conoy Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Warwick Twp. Lancaster Co.	PAR-10-O- 139-R	Ivan Z. Stauffer 505 Mountain Rd. Denver, PA 17517	Moores Run	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
West Donegal Twp. Lancaster Co.	PAR-10-O- 158-R	Preferred Reality Grp. Bob Gruber 45 South Market St. Elizabethtown, PA 17022	UNT Conoy Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361

<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>
Conoy Twp. Lancaster Co.	PAR-10-O-173-R	Preferred Reality Grp. Bob Gruber 45 South Market St. Elizabethtown, PA 17022	Conewago Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Warwick Twp. Lancaster Co.	PAR-10-O-187-R	Lester H. Guyton Sr. 20 Red Oak Dr. Lititz, PA 17543	UNT Lititz Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Strasburg Twp. Lancaster Co.	PAR-10-O-198-R	Glenn M. Eshleman 260 N. Jackson St. P. O. Box 310 Strasburg, PA 17579	Pequea Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Ephrata Twp. Lancaster Co.	PAR-10-O-207-R	Borough of Ephrata 114 E. Main St. Ephrata, PA 17522	Cocalico Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
West Hempfield Twp. Lancaster Co.	PAR-10-O-216-R	William Yoder 925 Glory Lane Narvon, PA 17555	UNT Chickies Crk.	Lancaster CCD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Manheim Twp. York Co.	PAR-10-Y147-R	Cynthia L. and Steve M. Yingling R. D. 1, Box 631 Glen Rock, PA 17327	Gunpowder Falls	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Twp. York Co.	PAR-10-Y285	Highland Manor Highland Partnership 23 E. Princess St. York, PA 17403	UNT to Willis Run	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Butler Co. Center Twp.	PAR10E074	Sunset Meadows Phase III 222 Holyoke Rd. Butler, PA 16001	Crooked Run	Butler Conservation District 122 McCune Dr. Butler, PA 16001-65001 (412) 284-5270
Butler Co. Butler Twp.	PAR10E076	REBCAR Development Franklin A. West 272 Shade Ave. Pittsburgh, PA 15206	Connoquenessing Crk.	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 (412) 284-5270
Butler Co. Connoquenessing Twp.	PAR10E077	Muzzana E-Z Mini Storage Jack Muzzana 110 Stardust Court Renfrew, PA 16053	Connoquenessing Crk.	Butler Conservation District 122 McCune Dr. Butler, PA 16001-65001 (412) 284-5270
Butler Co. Adams Twp.	PAR10E078	Blackstone Ridge Plan Christopher J. Kaalik 191 Crowe Ave. Mars, PA 16046	Breakneck Crk.	Butler Conservation District 122 McCune Dr. Butler, PA 16001-65001 (412) 284-5270
Erie Co. Millcreek Twp.	PAR10K031-R	Pater C. Schaaf Building Enterprises 3722 Volkman Rd. Erie, PA 16506	UNT to Walnut Crk.	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203

<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>
Erie Co. Millcreek Twp.	PAR10K051-R	Pater C. Schaaf Building Enterprises 3722 Volkman Rd. Erie, PA 16506	Walnut Crk.	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Erie Co. City of Erie	PAR10K094	PA Dept. of Transportation P. O. Box 711 1140 Liberty St. Franklin, PA 16323	Garrison Run Six Mile Run	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203

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>
Schuylkill County Minersville	PAR802233	Consolidated Freightways Inc. P. O. Box 3010 Menlo Park, CA 94026-3010	Schuylkill River	Northeast Regional Office Water Management 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2511
Luzerne Co. Salem Twp.	PAR232213	GFC—Dura Bond R. R. 1, Box 1845 Berwick, PA 18603	Susquehanna River	Northeast Regional Office Water Management 2 Public Square Wilkes-Barre, PA 18711 (717) 826-2511
Allegheny Co. Neville Twp.	PAR806181	CNF Transportation, Inc. 3240 Hillview Ave. Palo Alto, CA 94304	Ohio River	Southwest Regional Office Water Management Pro- gram Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Paint Twp. Clarion Co.	PAR228319	Astro Homes A Division of Cavalier Indus- tries, Inc. Route 66 North P. O. Box 189 Shippenville, PA 16254	Unnamed Tributary to Paint Crk.	Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942

General Permit Type—PAG 4

<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>
Pine Grove Twp. Warren Co.	PAG048468	Derek L. Robeson R. D. 1, Box 1779 Russell, PA 16345	Unnamed Tributary to N. Branch Akeley Run	Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335

General Permit Type—8

<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>
Montour Co. Boro of Danville	PAG088402	Borough of Danville 235 Mill St. Danville, PA 17821		Northcentral 208 W. Third St. Williamsport, PA 1770 (717) 327-3664

SAFE DRINKING WATER**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

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

Permit No. 368W004-A1. Public water supply. **Glen Campbell Borough**, P. O. Box 202, Glen Campbell, PA 15742.

Type of Facility: 100,000 Gallon Finished Water Storage Tank.

Permit to Construct Issued: December 23, 1997.

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 report:

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

The Cole Residence, Parkside Borough, Delaware County. Michael S. Welsh, P. E., DEE, Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA 19355, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Statewide health standard.

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Former Playskool Facility Sewer Release, East Lampeter Township, Lancaster County. City of Lancaster, 120 North Duke Street, Lancaster, PA 17608, has submitted a Final Report concerning remediation of site soils contaminated with heavy metals, solvents, BTEX and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

Hollidaysburg Pole Storage Yard, Hollidaysburg Borough, Blair County. GPU Energy, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 16001-0001, has submitted a Final Report concerning remediation of site soils contaminated with PAHs and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

Murata Electronics N. A., Inc., Borough of Carlisle, Cumberland County. Alliance Environmental Services, Inc., 3540 North Progress Avenue, Harrisburg, PA 17110, has submitted a Final Report concerning remediation of site soils and groundwater contaminated with heavy metals and solvents. The report is intended to document remediation of the site to meet a combination of background and Statewide health standards.

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

American Railcar Industries, Inc., Milton Facility (former tar lagoon area) West Chillisquaque Township, Northumberland County. Robert Warren on behalf of his client American Railcar Industries, Inc., 100 Clark Street, St. Charles, MO 63301 has submitted a Final Report addressing soil contaminated with lead, heavy metals, solvents, BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Statewide health standard.

SOLID AND HAZARDOUS WASTE RESIDUAL WASTE PROCESSING FACILITIES

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 residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.

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

General Permit No. WMGM001. Allegheny Energy Resources, Inc., 20 Stanwix Street, Suite 600, Pittsburgh, PA 15222. A permit for processing and beneficial use of landfill gas (LFG) to produce a medium BTU LFG for use as a substitute for natural gas or other fuel. The permit was issued by Central Office on December 23, 1997.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

General Permit No. WMGM002. Allegheny Energy Resources, Inc., 20 Stanwix Street, Suite 600, Pittsburgh, PA 15222. A permit for processing and beneficial use of landfill gas (LFG) to produce a medium to high BTU LFG for use as a substitute for natural gas or other fuel. The permit was issued by Central Office on December 24, 1997.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

General Permit No. WMGM003. American Ash Recycling Corp. of PA, 1058 Roosevelt Avenue, York, PA 17404. A permit for processing and beneficial use of municipal waste ash for use as a sub-base under paved surfaces, aggregate for asphalt manufacturing, structural fill and aggregate in concrete. The permit was issued by Central Office on December 24, 1997.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

General Permit No WMGR039. G & H Oil Company, 2553 Pennsylvania Avenue, West, Warren, PA 16365. A permit for the processing prior to beneficial use of the operation of a transfer facility and retail transloading facility for the processing of waste oil, waste oil/water mixtures and asphalt condensate. The permit was issued by Central Office on December 23, 1997.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

General Permit No. WMGR052. Duquesne Light Co., 411 Seventh Avenue, Pittsburgh, PA 15230. A permit for the beneficial use of low permeability cementitious material (a mixture of flue gas desulfurization (FGD) sludge, coal ash and lime). The mixture can be used as a construction material and for mine sealing, in mine fire and subsidence control and for abandoned mine reclamation. The permit was issued by Central Office on December 23, 1997.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

AIR POLLUTION OPERATING PERMITS

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

65-322-001A: USA Waste Services, Inc. (Rte. 2, Box 242A, Pleasant Valley Road, Irwin, PA 15642) for the operation of a ground flare and gas extraction system for the Valley Landfill in Penn Township, **Westmoreland County**.

OP-63-180A: Findlay Refractories (P. O. Box 517, Washington, PA 15301) for the operation of a dust collector for a CO-5 cast mixer feed system at the Washington Plant in Washington, **Washington County**.

OP-65-788A: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) for the operation of two wet scrubber systems for the aperture grille manufacturing line at its Pittsburgh Manufacturing Center in Mt. Pleasant Township, **Westmoreland County**.

OP-65-788B: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) for the operation of four wave solder machines at its Pittsburgh Manufacturing Center in Mt. Pleasant Township, **Westmoreland County**.

30-305-019: Consolidation Coal Company (1800 Washington Road, Pittsburgh, PA 15241) for the operation of the Robena Coal Preparation Plant in Greensboro Borough, **Greene County**.

26-305-029A: CONSOL Docks, Inc. (1800 Washington Road, Pittsburgh, PA 15241) for the operation of a coal transfer facility at the Alica Dock in Luzerne Township, **Fayette County**.

OP-65-00219: Jeanette City School District (P. O. Box 418, Park Street, Jeanette, PA 15644) for the operation of a tri-fuel boiler at the high school in Jeanette, **Westmoreland County**.

OP-11-00217: Good Samaritan Medical Center (1020 Franklin Street, Johnstown, PA 15905) for the operation of a hospital in Johnstown, **Cambria County**.

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

24-313-138: Carbide/Graphite Group, Inc. (800 Theresia Street, St. Marys, PA 15857) for the operation of a burn off oven in St. Marys, **Elk County**.

PA-24-064A: Quality Components, Inc. (R. R. 1, Box 300, Ridgway, PA 15853) for two spray paint booths and dry filters in Ridgway, **Elk County**.

33-302-017: Punxsutawney Area School District (Beyer Avenue, Punxsutawney, PA 15767) for a space heating boiler and regenerative centrifugal cyclone in Punxsutawney, **Jefferson County**.

OP-43-300A: Atlas Resources Inc., Hurtt Compressor Station (57 Drake Road, Mercer, PA 15108) for a natural gas compressor and dehydrator in East Lackawannock Township, **Mercer County**.

OP-43-301A: Atlas Resources, Inc., Jackson Center Compressor Station (103 Hosack Road, Jackson Center, PA 15108) for a natural gas compressor and dehydrator in Jackson Center, **Mercer County**.

PA-24-022A: St. Marys Carbon Co. (1939 State Street, St. Marys, PA 15857) for a continuous furnace in St. Marys, **Elk County**.

General Plan Approval and Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP-61-195: Lomak Operating Co. (P. O. Box 235, Yatesboro, PA 16263) for a gas production facility at the Haslet Compressor Station in Jackson Township, **Venango County**.

GP-20-257: Lomak Operating Co. (P. O. Box 235, Yatesboro, PA 16263) for a gas production facility at the Lippert Compressor Station in East Fairfield Township, **Crawford County**.

GP-43-271: Lomak Operating Co. (P. O. Box 235, Yatesboro, PA 16263) for a gas production facility at the Wallace Compressor Station in French Creek Township, **Mercer County**.

GP-20-253: Lomak Operating Co. (P. O. Box 235, Yatesboro, PA 16263) for a gas production facility at the Miller Compressor Station in Rome Township, **Crawford County**.

GP-61-194: Lomak Operating Co. (P. O. Box 235, Yatesboro, PA 16263) for a gas production facility at the Toonerville Compressor Station in Cherrytree Township, **Venango County**.

Administrative Amendment of Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

55-302-013: Cherry Hill Hardwoods, Inc. (R. R. 1, Box 900, Richfield, PA 17086) issued December 18, 1997, for the amendment of a plan approval to specify a smaller rated boiler capacity, to specify a less-restrictive best available technology particulate matter emission limitation, to delete stack test requirements and to delete a condition pertaining to the applicability of Federal Standards of Performance of New Stationary Sources in West Perry Township, **Snyder County**.

PLAN APPROVALS

Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

PA-03-190A: Standard Products Company (1655 Orr Avenue, Kittanning, PA 16201) issued December 12, 1997, for a surface coating operation in Kittanning Borough, **Armstrong County**.

PA-04-600A: MJ Mining Company (1021 Whitestown Road, Butler, PA 16001) issued December 19, 1997, for a coal crushing and screening operation at Mine I in Greene Township, **Beaver County**.

PA-11-427A: Emglo Products, L. P. (303 Industrial Park Road, Johnstown, PA 15904) issued December 7, 1997, for a powder coating system in Johnstown, **Cambria County**.

PA-26-487A: Amerikohl Mining, Inc. (P. O. Box 427, Acme, PA 15610) issued December 19, 1997, for a coal crushing operation at the Nicholson Surface Mine in Saltlick Township, **Fayette County**.

PA-30-072B: Consol Pennsylvania Coal Company (1800 Washington Road, Pittsburgh, PA 15241) issued December 19, 1997, for a coal preparation operation at the Bailey Prep Plant in Richhill Township, **Greene County**.

PA-32-330A: Senate Coal Mines, Inc. (One Energy Place, Suite 5100, Latrobe, PA 15650) issued November 26, 1997, for a coal screening and loading operation at its Ondo Mine in Brushvalley Township, **Indiana County**.

PA-65-093B: Hyde Park Foundry (Railroad Street, P. O. Box 187, Hyde Park, PA 15641) issued November 7, 1997, for the installation of an electric induction furnace at the National Roll Plant in Hyde Park Borough, **Westmoreland County**.

PA-65-788E: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) issued November 26, 1997, for the manufacturing of direct view CRTs at the Pittsburgh Manufacturing Center in Mt. Pleasant Township, **Westmoreland County**.

PA-65-857A: Norton Pakco Industrial Ceramics (55 Hillview Avenue, Latrobe, PA 15650) issued November 7,

1997, for the installation of a fabric filter for a plasma arc cutter at its plant in Derry Township, **Westmoreland County**.

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

PA-20-194A: Lord Corp. (P. O. Box 556, Saegertown, PA 16433) issued November 24, 1997, for the construction of a reactor/hold tank in Saegertown, **Crawford County**.

24-313-088D: Carbone of America Corp. (215 Stackpole Street, St. Marys, PA 15857) for the installation of car kilns in St. Marys, **Elk County**.

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

11971115. Wesott, Inc. (P. O. Box 328, Carrolltown, PA 15722). Stream variance, BMR-GP-101 permit for the construction of a temporary stream crossing of an unnamed tributary to Fox Run for coal refuse exploration and testing activities in West Carroll Township, **Cambria County**. Receiving stream an unnamed tributary to Fox Run and Fox Run. Application received October 8, 1997, permit issued December 22, 1997.

56870107. Permit Renewal. **Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Summit Township, **Somerset County**, affecting 14.1 acres, receiving stream unnamed tributary to Bluelick Creek and an unnamed tributary to the Casselman River. Application received December 18, 1997, permit issued December 17, 1997.

11920106. Permit Renewal. **M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Jackson Township, **Cambria County**, affecting 79.1 acres, receiving stream tributaries to Laurel Run, tributary to Red Run. Application received December 15, 1997, permit issued December 17, 1997.

56920112. Permit Renewal for reclamation only, **PBS Coals, Inc.** (1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541), continued restoration of a bituminous strip mine in Stonycreek Township, **Somerset County**, affecting 76.3 acres, receiving stream an unnamed tributary to Clear Run; application received October 10, 1997; permit issued December 26, 1997.

11950102. Laurel Land Development, Inc. (P. O. Box 629, Carrolltown, PA 15722), for an SMP boundary to add 5.0 acres to the southern end of this existing bituminous strip mine. Total SMP acres goes from 75.0 to 80.0. Also, to include a road variance to begin 100 feet east of the intersection of U. S. Route 22, and Township Road T-717 and will run in an easterly direction along the northerly side of U. S. Route 22 for a distance of 1,000 feet in Jackson Township, **Cambria County**, receiving stream, Hinckston Run and unnamed tributaries to Hinckston Run. Application received October 29, 1997, permit issued December 24, 1997.

56880101. Permit Renewal, **Cooney Brothers Coal Company** (P. O. Box 246, Cresson, PA 16630), commencement, operation and restoration of a bituminous strip-auger mine in Paint Township, **Somerset County**, affecting 191.8 acres, receiving stream Shade Creek and unnamed tributaries to Shade Creek; application received October 16, 1997; permit issued December 29, 1997.

McMurray District Office

30841313. Consolidation Coal Co. (P. O. Box 100, Osage, WV 26548), to revise the permit for the Dilworth Mine in Cumberland Township, **Greene County** to add subsidence control plan acres, no additional discharge. Permit issued December 24, 1997.

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

03910104T. Big Mack Leasing Co., Inc. (R. D. 6, Box 231, Kittanning, PA 16201). Transfer of permit currently issued to General Mining, Inc., for continued operation and reclamation of a bituminous surface/auger mine located in Plumcreek Township, **Armstrong County**, affecting 59 acres. Receiving streams: two unnamed tributaries to Cherry Run. Application received: April 3, 1997. Transfer issued December 17, 1997.

26920110R. Patterson Coal Company (R. D. 2, Box 335, Smithfield, PA 15478). Permit renewal issued for continued operation and reclamation of a bituminous surface mine located in German, Georges and Nicholson Townships, **Fayette County**, affecting 267 acres. Receiving streams: unnamed tributary to Jacobs Creek and unnamed tributary to South Branch of Browns Run. Application received: October 16, 1997. Renewal issued: December 18, 1997.

02950102. Robinson Coal Company (P. O. Box 9347, Neville Island, PA 15225). Permit revised to relocate Sedimentation Pond C and revise Module 14 (to affect within 100 feet of the unnamed tributary to North Branch Robinson Run) on a bituminous surface mine located in North Fayette Township, **Allegheny County**, affecting 92 acres. Receiving streams: unnamed tributary to North Branch Robinson Run, North Branch Robinson Run, Ohio River. Application received: September 11, 1997. Revision issued: December 22, 1997.

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

49971301. FKZ Coal, Inc. (119 Greenwood Street, Trevorton, PA 17881), commencement, operation and restoration of an anthracite underground mine operation in Mt. Carmel Township, **Northumberland County** affecting 3.5 acres, receiving stream none. Permit issued December 24, 1997.

35940201C. APHC II, Inc. (700 Lackawanna Avenue, Scranton, PA 18503), correction (Name Changed from Archbald Power Company), to an existing coal refuse reprocessing operation in Archbald Borough,

Lackawanna County affecting 170.4 acres, receiving stream Laurel Run. Correction issued January 2, 1998.

Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.

17860133. Johnson Bros. Coal Company (R. R. 1, Box 580, Mahaffey, PA 15757), transfer of an existing bituminous surface mine permit from Thomas Coal Co., Inc., Brady and Penn Townships, **Clearfield County** affecting 188.4 acres, receiving streams: Laurel Branch Run and Beech Run to East Branch Mahoning Creek, East Branch Mahoning Creek to Mahoning Creek, Mahoning Creek to Allegheny River, Allegheny River to Ohio River; application received October 20, 1997; permit issued December 31, 1997.

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

Small Industrial Minerals Applications Issued

07970801. Terry L. Long (R. D. 1, Box 667, Martinsburg, PA 16662), in Taylor Township, **Blair County**, affecting 1.5 acres, receiving stream unnamed tributary to Plum Creek; application received October 1, 1997; permit issued December 22, 1997.

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

Noncoal Permits Issued

40930301T. Lonzetta Trucking and Excavating Co. (P. O. Box 644, Hazleton, PA 18201). Transfer of an existing quarry operation in Hazle Township, **Luzerne County** affecting 113.5 acres, receiving stream none. Transfer issued December 22, 1997.

21950301T. Valley Quarries, Inc. (P. O. Box J, Chambersburg, PA 17201-0809), transfer of an existing quarry operation in Southampton Township, **Cumberland County** affecting 106.0 acres, receiving stream none. Transfer issued December 31, 1997.

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

3172SM3T. Georgetown Sand & Gravel, Inc. (Third Street Extension, P. O. Box 127, Georgetown, PA 15043). Transfer of permit currently issued to Dravo Basic Materials Company for continued operation and reclamation of a large noncoal (sand and gravel) surface mine located in Greene Township, **Beaver County**, affecting 137 acres. Receiving streams: not applicable, no discharges planned. Application received: September 12, 1996. Transfer issued: December 17, 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)).

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 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 at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

E15-559. Encroachment Permit. **Borough of Downingtown**, Municipal Government Center, 4-10 Lancaster Avenue, Downingtown, PA 19335. To construct and maintain a 30-foot diameter gazebo within the floodway of the East Branch of Brandywine Creek (WWF, MF), in Kerr Park (Downingtown, PA Quadrangle N: 1.3 inches; W: 11.3 inches) in Downingtown Borough, **Chester County**.

E46-752. Encroachment Permit. **The Andorra Group**, 2201 Barren Hill Road, Conshohocken, PA 19428. To construct, operate and maintain the following: (a) A twin 72-inch R.C.P. stream enclosure, concrete drop inlets and associated stormwater management structures situated in and along a tributary to Spring Mill Creek; (b) A 300 foot long retaining wall in the assumed 100 year floodway of Spring Mill Creek (WWF) and its tributary; (c) The placement of fill in 0.26 acre of wetland (PFO) to facilitate construction of the Andorra Glen Apartment Complex and to fill in approximately 600 linear feet of the remnant watercourse. The site is situated at the southwest corner of the intersection of Ridge Pike and Joshua Road, (Norristown, PA Quadrangle N: 16 inches; W: 2.75 inches) in Whitemarsh Township, **Montgomery County**. The applicant proposes to construct 0.35 acre of replacement wetlands to compensate for the proposed impacts to wetlands.

SPECIAL NOTICES

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of December 1997 the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON).

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Bruce Thomas B. R. Thomas & Associates	17 Fosterville Road Greensburg, PA 15601	Testing
Paul Bellina	29 East Glenside Avenue, #3 Glenside, PA 19038	Testing
Nathaniel Burden	804 Second Street Pike Southampton, PA 18966	Mitigation
Francis Butler, Jr.	20 Thornridge Road Springfield, PA 19064	Testing
Robert Shoemaker H. O. Thompson Testing Lab	104 Valley View Drive Parkesburg, PA 19365	Testing
Raymond King	1812 Willow Street Pike Lancaster, PA 17602	Testing
Robert Martin	383 Mount Penn Road Reading, PA 19607	Testing
Mark McCann	309 McJunkin Road Pittsburgh, PA 15239	Testing
Eli Port	6312 West Oakton Street Morton Grove, IL 60053	Laboratory
Peter Cook Radonics, The Radon Specialists	3975 Fair Ridge Drive, Suite 250 Fairfax, VA 22033	Testing
Bruce Shannon	1410 Sculac Drive Bethlehem, PA 18020	Mitigation
Richard Tarnowski	263 Main Street Binghamton, NY 13905	Mitigation

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Roger Wood	1053 High Meadows Drive Gibsonia, PA 15044	Mitigation
David Wotring	R. D. 1, Box 491, Lake Drive Scotrun, PA 18355	Testing

[Pa.B. Doc. No. 98-85. Filed for public inspection January 16, 1998, 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 Non-regulatory 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—Minor Revision

DEP ID: 362-2000-005 Title: Subsurface Disposal of Car Wash Waste Description: This guidance prohibits the subsurface disposal of car wash waste. Effective Date: October 1, 1997 Page Length: 2 pages Location: Vol 33, Tab 08 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-2183-003 Title: Technology-Based Control Requirements for Water Treatment Plant Wastes Description: This guidance helps permit writers develop accurate and consistent limits and other permit conditions, help the regulated community understand how permits are developed and ensures effluent limits are consistent across the state. Effective Date: October 1, 1997 Page Length: 61 pages Location: Vol 33, Tab 12 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-2183-004 Title: Technical Guidance for Development of NPDES Permit Requirements Steam Electric Industry Description: This document provides guidance to permittees for obtaining NPDES permits for steam electric generating facilities. Effective Date: December 1, 1997 Page Length: 43 pages Location: Vol 33, Tab 13 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-4000-001 Title: Calculation of Contingent Penalties for Effluent Violations Description: This guidance provides a uniform method of calculating contingent penalties for effluent violations for use in current order and agreements (COA) or consent decrees. Effective Date: July 29, 1997 Page Length: 2 pages Location: Vol 33, Tab 16 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-4180-001 Title: Guidance for Civil Penalties Calculations for Effluent Violations Description: This guidance provides a consistent and equitable procedure for calculating civil penalties for effluent violations. Effective Date: December 30, 1997 Page Length: 5 pages Location: Vol 33, Tab 18 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-4180-003 Title: Guidance for Calculation of Civil Penalties for Willingness Description: This guidance provides a method for determining the civil penalty attributable to the willfulness (or culpability) of the violator. Effective Date: May 8, 1989 Page Length: 4 pages Location: Vol 33, Tab 20 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-5512-001 Title: PA Sewage Facilities Act 537, Enforcement Reimbursement Description: Establishes a standard procedure for the processing of enforcement reimbursement applications and issuing payments to local agencies. Effective Date: December 17, 1997 Page Length: 17 pages Location: Vol 33, Tab 29 Contact: Milt Lauch at (717) 787-8184

DEP ID: 362-5512-002 Title: Act 537 Sewage Facilities Planning Grants Description: This guidance is intended. Effective Date: December 17, 1997 Page Length: 17 pages Location: Vol 33, Tab 29 Contact: Milt Lauch at (717) 787-8184

DEP ID: 394-2000-001 Title: Municipal Reference Document-Compilation of Field Interpretations and Department Guidance for the Bluff Recession and Setback Act Description: Helps municipal officials make the right decisions when implementing the ordinances pertaining to the state Bluff Recession and Setback Act. Effective Date: December 23, 1997 Page Length: 37 pages Location: Vol 31, Tab 02 Contact: Shamus Malone at (717) 787-5259

Notice of Intent to Rescind Technical Guidance

DEP ID: 361-5500-002 Title: Chesapeake Bay Nonpoint Source Pollution Abatement Program Description: The document placed on the inventory is a statement of policy (Chapter 83, Subchapter C) and should be removed. Since the document is a statement of policy its removal from the guidance inventory will have no impact on the program. Anticipated Effective Date: January 26, 1998 Contact: Cedric Karper at (717) 783-7577

DEP ID: 362-2206-001 Title: Determination and Documentation of the Need for Improved Sewage Facilities Through the Act 537 Planning Process Description: The document reflects neither current Department practice nor other current guidance. This is a separate document

with the same DEP ID number than was announced as final on January 3, 1998. Anticipated Effective Date: January 26, 1998 Contact: John McHale at (717) 783-2290

Notice of Intent to Develop Technical Guidance

Title: Highwall Stability In Long-Term Multiple Bench Quarries Description: This document establishes criteria for review of high wall stability at long-term multiple bench quarries. The document will include a standardized format for submitting stability analyses and criteria for reviewing these analyses. Anticipated Draft Development Date: April 10, 1998 Anticipated Effective Date: July 22, 1998 Contact: Thomas L. Whitcomb at (717) 783-8845

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-86. Filed for public inspection January 16, 1998, 9:00 a.m.]

Low-Level Waste Advisory Committee; Schedule of 1998 Meetings

The Department of Environmental Protection's Low-Level Waste Advisory Committee announces its schedule of 1998 meetings. The meetings dates and locations are as follows:

- | | |
|-----------------------|--|
| March 12, 1998 | The Green Room, Forum Building
South Drive and Commonwealth
Avenue
Harrisburg, PA |
| June 11, 1998 | Room 105, Rachel Carson State Office
Building
400 Market Street
Harrisburg, PA |
| September 10,
1998 | Room 105, Rachel Carson State Office
Building
400 Market Street
Harrisburg, PA |
| December 10,
1998 | Room 105, Rachel Carson State Office
Building
400 Market Street
Harrisburg, PA |

The meetings will begin at 9 a.m.

Questions concerning this schedule or agenda items can be directed to Rich Janati at (717)787-2163 or e-mail at janati.rich@a1.dep.state.pa.us. This schedule 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> (choose information by Subject/choose Radiation Protection).

Persons in need of accommodations as provided for in Americans With Disabilities Act of 1990 should contact Marianne Hansen directly at (717)787-2480 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. 98-87. Filed for public inspection January 16, 1998, 9:00 a.m.]

Sewage Advisory Committee Meeting

The Regulation Subcommittee will meet January 21, 1998, at 10 a.m. in the 11th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The purpose of this meeting is to discuss and make comment upon a draft document entitled *A Municipal Officials' Guide to On-Lot Disposal Systems* prepared by the Pennsylvania State Association of Township Supervisors [PSATS]. This publication is to support a future training program for municipal officials on onlot sewage disposal systems. The Department has contracted with PSATS to develop, conduct and evaluate this training for municipal officials during calendar year 1998.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-88. Filed for public inspection January 16, 1998, 9:00 a.m.]

DEPARTMENT OF HEALTH

Cancellation of the Public Meeting of the Human Immunodeficiency Virus (HIV) Community Prevention Committee

The public meeting of the Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee scheduled for January 21, 1998, notice of which was published in the *Pennsylvania Bulletin* on January 3, 1998, is canceled.

Persons requiring additional information, or persons with a disability who require an alternative format of this notice (for example, large print, audio tape, braille) should contact Thomas DeMelfi, Department of Health, Division of HIV/AIDS, P. O. Box 90, Room 912, Harrisburg, PA 17108, (717) 783-0574. TDD: (717) 783-6514.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 98-89. Filed for public inspection January 16, 1998, 9:00 a.m.]

Laboratories Approved to Perform Blood Lead and/or Erythrocyte Protoporphyrin Determinations Under the Clinical Laboratory Act

The following laboratories are licensed in accordance with the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and/or the Federal Clinical Laboratory Improvement Act of 1967 (42 U.S.C.A. § 263a), and are currently approved under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood for lead or erythrocyte protoporphyrin content. This approval is based on demonstrated proficiency in periodic evaluations conducted by the Bureau of Laboratories of the Department of Health (Department).

Lead poisoning is a reportable noncommunicable disease. Approved laboratories which offer blood lead or erythrocyte protoporphyrin testing services are required to inform the Department of actual or possible incidents of this condition in accordance with 28 Pa. Code § 27.4 (relating to reportable noncommunicable diseases and

conditions). In addition, the Department requests laboratories to submit reports on children under 6 years of age and pregnant women, on whom laboratory tests confirm venous blood lead concentrations of 15 micrograms per deciliter or higher. The Department's collection and review of these latter reports would be consistent with the most recent revision of the guideline titled, *Preventing Lead Poisoning in Young Children*, which was published in 1991 by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, and is available from them.

All reports must be sent to the Department of Health, Division of Environmental Health, P. O. Box 90, Harrisburg, PA 17108. Report forms are available on request from the Division of Environmental Health.

Erythrocyte protoporphyrin determinations may be performed as an adjunct determination to substantiate blood lead levels of 25 micrograms per deciliter or higher. Since erythrocyte protoporphyrin concentrations may not increase as a result of low level exposures to lead, direct blood lead analysis is the only reliable method for identifying individuals with blood lead concentrations below 25 micrograms per deciliter.

Persons seeking blood lead or erythrocyte protoporphyrin analyses should determine that the laboratory employs techniques and procedures acceptable for the purpose for which the analyses are sought. Laboratories offering blood lead analysis only are designated with the letter "L" following the name of the laboratory. Those offering erythrocyte protoporphyrin analysis only are designated with the letter "P." Laboratories offering both services are designated with the letters "LP."

Blood lead analyses performed for occupational safety and health purposes must be conducted by a laboratory which also meets the requirements of the Occupational Safety and Health Administration of the United States Department of Labor as specified in 29 CFR 1910.1025(j)(2)(iii).

The list of approved laboratories will be reviewed semiannually and if there are any changes to the list, a notice to that effect will be published in the *Pennsylvania Bulletin* at that time.

The Department's blood lead proficiency testing program is approved by the United States Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 363-8500. Persons with a disability may also submit questions to Dr. Shoemaker in alternative formats, such as by audiotape, braille or using TDD: (717) 783-6514. Persons with a disability who require an alternative format of this document (for example, large print, audio tape, braille), should contact Dr. Shoemaker so that he may make the necessary arrangements.

Allegheny County Coroners Office-L
3441 Forbes Avenue Oakland
Pittsburgh, PA 15213
412-578-8072

Allegheny General Hospital-L
320 East North Avenue
Pittsburgh, PA 15212
412-359-3521

American Medical Laboratories, Inc.-LP
14225 Newbrook Drive
Chantilly, VA 20153
703-802-6900

Angeline Kirby Memorial Health Center-L
71 North Franklin Street
Wilkes-Barre, PA 18701
717-823-5450

Associated Regional & University Pathologists-LP
500 Chipeta Way
Salt Lake City, UT 84108
800-242-2787

Aurora Consolidated Labs-LP
8901 West Lincoln Avenue
West Allis, WI 53227
414-328-7945

Children's Hospital of Philadelphia-P
One Children's Center, 34th and Civic
Philadelphia, PA 19104
215-590-1000

Clarendon Laboratory-L
1125 Flatbush Avenue
Brooklyn, NY 11226
718-856-4700

East Penn Manufacturing Company, Inc.-LP
Deka Road
Lyons Station, PA 19536
610-682-6361

Edison Medical Laboratories, Inc.-LP
1692 Oak Tree Road, Suite 12
Edison, NJ 08820
908-906-7800

Ellwood City General Hospital-P
724 Pershing Street
Ellwood City, PA 16117
412-752-0081

Exide Corp. Indus. Hygiene Lab.-L
6313 Rising Sun Avenue
Philadelphia, PA 19111
215-342-1414

Health Network Laboratories-LP
2024 Lehigh Street
Allentown, PA 18103
610-402-8150

Helena Laboratories-P
P. O. Box 752
Beaumont, TX 77704
409-842-3714

LabCorp of America Holdings-LP
6370 Wilcox Road
Dublin, OH 43016
800-282-7300

LabCorp of America Holdings-LP
1447 York Court
Burlington, NC 27216
800-334-5161

LabCorp of America Holdings-LP
69 First Avenue, P. O. Box 500
Raritan, NJ 08869
201-526-2400

Laboratory Corp of America-LP
13900 Park Center Road
Herndon, VA 22071
703-742-3100

LabOne, Inc.-LP
8915 Lenexa Drive
Overland Park, KS 66214
913-888-1770

Lancaster General Hospital-L
555 North Duke Street, P. O. Box 3555
Lancaster, PA 17603
717-299-5511

LeadTech Corporation-L
1 Marine Plaza
N. Bergen, NJ 07047
201-868-7707

Main Line Clinical Laboratory-L
Lankenau Hospital
100 East Lancaster Avenue
Wynnewood, PA 19096
610-645-2615

Mayo Clinic-LP
200 First Street, S.W., Hilton 530
Rochester, MN 55905
507-284-8626

Medlab Clinical Testing, Inc.-L
212 Cherry Lane
New Castle, DE 19720
800-633-5221

Mercy Health Lab-Mercy Fitzgerald Hospital-L
Lansdowne Avenue and Bailey Road
Darby, PA 19023
610-237-4175

Mercy Hosptial Lab-L
Pride and Locust Streets
Pittsburgh, PA 15219
412-232-7831

National Medical Services-LP
3701 Welsh Road
Willow Grove, PA 19090
215-657-4900

Omega Medical Laboratories, Inc.-L
2001 State Hill Road, Suite 100
Wyomissing, PA 19610
610-378-1900

Pacific Toxicology Laboratories-LP
1545 Pontius Avenue
Los Angeles, CA 90025
310-479-4911

Pennsylvania Department of Health-LP
Bureau of Laboratories
P. O. Box 500
Exton, PA 19341-0500
610-363-8500

Public Health Laboratory City of Philadelphia-L
500 South Broad Street
Philadelphia, PA 19146
215-685-6811

Quest Diagnostics Incorporated-LP
One Malcolm Avenue
Teterboro, NJ 07608
201-288-0900

Quest Diagnostics of PA, Inc.-LP
875 Greentree Road
Four Parkway Center
Pittsburgh, PA 15220-3610
412-920-7600

Quest Diagnostics of Pa., Inc.-LP
900 Business Center Drive
Horsham, PA 19044
215-957-9300

Quest Diagnostics, Inc.-LP
33608 Ortega Highway
San Juan Capistrano, CA 92690
714-728-4000

Reading Hospital and Medical Center-L
6th and Spruce Streets
Reading, PA 19603
610-378-6080

SmithKline Beecham Clinical Laboratories-LP
400 Egypt Road
Norristown, PA 19403
610-631-4200

SmithKline Bioscience Laboratories-LP
7600 Tyrone Avenue
Van Nuys, CA 91405
818-376-6259

Specialty Laboratories-L
2211 Michigan Avenue
Santa Monica, CA 90404
310-828-6543

St. Joseph Quality Medical Laboratory-L
215 North 12th Street, Box 316
Reading, PA 19603
610-378-2200

Tamarac-P
7000 South Broadway, Suite 2C
Littleton, CO 80122
303-794-1083

Toxi-Con Laboratories-LP
120 Monahan Avenue, Suite 101
Dunmore, PA 18512
717-963-0722

University of Pittsburgh Medical Center-LP
Room 5929 CLSI MT
200 Lothrop Street
Pittsburgh, PA 15213-2582
412-647-7813

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 98-90. Filed for public inspection January 16, 1998, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Intent to Seek Regulatory Approval

This is a notice of intent by the Department of Labor and Industry, Asbestos/Lead Section, to seek approval from the United States Environmental Protection Agency (EPA) of Pennsylvania's Lead Occupation Accreditation and Certification Program.

Written comments concerning this intent to seek approval may be submitted to Sharon Lawson, Administrator, Asbestos/Lead Section, 7th and Forster Streets, Room 155E, Harrisburg, PA 17120. Comments must be received on or before February 17, 1998. If the Department receives written comments, a public hearing will be scheduled for March 11, 1998, at 10 a.m., in Room 162E, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA.

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 98-91. Filed for public inspection January 16, 1998, 9:00 a.m.]

Public comments may be made by contacting Patricia H. O'Neal, Director, Bureau of Policy, Office of Income Maintenance, Room 431, Health and Welfare Building, Harrisburg, PA 17120.

Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800) 654-5988 (Voice users).

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 98-92. Filed for public inspection January 16, 1998, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Increase in the Food Stamp Heating and Nonheating Standard Utility Allowances

Regulations at 55 Pa. Code § 501.7(a)(2) establish the amounts for the heating and nonheating standard utility allowances (SUAs) for the Food Stamp Program and provide for the revision of these amounts by publication of a notice in the *Pennsylvania Bulletin*. Increases in these allowances have been approved by the Food and Consumer Service of the United States Department of Agriculture and are effective October 1, 1997.

The heating and nonheating SUAs are established in accord with the requirements of 7 CFR 273.9(d)(6)(iii) and (iv). The Department of Public Welfare is increasing the heating SUA from \$278 to \$289 and the nonheating SUA from \$153 to \$158.

The Department of Public Welfare recommends these revisions for codification in 55 Pa. Code § 501.7(a)(2).

DEPARTMENT OF REVENUE

Alternative Fuels Conversion Factors January 1, 1998 through December 31, 1998

Under 75 Pa.C.S. § 9004(d) the Secretary of Revenue is required to compute the rate of tax applicable to each alternative fuel on a gallon-equivalent basis. Under 75 Pa.C.S. § 9002 "gallon-equivalent basis" is defined as the "amount of any alternative fuel as determined by the Department to contain 114,500 BTUs." The amount determined on a "gallon-equivalent basis" for each alternative fuel is subject to the liquid fuels and oil company franchise taxes currently imposed on one gallon of gasoline. The rate of tax on 1 gallon of gasoline during the period of this notice is \$.12 liquid fuels tax and \$.139 oil company franchise tax for a total tax of \$.259 per gallon of gasoline.

The Secretary of Revenue announces that effective January 1, 1998 through December 31, 1998 the following conversion factors shall be used to determine the gasoline gallon-equivalents for alternative fuels with the units of measure as indicated:

<i>Alternative Fuel</i>	<i>BTU Content of Alternative Fuel for Unit of Measure Indicated</i>	<i>Conversion Factor for Gasoline Equivalent Gallon @ 114,500 BTU per Gallon</i>
Ethanol	76,400/gal	1.499 gal
Methanol	56,560/gal	2.024 gal
Propane/LPG	83,500/gal	1.371 gal
E-85	105,545/gal	1.085 gal
M-85	65,350/gal	1.752 gal
Compressed Natural Gas (CNG)	29,000/gal @ 3,000 PSI	3.948 gal
	or	
	909.4/scf	125.907 scf
	or	
	20,551/lb	5.572 lb
Liquefied Natural Gas (LNG)	66,640/gal	1.718 gal
Electricity	3,412/KWH	33.558 KWH

To convert any volume of an alternative fuel to gasoline equivalent gallons divide the volume for the applicable unit of measure by the conversion factor shown above.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-93. Filed for public inspection January 16, 1998, 9:00 a.m.]

Pennsylvania Leprechaun Loot 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 Leprechaun Loot.

2. *Price:* The price of a Pennsylvania Leprechaun Loot instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Leprechaun Loot instant lottery game ticket will contain one play area featuring one "Lucky Symbol" area and four "Your Symbol" areas. The play symbols and their captions located in the play area are: Rainbow Symbol (RNBOW), Pot of Gold Symbol (GOLD), Cane Symbol (CANE), Horseshoe Symbol (HRSHOE), Hat Symbol (HAT), Mushroom Symbol (MSHROM), Coin Symbol (COIN), Castle Symbol (CASTLE), Pipe Symbol (PIPE), Leprechaun Symbol (LPRCHN) and Emerald Symbol (EMRLD).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$3⁰⁰ (THREE DOL), \$7⁰⁰ (SVN DOL), \$12\$ (TWLV DOL), \$17\$ (SNTN DOL), \$28\$ (TWYEGT), \$84\$ (EGTYFOR) and \$317 (THHNSNTN).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$7, \$12, \$17, \$28, \$84 and \$317. The player can win up to four times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Leprechaun Loot instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$317 (THHNSNTN) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$317.

(b) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$84\$ (EGTYFOR) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$84.

(c) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$28\$ (TWYEGT) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$28.

(d) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$17\$ (SNTN DOL) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$17.

(e) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$12\$ (TWLV DOL) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(f) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$7⁰⁰ (SVN DOL) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(g) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$3⁰⁰ (THREE DOL) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(h) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$2⁰⁰ (TWO DOL) appears under the matching "Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(i) Holders of tickets where any one of the "Your Symbol" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$1⁰⁰ (ONE DOL) appears under the matching "Your Symbol" 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:

Match Any Of Your Symbols To The Lucky Symbol With Prize(s) Of:	Win	Approximate Odds	Approximate No. of Winners Per 4,800,000 Tickets
\$1	\$1	1:8.11	592,000
\$2	\$2	1:15	320,000
\$1 x 3	\$3	1:50	96,000
\$1 + \$2	\$3	1:100	48,000
\$3	\$3	1:150	32,000
\$2 x 2 + \$3	\$7	1:500	9,600
\$2 x 3 + \$1	\$7	1:500	9,600
\$7	\$7	1:750	6,400
\$2 + \$3 + \$7	\$12	1:750	6,400
\$3 x 4	\$12	1:750	6,400
\$2 x 2 + \$1 + \$7	\$12	1:750	6,400
\$12	\$12	1:1,500	3,200
\$1 x 2 + \$3 + \$12	\$17	1:750	6,400
\$3 + \$7 x 2	\$17	1:750	6,400
\$17	\$17	1:1,500	3,200
\$3 + \$17 + \$7 + \$1	\$28	1:4,000	1,200
\$12 x 2 + \$2 x 2	\$28	1:4,000	1,200
\$28	\$28	1:6,000	800
\$28 x 3	\$84	1:12,000	400
\$84	\$84	1:24,000	200
\$317	\$317	1:40,000	120

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Leprechaun Loot 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 Leprechaun Loot, prize money from winning Pennsylvania Leprechaun Loot 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 Leprechaun Loot 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 Leprechaun Loot or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-94. Filed for public inspection January 16, 1998, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

[Correction]

An error occurred at 27 Pa.B. 6867 (December 27, 1997). The correct version is being printed here.

Notice is hereby given that the Department of Transportation, pursuant to 71 P. S. § 513(e)(7), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcel 35-South Union Township, Fayette County. This parcel contains 1.969 acres or 85,769.64 square feet of unimproved land situated along the westerly side of State Route 0040, and the easterly side of State Route 8008, Ramp C of the Uniontown ByPass, just southeast of State Route 3021 (Hopwood-Fairchance Road) in the Village of Hopwood, Pennsylvania. Estimated Fair Market Value is \$67,600.00.

It has been determined that the land is no longer needed for present or future transportation purposes.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to: Michael H. Dufalla, P.E., District Engineer, Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, Pennsylvania 15401.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-2094. Filed for public inspection December 26, 1997, 9:00 a.m.]

Finding

Cumberland County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to construct improvements to S. R. 0015 (U. S. Route 15) in Upper Allen Township, Cumberland County.

U. S. Route 15 is a four lane divided highway that serves as a principal north/south arterial radiating from the Harrisburg area. Lisburn Road (S. R. 2004), a two lane State Highway, intersects with U. S. Route 15 approximately 1 mile north of the Cumberland/York County

line. Traffic flow at the intersection is controlled with overhead traffic signals. Left turn lanes are in the median of U. S. Route 15 (Northbound and Southbound) and a left turn lane exists on eastbound Lisburn Road.

The Preferred Alternative for the project is the construction of a grade separated, diamond interchange at the existing signalized intersection of U. S. Route 15 and Lisburn Road. This includes the construction of bridges to carry U. S. Route 15 over Lisburn Road and raising U. S. Route 15 through the project area. The alignment of Lisburn Road will not change. Approximately 1,600 feet of Cockley's Drive will be realigned and extended to the east. Local roads which currently have direct access to U. S. Route 15 in the project area will be terminated with cul-de-sacs and/or curbing. Rider Lane will be extended approximately 1,700 feet to maintain access to Mill Road. Two retaining walls are proposed to minimize impacts to Rolo Court, a mobile home park, and Park Ridge, a townhouse community.

No adverse environmental effect is likely to result from the proposed roadway improvements.

BRADLEY L. MALLORY
Secretary

[Pa.B. Doc. No. 98-95. Filed for public inspection January 16, 1998, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
11-130	Insurance Department Notices of Increase in premium and Midterm Cancellation or Nonrenewal of Policies	1/5/98
11-141	Insurance Department Miscellaneous	1/5/98
11-148	Insurance Department Credit Life Insurance, Credit Accident and Health Insurance and Credit Unemployment Insurance	1/5/98
15-371	Department of Revenue Tax Amnesty Program; Further Examination of Books and Records	1/5/98
7-318	Environmental Quality Board Oil and Gas Amendments	1/7/98

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-96. Filed for public inspection January 16, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of August V. Miller, Inc. Under Act 143; The Cincinnati Insurance Company; Doc. No. AT97-12-019

The request for review is granted and the scheduled day for review shall be held on February 19, 1998 at 11 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

The Cincinnati Insurance Company shall provide this office within 15 days a copy of the agency/company contract currently in effect. 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 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,
Insurance Department

[Pa.B. Doc. No. 98-97. Filed for public inspection January 16, 1998, 9:00 a.m.]

Agency Contract Termination of C. C. Young Insurance Agency, Inc. Under Act 143; Lakeland Mutual Insurance Company; Doc. No. AT97-12-017

The request for review is granted and the scheduled day for review shall be held on January 22, 1998, at 11 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

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 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,
Insurance Commissioner

[Pa.B. Doc. No. 98-98. Filed for public inspection January 16, 1998, 9:00 a.m.]

Agency Contract Termination of Edward L. Kavar Insurance, Inc. Under Act 143; Westfield Companies; Doc. No. AT97-12-020

The request for review is granted and the scheduled day for review shall be held on February 12, 1998 at 10 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

Westfield Companies shall provide this office within 15 days the loss ratio for agencies located in the same territory as Edward L. Kavar Insurance, Inc. 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 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,
Insurance Commissioner

[Pa.B. Doc. No. 98-99. Filed for public inspection January 16, 1998, 9:00 a.m.]

Agency Contract Termination of Patrick J. Boland Under Act 143; USF&G; Doc. No. AT97-12-018

The request for review is granted and the scheduled day for review shall be held on February 17, 1998 at 11 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

USF&G shall provide this office within 15 days the loss ratio for agencies located in the same territory as Patrick J. Boland 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 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,
Insurance Commissioner

[Pa.B. Doc. No. 98-100. Filed for public inspection January 16, 1998, 9:00 a.m.]

Application and Request for Plan Approval of a Mutual-To-Stock Conversion

Provident Mutual Life Insurance Company, a Pennsylvania domiciled mutual life insurance company, has submitted a Plan of Conversion which provides for conversion from a mutual life insurance company to a stock life insurance company and for the formation of a stock and a mutual holding company. The filing was made under the Mutual-to-Stock Conversion Act (40 P. S. § 911-A et seq.).

Interested persons wishing to comment on the filing whether on grounds of public or private interest are invited to submit written comments to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the person submitting the comment; identification of the filing to which the comment is addressed; and a concise statement in sufficient detail to inform the Insurance Department of the nature of the comment. Written comments should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, FAX (717) 787-8557, or on the Internet using <http://www.csmith@ins.state.pa.us>.

Persons wishing to obtain a copy of the filing may 1) contact the Insurance Department at the address shown above, or 2) contact James Potter, Provident Mutual Life Insurance Company, 1050 Westlakes Drive, Berwyn, PA 19312-2419, (610) 407-1502, FAX (610) 407-1379, or on the Internet using <http://www.providentmutual.com>.

A public informational hearing will be scheduled in early March, 1998. The exact date and location will be announced when scheduled.

M. DIANE KOKEN,
Insurance Department

[Pa.B. Doc. No. 98-101. Filed for public inspection January 16, 1998, 9:00 a.m.]

Highmark Inc. d/b/a Highmark Blue Cross Blue Shield and Keystone Health Plan West, Inc. Filing No. A1-Select-97-WP or Insurance Department Filing No. A15051001

Highmark Inc. d/b/a Highmark Blue Cross Blue Shield and Keystone Health Plan West, Inc. has filed with the Pennsylvania Insurance Department Addendum Form #WP-A1Select(97) to the Managed Care Hospital Agreement Form WP-2HA(95). The Addendum will be offered to select hospitals in counties served by Highmark Blue Cross Blue Shield/Keystone Health Plan West. Hospitals receiving this addendum agree to participate as providers in the new "Select Network" products to be offered by Highmark Blue Cross Blue Shield/Keystone Health Plan West. These products include both a Health Maintenance Organization (HMO) and Point of Service (POS) option. The "Select Network" is a new option for group customers that will create and utilize a smaller, more restrictive provider network than currently utilized by Highmark Inc. for these products. The filing number to reference for this filing is No. A1-Select-97-WP or Pennsylvania Insurance Department No. A15051001. The filing consists of seven pages.

Copies of the filing are available for public inspection on Monday, Wednesday and Friday, by appointment, during normal working hours at the Insurance Department's Offices in Harrisburg and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Richard Stoner, CLU, Insurance Department, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-102. Filed for public inspection January 16, 1998, 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 Yolanda Z. Bermudez; file no. 97-198-07783; Cigna Insurance Company; doc. no. P98-01-001; February 11, 1998, 1 p.m.;

Appeal of Kevin C. Clark; file no. 97-181-07771; Donegal Mutual Insurance Co.; doc. no. P98-01-002; February 18, 1998, 10 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 partici-

pate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-103. Filed for public inspection January 16, 1998, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no such documents have been received. For questions concerning or copies of documents filed, but not published, please call (717) 783-1530.

Governor's Office

Management Directive No. 205.25—Disability-Related Employment Policy—Amended December 17, 1997.

Management Directive No. 230.15—Continental United States High Cost Subsistence Allowances—Revision No. 1—Dated December 12, 1997.

Management Directive No. 720.3—Guidelines for Responding to and Reporting Bombs, Bomb Threats, and Related Incidents—Amended December 17, 1997.

Administrative Circular No. 97-38—Availability of State Surplus Real Property for Transfer to Commonwealth Agencies—Delaware County—Dated December 3, 1997.

GARY R. HOFFMAN,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 98-104. Filed for public inspection January 16, 1998, 9:00 a.m.]

PENNSYLVANIA COUNCIL ON AGING

Meeting Dates for 1998

In accordance with the Sunshine Act of 1986 (P. L. 388, No. 84), the Pennsylvania Council on Aging has established the following meeting dates for the calendar year 1998:

- Wednesday January 7, 1998
- Wednesday March 4, 1998
- Wednesday May 6, 1998
- Wednesday July 8, 1998
- Wednesday September 2, 1998
- Thursday October 29, 1998

All meetings of the Pennsylvania Council on Aging, except the October 29, 1998 meeting will be held in the Fifth Floor Conference Room, 555 Walnut Street, Harris-

burg, PA. Meetings are from 9 a.m. to 1 p.m. Contact the Pennsylvania Council on Aging at (717) 783-1924 for the location of the October 29, 1998 meeting.

Persons with a disability who wish to attend the above-listed meetings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Velma Carter-Dryer, Executive Director at (717) 783-1924 to discuss how the Pennsylvania Council on Aging may best accommodate their needs.

VELMA E. CARTER-DRYER,
Executive Director

[Pa.B. Doc. No. 98-105. Filed for public inspection January 16, 1998, 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 February 9, 1998, 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 right to begin to operate as a broker for the transportation of persons as described under each application.

A-00114536. C & G Tours, Inc. (11122 Old Trail Road, Irwin, Westmoreland County, PA 15642), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons and their baggage between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-00111548. F.2. Primo Limousine Company, Inc. (3100 Penn Avenue, Pittsburgh, Allegheny County, PA 15201), a corporation of the Commonwealth of Pennsylvania—additional right—persons in group and party service, between points in the counties of Armstrong, Butler, Beaver, Lawrence, Washington, Westmoreland, Somerset and Fayette, and from points in the county of Allegheny, to points in the counties of Armstrong, Butler, Beaver, Lawrence, Washington, Westmoreland, Somerset and Fayette, and return. *Attorney:* Bernard J. Sweer, 2510 Lawyers Building, Pittsburgh, PA 15219.

A-00112763. Folder 2. Eastern Medical Ambulance Inc. (813 Water Street, Meadville, Crawford County, PA 16335), a corporation of the state of Ohio—additional right—persons in paratransit service, between points in

the county of Crawford and from points in said county, 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 as common carriers for transportation of persons as described under each application.

A-00114535. Showtime Limousine, Inc. (2900 Oley Turnpike Road, Apartment C-9, Reading, Berks County, PA 19606), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in the counties of Berks, Chester and Lancaster, and from points in said counties to points in Pennsylvania, and return. *Attorney:* Richard T. Mulcahey, Jr., 1400 Two Penn Center, Philadelphia, PA 19102-1890.

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 Pennsylvania 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 February 2, 1998.

- A-00114551 William Atkins, t/a Atkins Auto Transport
2440 Lone Lane, Lebanon, PA 17046
- A-00114552 Good Transport Services, Inc.
P. O. Box 469, Columbia, PA 17512-0469
- A-00114553 Chester B. Burkholder, Inc.
898 North State Street, Ephrata, PA
17522
- A-00114554 Roland Woodall, t/a Woodall Trucking
R D #3, Box 609 C, Charleroi, PA 15022:
Jack Bergstein, 409 Schoonmaker Avenue,
Monessen, PA 15026
- A-00114555 Jim Nadik Trucking, Inc.
1064 Clinton-Frankfort Road, Clinton, PA
15026; George A. Baillie, 336 South Main
Street, Burgettstown, PA 15021-1006
- A-00114556 Leda, Inc.
410 East Lincoln Avenue, Myerstown, PA
17067
- A-00114559 Robert W. Eder, t/a Eder Trucking
1167 1/2 Camp Nancy Road, Apollo, PA
15613
- A-00114560 Marathon Ashland Petroleum, LLC
539 South Main Street, Findlay, OH
45840; Tom Evans, 539 South Main
Street, Findlay, OH 45840
- A-00114561 J. E. Herring, t/a J. E. Herring Motor Com-
pany
286 Neilan Road, Somerset, PA 15501:
Jon A. Barkman, 116 North Center,
Somerset, PA 15501
- A-00114562 Kent M. Reigel, t/a KMR Trucking
1924 Thompson Avenue, Jonestown, PA
17038; David H. Radcliff, 3905 North
Front Street, Harrisburg, PA 17110
- A-00114563 Ameritruck Refrigerated Transport, Inc.
597 Salem Road, Etters, PA 17319; John
P. Neblett, McNees, Wallace & Nurick,
100 Pine Street, P. O. Box 1166, Harris-
burg, PA 17108-1166
- A-00114564 Right Way Transportation, Inc.
P. O. Box 6097, Harrisburg, PA 17112:
Ken Wise/Ron Butler, 126 Locust Street,
Harrisburg, PA 17102

A-00114565 Webb Trucking, Inc.
39 Wooded Run Drive, Dillsburg, PA
17019; James D. Campbell, Jr., Caldwell
& Kearns, 3631 North Front Street, Har-
risburg, PA 17110-1533

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-106. Filed for public inspection January 16, 1998, 9:00 a.m.]

**Sewer Service
Without Hearing**

Doc. No. A-230010 F2000. Ag-Mar Sewer, Inc. Appli-
cation of Ag-Mar Sewer, Inc., for approval of 1) the
transfer of all the property and rights of Ag-Mar Sewer,
Inc., to Foster Township, and 2) the abandonment and
discontinuance of service to the public, in whole, by
Ag-Mar Sewer, Inc.

This application may be considered without a hearing.
Protests or petitions to intervene can be filed with the
Pennsylvania Public Utility Commission, Harrisburg,
with a copy served on the applicant on or before February
2, 1998, under 52 Pa. Code (relating to the public utili-
ties).

Applicant: Ag-Mar Sewer, Inc., *Through and By Coun-
sel:* Albert F. Maier, Jr., Esquire, 820 Main Street,
Freeland, PA 18224.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-107. Filed for public inspection January 16, 1998, 9:00 a.m.]

Telecommunications

**A-310513 F0002. North Pittsburgh Telephone
Company and Sprint Spectrum L.P., d/b/a Sprint
PCS.** Joint Application of North Pittsburgh Telephone
Company and Sprint Spectrum L.P., d/b/a Sprint PCS for
approval under section 252(e) of the Telecommunications
Act of 1996 of their Landline/CMRS Transport and Termi-
nation Agreement.

North Pittsburgh Telephone Company and Sprint Spec-
trum L.P., d/b/a Sprint PCS, by its counsel, filed on
December 23, 1997, at the Pennsylvania Public Utility
Commission (Commission), a Joint Application for ap-
proval of an Interconnection Agreement under section 252
of the Telecommunications Act of 1996.

Interested parties may file comments concerning the
application and agreement with the Secretary, Pennsylv-
ania Public Utility Commission, P. O. Box 3265, Harris-
burg, PA 17105-3265. Comments are due on or before 20
days after the date of publication of this notice. Copies of
the North Pittsburgh Telephone Company and Sprint
Spectrum L.P., d/b/a Sprint PCS Joint Application are on
file with the Commission and are available for public

inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-108. Filed for public inspection January 16, 1998, 9:00 a.m.]

Telecommunications

A-310424 F0002. The United Telephone Company of Pennsylvania and 360° Communications Company. Application of The United Telephone Company of Pennsylvania and 360° Communications Company for approval of a Commercial Mobile Radio Services Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania and 360° Communications Company, by its counsel, filed on December 23, 1997, at the Pennsylvania Public Utility Commission (Commission), an application for approval of a CMRS 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 United Telephone Company of Pennsylvania and 360° Communications Company Joint Application are on file with the Commission and are available for public inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-109. Filed for public inspection January 16, 1998, 9:00 a.m.]

PORT OF PITTSBURGH COMMISSION

Request for Proposals

The Port of Pittsburgh Commission requests proposals from qualified contractors to promote barge transportation and to represent the trade interests of the Commission in Monterrey, Mexico. Interested parties may receive copies of the Request for Proposals by calling the Port of Pittsburgh Commission at (412) 442-5204 and requesting RFP #PPC-980212. Written proposals will be accepted at the Commission's office at 503 Martindale St., 5th Fl., Pittsburgh, PA 15212 until 1 p.m., Thursday, February 12, 1998.

JAMES R. MCCARVILLE,
Executive Director

[Pa.B. Doc. No. 98-110. Filed for public inspection January 16, 1998, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17108:

February 4, 1998	Tohshik Choi (Death Benefit)	10:30 a.m.
February 4, 1998	James J. Reynolds (Graduate Assistant)	1 p.m.
February 11, 1998	Thomas L. Basinger (Multiple Service)	1 p.m.
February 11, 1998	William C. Uricchio (Benefit Reduction)	2:30 p.m.
February 18, 1998	Patricia A. Graham (Service Purchase)	1 p.m.
February 25, 1998	Bonnie Stephens (deceased) (Agency Debt deduction from benefit payment to spouse)	2:30 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.01, (relating to applicability of general rules), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code Part II unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 98-111. Filed for public inspection January 16, 1998, 9:00 a.m.]

TREASURY DEPARTMENT

Request for Proposals

The Treasury Department of the Commonwealth of Pennsylvania will be accepting proposals to provide 1) master custody services for the domestic and global portfolios of the Commonwealth of Pennsylvania; 2) safe-keeping services for physical assets held by the Treasury Department through its subcustodian bank; and 3) securities lending programs, in accordance with the written policies of the Funds. Interested parties may receive a copy of the request for proposals by contacting the Treasury Department at (717) 772-5441. Proposals in response to this request will be accepted no later than 12

noon on Friday, February 13, 1998. Late proposals will not be considered.

BARBARA HAFER,
State Treasurer

[Pa.B. Doc. No. 98-112. Filed for public inspection January 16, 1998, 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. 86-024-RE65-C—General Construction for rehabilitation and expansion of toll plaza, utility building, roadway, structures and lighting for the Breezewood Int. in East Providence Township, Bedford, PA.

Bid Opening Date—February 24, 1998, 1 p.m.

Contract No. 86-024-RE66-C—Plumbing Work

Bid Opening Date—February 24, 1998, 1:30 p.m.

Contract No. 86-024-RE67-C—Electrical Work

Bid Opening Date—February 24, 1998, 2 p.m.

Contract No. 86-024-RE68-C—Heating, Ventilation and Air Conditioning

Bid Opening Date—February 24, 1998, 2:30 p.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies of the desired Plans, Cross-sections, and Contract Bid Documents may be purchased upon payment by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. Selection of the desired materials should be by the following designations with proper respective remittance. (Do not add State Tax). a) Roadway Plans: including roadway complete with traffic control, pavement marking, signing, landscaping, roadway lighting, erosion and sedimentation, drainage and subsurface cross-sections—\$115; b) Plaza Building Plans: Complete Plaza Area Plans and Building Plans for General Contracts. (Structural and Architectural), Plumbing, Electrical and HVAC Contracts, along with Toll Booth Plans—\$55; c) Cross Sections—\$30; d) Structure Plans—\$20.00; e) Specifications, Contract Bid Documents and Commission Standard Drawings—\$25; Total Package—\$245.

A mandatory prebid meeting for the project will be on February 5, 1998. The meeting will be held at the Ramada Inn, Breezewood, PA 15533, (814)735-4005 beginning at 10 a.m.

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 listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-113. Filed for public inspection January 16, 1998, 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

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.
- ③ Contract Information
- ④ Department
- ⑤ Location
- ⑥ Duration
- ⑦ (For Commodities: Contact: Vendor Services Section 717-787-2199 or 717-787-4705)

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, *"Frequently Asked Questions About State Contracts,"* explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

- 0007-01** Annual Contract—Fine paper.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 4710-01** Annual Contract—Corrugated polyethylene pipe.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 6830-02** Annual Contract—Gases, commercial.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 6850-04** Annual Contract—Antifreeze preparations.
Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7110-01** Annual Contract—Filing equipment, visible.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7125-01** Annual Contract—Shelving, PA Liquor Store.
Department: All Using Agencies
Location: Various
Duration: 06/01—05/31
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7485-02** Annual Contract—Laser and ink jet printer supplies.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7510-10** Annual Contract—Office supplies.
Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7530-08** Annual Contract—Pads and tablets, recycled paper.
Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 7920-01** Annual Contract—Cleaner, toilet bowl.
Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: 06/01—05/31
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 8415-01** Annual Contract—Gloves, work.
Department: All Using Agencies
Location: Various
Duration: 06/15—06/14
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 8415-06** Annual Contract—Uniforms, school.
Department: Scotland School for Veteran's Children
Location: Scotland, Franklin County, PA
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 8430-02** Annual Contract—Boots, rain and slush.
Department: All Using Agencies
Location: Various
Duration: 06/01—05/31
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 8920-06** Annual Contract—Nonperishable food.
Department: All Using Agencies
Location: Various
Duration: 06/01—05/31
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 9135-05** Annual Contract—Aviation fuel.
Department: Transportation and State Police
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 9905-02** Annual Contract—Delineation devices with Stimsonite/Safehit.
Department: Transportation
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 9905-09** Annual Contract—Delineation devices.
Department: All Using Agencies
Location: Various
Duration: 05/01—04/30
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 9905-13** Annual Contract—Traffic signs.
Department: Transportation
Location: Various
Duration: 05/15—05/14
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199
- 1576117** Construction and building materials—1 lot galvanized fence and posts.
Department: Corrections
Location: Waynesburg, Greene County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1613117 Construction and building materials—1 lot fence for the State Correctional Institution at Cresson. Bid is for material only.

Department: Corrections
Location: Cresson, Cambria County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8504200 Construction and building materials—1 each box, precast; precast concrete box culvert.

Department: Transportation
Location: Gettysburg, Adams County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1620117 Metal working machinery—1 each punch press; hydraulic system adjustable stroke length controls. Ref: Scotchman Hydraulic Punch Model 2450M.

Department: Corrections
Location: Camp Hill, Cumberland County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1407137 Motor vehicles, trailers and cycles—1 each 1998 model cab and chassis w/omnibus body and wheelchair spaces.

Department: Military and Veterans Affairs
Location: Hollidaysburg, Blair County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1617117 Prefab structures and scaffolding—2 each precast concrete buildings, price to include delivery and unloading into customer specified site.

Department: Corrections
Location: Coal Township, Northumberland County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1623077 Promotional items—34,600 each picture frame style magnet, approximately 3 3/4" x 3", frame white w/lettering in Pantone 260 and black.

Department: Health
Location: Harrisburg, Dauphin County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

SERVICES

Computer Related Services—08

L&I—01-98 Lease: lease of 18 personal computers with software.

Department: Labor and Industry
Location: Pennsylvania Labor Relations Board, Room 1601 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, Dauphin County, PA 17120
Duration: 3 years
Contact: Donna A. Sallie, Procurement Manager, (717) 787-2560

SPC No. 317999 Data processing service to provide a daily transmission of bankruptcy filing information for all cases filed in this Commonwealth. Transmission of specific data elements in a database compatible file within 5 days of availability at court. Provider to transmit sequencing reports on a weekly basis. Email address: shannon@revenue.state.pa.us

Department: Revenue/Compliance
Location: Strawberry Square, 9th Floor, Harrisburg, PA 17128
Duration: March 01, 1998—June 30, 1999 with option to renew by mutual agreement
Contact: Sean Hannon, (717) 772-1955

Construction—09

AE-4091 Construction of a wooden material storage structure. Fax (717) 783-7971.

Department: Transportation
Location: Stockpile No. 14, Industry, 13 Engle Road, Beaver County, PA
Duration: 120 calendar days, proposed bid February 1998
Contact: Tina Chubb, (717) 787-7001

FM087397—02 Resurface roadway: The scope of work for this project covers the supplying of all labor, tools, equipment, building materials and appurtenances to repair and install new paving on Spruce/Azalea Drives. Contractor must visit site.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: March 1, 1998 to June 30, 1998
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

Contract No. DGS A940-50 Project title: Emergency Generator. Brief description: Work consists of the installation of emergency generator and electrical system for fuel system and garage doors. Electrical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-6556. Bid date: Wednesday, February 11, 1998, at 2 p.m. A prebid conference has been scheduled for Wednesday, January 21, 1998 at 10 a.m. at 22nd and Forester Streets near the Fuel Dispensing System, Harrisburg, PA. Contact: Fred Zmitrovich at (717) 783-2291.

Department: General Services
Location: 22nd and Forester Streets Building, Harrisburg, Dauphin County, PA
Duration: 150 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Environmental Maintenance Services—15

OSM 14(4563)101.1 Abandoned mine reclamation, Blackbear Run West involves approximately 2,100,000 c. y. of grading, 6,590 c. y. of channel installation and 187 acres of revegetation. One Hundred Percent (100%) of this project is financed by the Federal Government. Federal Funds available for this program total \$20 million for Pennsylvania's 1996 AML Grant.

Department: Environmental Protection
Location: Rush Township, Centre County, PA
Duration: 400 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

Food—19

7002 Meat and meat products.

Department: Military Affairs
Location: Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, P. O. Box 319, Hollidaysburg, PA 16648
Duration: March 1998
Contact: Becky Clapper, Purchasing Agent, (814) 696-5210

98 CI Breeding Breeding, a formulated wheat flour dough, baked and sized to the appropriate granulation. Breeding to be used for beef, fish and pork. Batter, a dry blend of ingredients for beef, fish and pork. Pre-dust for the beef, fish and pork products. Samples will be supplied at the time of bidding.

Department: Corrections
Location: Bureau of Correctional Industries, Meat Processing Plant at State Correctional Institution Camp Hill, Camp Hill, PA 17001-8837
Duration: 1 year
Contact: Linda Malinak, (717) 975-4931

98 CI Casing 30 mm Collagen for fresh products. Approximately 360,000 feet for the next 12 months.

Department: Corrections
Location: Bureau of Correctional Industries Meat Processing Plant at State Correctional Institution Camp Hill, Camp Hill, PA 17001-8837
Duration: 1 year
Contact: Linda Malinak, (717) 975-4931

98-006 The contractor shall provide a dispenser and related items to serve juice blends as needed. The contractor will install and maintain all equipment.

Department: Corrections
Location: Training Academy, 1451 North Market Street, Elizabethtown, PA 17022-1299
Duration: 1-3 years
Contact: Ruth Nagy, (717) 367-9070

CRE-FS-0213 Processed meats (beef/pork products)—Frankfurters (all beef and turkey franks); beef livers, sliced; turkey ham; turkey salami (no pork products); bologna (all beef); hams, various; Polish sausage; ground veal breaded patties, frozen and similar items as required. Quarterly bids—monthly deliveries. Bid proposal on file within agency prior to quarterly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0214 Liquid eggs/egg products—quarterly bids—monthly awards—monthly deliveries. Quantities as required. Bid proposals on file within agency prior to quarterly bid solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0215 Dry beans—various types—baby limas; blackeyed peas; pinto beans and other related items as required. Quarterly bids—monthly awards—monthly deliveries. Bid proposal on file within agency prior to solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0216 Ice cream/coffee creamers/cottage cheese/ice tea—quarterly bids—monthly awards. Ice cream, vanilla and Neapolitan slices, sherbet, ice cream sandwiches and similar items as required (no pork products). Coffee creamers, 1/2 ounce size, cottage cheese, large curd; iced tea (1/2 pint containers)—all in quantities as needed. Bid proposal on file within agency prior to quarterly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0217 Cheese—consisting of yellow white American cheese, shredded mozzarella, provolone, swiss and various block cheeses and related items as required. Quarterly bids—monthly awards—monthly deliveries. Quantities as needed. Bid proposals on file within agency prior to quarterly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0218 Poultry and poultry products—approximate requirements: turkey roasts; chicken drumsticks; chicken breast fillets; turkeys (as required) and similar items as required. Quarterly bids—monthly awards—monthly deliveries. Quantities and items as required. Bid proposal on file within agency prior to quarterly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0219 Fish and seafood—approximate requirements—haddock; batter dipped cod; pollock as required and similar items as required. Tuna, solid water packed (when not available from Statewide Contract). Quarterly bids—monthly awards—monthly deliveries. Quantities and items as required. Bid proposal on file within agency prior to monthly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0220 Baking products—to consist of, but not limited to: pizza shells; tacos; taco seasonings; baking soda; baking powder; yeast; various extracts; sauces (soy, pizza, worchestershire); lemon juice, caraway seeds; sesame seeds; icing fruits; flour (whole wheat, all purpose, rye); assorted purees; parsley flakes; various baking chips; oleo margarine; oil; shortening and other related items as required. Bid proposal on file in agency Purchasing Department. Bid on quarterly basis.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0221 Frozen vegetables—food group consisting of broccoli spears; cauliflower; lima beans; carrots; mixed vegetables; French fried potatoes; tater tots; peas and similar items as required. Quarterly bids—monthly deliveries—monthly awards. Bid proposal on file within agency prior to quarterly solicitation.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

CRE-FS-0222 Fresh produce—food group consisting of approximately 15-25 items, monthly bids—monthly contract awards—weekly deliveries. Garlic, lettuce, red salad mix, celery, cucumbers, carrots, oranges, apples, potatoes, onions, mushrooms, kale, spinach, bananas, cabbage, grapefruit, tomatoes, peppers and similar items including watermelon, tangerines, cantaloupe, and the like. Bid proposal on file within agency prior to monthly solicitation. All produce must be delivered by 9:30 a.m. on scheduled delivery dates.

Department: Corrections
Location: State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630
Duration: July 1, 1998 to June 30, 1999
Contact: Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

Janitorial Services—23

FM-42 Janitorial service to include daily emptying of wastebaskets, sweeping and mopping all tile floors or vacuum carpets, wash walls, dust furniture, polish chrome fixtures, wash windows inside and outside plus semi-annual house cleaning at the PA State Police, Honesdale Station, R. D. 2, Box 191, Honesdale, PA 18431. Detailed work schedule and bid must be obtained from facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Honesdale Station, R. D. 2, Box 191, Honesdale, PA 18431
Duration: April 01, 1998 to June 30, 2001
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

Lodging/Meeting—27

IFB 98-001 Lodging/meeting and food services—facilities needed for a 3 day conference. Facility to be located within 100 mile radius of Harrisburg, PA.

Department: State
Location: Facility located within 100 mile radius of Harrisburg, PA
Duration: April 28 through 30, 1998
Contact: Heidy M. Weirich, (717) 783-7223

SPC No. 344302 Contractor will provide lodging, meals (breakfast/lunch/dinner/a.m. and p.m. breaks), meeting rooms and ancillary equipment for training/scoring sessions to be held in Central, PA. Contractor should bid on one, two or all of the following meetings: Meeting No. 1 April 21—24 for 101 participants; Meeting No. 2 April 28—May 1 for 52 participants; and Meeting No. 3 September 15—18 for 125 participants. Quiet/well lighted/spacious meeting facilities are mandatory. All sites will be subject to inspection prior to contract award.

Department: Education
Location: Central, PA
Duration: April 1, 1998—September 30, 1998
Contact: Diann Kitner, (717) 783-2862

Medical Services—29

97-07-04 The Department of Health needs to develop medical expertise in the areas of Chronic Diseases, Infectious Diseases, Obstetrics/Gynecology, Addiction Medicine, Psychiatry/Neurology, Neonatology, Pediatric Medicine, Pathology and Epidemiology. The Department is soliciting bids to provide the part-time services of a team of qualified physicians to serve in the capacity of medical services consultant. The physicians must be affiliated with a hospital, a medical facility and/or a medical school. The bidder must collectively be able to provide services of at least 200 hours per year.

Department: Health
Location: Harrisburg, PA
Duration: July 1, 1998—June 30, 2001
Contact: Office of Public Health Programs, (717) 787-9857

260227 Medicinal oxygen cylinder service to include all labor and material necessary to test, repair and refill medical cylinders as requested by Mayview State Hospital. Vendors can call (412) 257-6215 to request bid specifications.

Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: July 01, 1998 to June 30, 2003
Contact: F. Molisee, Purchasing Agent, (412) 257-6215

300939 Optometry vision services: To provide on-site vision service to the patients at Harrisburg State Hospital, including history, visual acuity, trial frame refraction and other related optometry vision services. Contractor must provide equipment to provide necessary services.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: March 1, 1998 to June 30, 2001, a period of 3 years and 4 months
Contact: Jack W. Heinze, Purchasing Agent III, (717) 772-7435

Property Maintenance—33

11097017 Graffiti removal from metal, concrete, stone and various other surfaces as required.

Department: Transportation
Location: Engineering District 11-0, Various locations within Allegheny, Beaver and Lawrence Counties, PA
Duration: April 01, 1998 through March 31, 1999 with renewal options
Contact: Brad Saxton, (412) 429-4948

11097018 This work consists of furnishing a trimmerlift unit, equipment, personnel, liability insurance and traffic protection equipment necessary for removal and trimming of trees and woody roadside vegetation. The work shall be along various roads in Allegheny, Beaver and Lawrence Counties and shall be bid and paid for by the mile.

Department: Transportation
Location: Engineering District 11-0, Throughout Maintenance District 11-1, 11-2 and 11-4, Allegheny, Beaver and Lawrence Counties
Duration: April 01, 1998 through March 30, 1999 with renewal options
Contact: Joe DiPietro, (412) 429-4954

11097019 Mowing and landscape maintenance services. This work consists of grass mowing, trimming, fertilization and herbicide applications at a pair of Safety Rest Areas in Lawrence County along SR 79.

Department: Transportation
Location: Engineering District 11-0, Sites located in I-79, Plain Grove Township, 2 miles north of Slippery Rock Interchange
Duration: April 01, 1998 through March 31, 1999 with renewal options
Contact: Joe DiPietro, (412) 429-4954

060204 Perform repairs to the salt domes and salt buildings that belong to PennDOT in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties. Do repairs on damaged and/or broken wood including structure bracing, replace outside shingles, paint exterior wood, wash walls and coat with linseed oil, repair or replace skylights, seal building leaks, install aluminum flashing, replace broken rain spouts, repair sill plates and replace soffits.

Department: Transportation
Location: PennDOT Stockpiles in District 6-0 (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)
Duration: May 1, 1998 to April 30, 1999 (possible four 1 year renewals)
Contact: Charles Stone, (610) 964-6520

46-8-001 To provide preventive maintenance service and repairs to overhead doors and related operating hardware. Requests for bid packages can be requested via FAX at (717) 783-4438 (Attn: Carla Crist).

Department: Transportation
Location: 17th Street and Arsenal Boulevard, Harrisburg, PA 17120
Duration: 2 years with one 2-year renewal
Contact: Carla Crist, (717) 787-2335

Real Estate Services—35

43A State Owned Property for Rent Commonwealth of Pennsylvania. The Department of General Services will accept requests for information and bidding packets concerning the rental of approximately 36 acres of farmland, at the Robert Fulton Birthplace, U. S. Route 22, R. D. 1, Quarryville, PA, Fulton Township, Lancaster County. Requests for information and bidding packages are due by 3 p.m., January 21, 1998. Solicitation No. 43.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Stephen J. Squibb, (717) 783-0228

44A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Labor and Industry with 2,675 useable square feet of new or existing office space, in Doylestown, Bucks County, PA, with minimum parking for 13 vehicles, within the following boundaries: North: Ferry Road; West: Park Avenue to Route 152 (Limekiln Pike) to Route 202 to Bristol Road; South: Route 263 (Old York Road); East: Route 413 to Danboro—Point Pleasant Pike to Ferry Road. Proposals due: March 16, 1998. Solicitation No.: 92608.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1997-98
Contact: Jennings K. Ward, (717) 787-4394

45A State Owned Property For Sale—Reduced Price Warren Army. The Department of General Services will accept sealed bids for the purchase of the Warren Army. Persons wishing to make a bid should contact Lloyd Colegrove. Request for bids will be accepted until February 17, 1998. Solicitation No. 45.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Lloyd D. Colegrove, (717) 772-0538

0500-R/W SR 222-001 Real Estate Appraiser to complete appraisals on various types of properties identified on plans related to the reconstruction or improvement of SR 222-001 in Berks County. The appraisals will be subject to an extensive review process. Persons submitting bids must be on the Department of Transportation prequalified list of Fee Appraisers and have the proper certification, for example Residential/General and the like for the various appraisals to be completed. Properties to be appraised are located in Cumru, Spring Township, Berks County.

Department: Transportation
Location: R/W District 5-0, Appraisals to be delivered to: Presnell Associates, Inc., 8 Morgan Drive, Sinking Spring, PA 19608
Duration: First appraisals to be completed and submitted within 30-60 days
Contact: Thomas Redding-Presnell Associates, Inc., (610) 603-0201

S. R. 0422-JUG Real Estate Fee Appraisals of selected properties as delineated on the official highway R/W plan S. R. 0422-JUG; known as the Shelbourne Road Interchange Improvement, Exeter Township, Berks County. Bidding Fee Appraisers must be on PennDOT pre-approved list and be in compliance with The Commonwealth Contractor Responsibility Program.

Department: Transportation
Location: R/W 5-0, 2460 Parkwood Drive, Allentown, PA 18103
Duration: 1997-2002
Contact: Ken Kipp, Chief Appraiser, (610) 791-6010

Miscellaneous—39

015-4420 Vendor to provide maintenance on one Xerox Model 5090, Serial W81-083759, located in Room B-05, Health and Welfare Building, Harrisburg, PA for the 1 year period beginning February 1, 1998 and ending January 31, 1999.

Department: General Services
Location: Room B-05, Health and Welfare Building, Harrisburg, PA
Duration: 12 months
Contact: Dorothy Ozio, (717) 787-2001

[Pa.B. Doc. No. 98-114. Filed for public inspection January 16, 1998, 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
1425217-01	01/05/98	Bellco Drug Corporation	46,138.32
1426117-01	01/05/98	Security Fence Co., Division of Genie Electronics	22,167.90
1478217-01	01/05/98	Bellco Drug Corporation	54,253.75
2310-02	01/07/98	Phillips Ford Sales	3,424,310.00
2310-02	01/07/98	Warnock Motor Sales d/b/a Warnock Chevrolet, Inc.	2,446,550.00
2310-02	01/07/98	Frederick Chevrolet/Cadillac/Buick	9,844,087.00
2310-02	01/07/98	K & H Ford, Inc.	747,121.00
2310-02	01/07/98	Cumberland Truck Equipment Company	27,480,121.00
2310-02	01/07/98	Five Star International	5,147,845.00

Requisition or Contract #	Awarded On	To	In the Amount Of
2310-02	01/07/98	Manheim Chrysler Plymouth GMC Truck	32,135,905.00
2310-02	01/07/98	Griffin Motors Company	5,171,850.00
2310-02	01/07/98	Register Chevrolet, Inc.	21,802,350.00
2310-02	01/07/98	Hoffman Ford Sales, Inc.	10,625,065.00
2310-02	01/07/98	Elizabethtown Dodge	18,609,100.00
3830-09	01/15/98	Fink Company	125,156.00
3830-09	01/15/98	Monroe Truck Equipment, Inc.	115,106.00
8084780-01	01/05/98	Geiger Bros Midatlantic	8,200.00
9140-04	12/22/97	United Refining Company	254,468.00
9140-04	12/22/97	BP Oil Company	507,443.72
9140-04	12/22/97	Griffith Oil	140,795.60

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-115. Filed for public inspection January 16, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY [34 PA. CODE CHS. 122, 123, 127 AND 131] General Provisions of Act 57 of 1996

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), by this order, adopts the following amendments to clarify and provide detailed guidance for the uniform application of the act of June 24, 1996 (P. L. 350, No. 57) (Act 57), which amended the Workers' Compensation Act (act) (77 P. S. §§ 1—2626). Chapter 123 is known as the General Provisions—Part II regulations. In addition, as Act 57 abrogated the reconsideration stage of the utilization review (UR) process, the Department, by this order, deletes and amends certain portions of Chapter 127 (relating to workers' compensation medical cost containment). Specifically, the Department deletes §§ 127.501—127.515 (relating to UR—reconsideration). The Department also deletes language throughout Chapter 127 which references both the initial and reconsideration stages of UR. Additionally, the Department amends § 127.105 (relating to outpatient providers subject to the Medicare fee schedule—chiropractors) due to changes in the Medicare fee schedule relating to the reimbursement of chiropractic treatment. The procedural code A2000 under the Medicare Fee Schedule has been repealed and replaced effective January 1, 1997; therefore, reimbursement of chiropractors is to be governed by the new procedure codes. Further, the Department amends the following sections: § 127.252 (relating to application for fee review—filing and service) to incorporate the statute of limitations imposed on providers wishing to file applications for Medical Fee Review under Act 57; § 127.452 (relating to request for UR—filing and service) to clarify the identity of the provider under review when a UR request is filed; § 127.751 (relating to employer's option to establish a list of designated health care providers); § 127.752 (relating to contents of list of designated health care providers); and § 127.755 (relating to required notice of employe rights and duties). The amendments to §§ 127.751, 127.752 and 127.755, incorporate the amendments of Act 57 which permit the inclusion of four Coordinated Care Organizations (CCOs) on the employer's list of designated providers and which require an employe to treat with an employer-designated provider for 90 days, and which may require continued treatment for an additional 90 days when an employer-designated physician recommends invasive surgery for the employe and the employe chooses to follow an alternative course of treatment. Further, as Act 57 created new provisions regarding the automatic request for supersedeas and the return-to-work suspension/modification, the Department also adds the supersedeas provisions of Chapter 131, Subchapter C (relating to formal proceedings).

Statutory Authority

These amendments are adopted under the authority provided in sections 401.1 and 435 of the act (77 P. S. §§ 710 and 991) which provide that the Department will adopt regulations which are necessary or desirable for the enforcement of the act and which are reasonably calculated to provide interested parties with notice of their

rights under the act. These amendments are adopted under the additional authority of section 204(d) of the act (77 P. S. § 71(d)), which charges the Department with establishing regulations which govern the offset of workers' compensation benefits by amounts received in unemployment compensation, Social Security (old age), severance and pension benefits.

Background

On June 24, 1996, Governor Tom Ridge signed into law Act 57, which substantially amended the act. The amendments are intended to combat the rising costs of workers' compensation in this Commonwealth while protecting the right of employes to be adequately compensated for their work-related injuries. Among the amendments are provisions which allow an executive officer of a nonprofit corporation to elect not to be an employe for the purposes of workers' compensation coverage, provisions which allow the offset of workers' compensation benefits from certain amounts received from Social Security (old age), severance and pension benefits, and provisions which require that in order for an employer's spouse or child to be deemed an employe for purposes of workers' compensation coverage, an employer of agricultural labor shall file an express written contract for hire with the Department. The amendments also call for the abrogation of the reconsideration stage of the UR process and the placement of time limitations on health care providers wishing to file applications for Medical Fee Review. The amendments also require that an employe's earning power be determined by expert opinion, and that the Department establish the qualifications of vocational experts to conduct earning power assessment interviews. Further, Act 57 provides for an impairment rating evaluation after an employe's receipt of 104 weeks of total disability compensation, unless otherwise agreed to by the parties. If the impairment rating is less than 50% under the "AMA Guides to the Evaluation of Permanent Impairment," the employe's benefit status shifts from total to partial disability with benefits capped at 500 weeks.

Act 57 establishes an automatic request for supersedeas when a petition alleging an employe's full recovery is filed accompanied by a physician's affidavit to that effect. Act 57 added two sections to the act which address situations in which employes who have returned to work are receiving both wages and workers' compensation benefits. These sections call for the suspension or modification of benefits after notice and an affidavit are submitted which allege that the employe has returned to work. Act 57 also places new reporting requirements on employes who file for (or are receiving) compensation under section 306(a) or (b) of the act (77 P. S. §§ 511 and 512). Employes are required to regularly report amounts received from unemployment compensation, Social Security (old age), severance and pension benefits. Additionally, employes are required to report information regarding employment and self-employment, as well as any other information which is relevant in determining the entitlement to or amount of compensation. Further, insurers are permitted to submit forms to employes in order for employes to provide verification that the employes' status regarding their entitlement to receive workers' compensation benefits has not changed.

Act 57 also created an informal conference procedure to expedite the workers' compensation adjudication process, and a process by which employers and employes may enter into Compromise and Release Agreements which

may extinguish the employer's liability for a work-related injury. Act 57 also permits an employer and the recognized or certified exclusive representatives of its employees to collectively bargain over specified issues relating to workers' compensation in order to facilitate the resolution of claims. In an effort to promote workplace safety and reduce employee injuries and employer costs, Act 57 granted a 5% premium discount to employers with Department-certified safety committees for a maximum period of 5 years.

Act 57 amended section 306(f.2) of the act by transferring the authority for certification of CCOs from the Department of Health to the Department. Accordingly, the Department will develop procedures and issue an application form for CCO certification. CCOs currently certified by the Department of Health will continue to be certified until the new procedures for CCO certification are published in the *Pennsylvania Bulletin*. Section 31.2 of Act 57 provides that the regulations promulgated by the Department of Health under section 306(f.2)(7) of the act (77 P. S. § 511.2(f.2)) shall be deemed regulations of the Department. The Department intends to operate under the existing statement of policy published by the Department of Health in 28 Pa. Code Chapter 9, Subchapter B (relating to coordinated care organizations—statement of policy).

Upon the passage of Act 57, the Department commenced a major effort to promulgate comprehensive regulations which would implement Act 57. In this effort, the Department has drawn upon the expertise of both the public officials responsible for the act's administration and the private parties affected by the system. Consequently, the Department has published several documents regarding the promulgation of regulations for Act 57. As early as August of 1996, the Department published a notice at 26 Pa. B. 3979 (August 17, 1996), to which the Department received various written and verbal comments regarding the interpretation of various provisions of Act 57. Additionally, consistent with the Governor's policy in Executive Order 1996-1, the Department has sought out and consulted with stakeholders affected by the passage and implementation of Act 57. Any group which expressed interest in meeting with the Department's Act 57 regulatory committee was afforded the opportunity to do so. In addition to the stakeholders, the Department convened and considered the comments and suggestions made by members of the Pension and Independent Medical Examination (IME) Task Forces, as well as the section 450 subcommittee to the Governor's Committee on Labor-Management Partnerships, organized to lend interpretive guidance on the implementation of sections 204, 306(a.2) and 450 of the act respectively.

After consideration of the comments made by the stakeholder groups, the Department published a statement of policy at 27 Pa. B. 1731 (April 5, 1997) to provide interpretive guidance to all parties of their rights and obligations under Act 57. The statement of policy was written in the spirit of implementing the Legislative intent of achieving the greatest cost savings in amounts paid in workers' compensation premiums, benefits payments and litigation costs, while preserving the right of employees to be adequately compensated for their work-related injuries. The statement of policy invited all interested parties to provide written comments to the Bureau. Written comments were given thorough consideration by the Department in drafting the proposed amendments.

At 27 Pa. B. 3141 (June 28, 1997), the Department published the notice of proposed rulemaking, again invit-

ing all interested parties to provide written comments to the Department regarding the Department's interpretation of Act 57. As a result, the Department received comments from the following groups and individuals: David H. Wilderman, Pennsylvania AFL-CIO; Gerard W. Langan, O'Malley & Langan, P.C.; John Cerilli, Buchanan Ingersoll, P.C.; Thomas C. Baumann, Abes Baumann, P.C.; Christina T. Novajosky, O'Malley & Langan, P.C.; Timothy Conboy, Caroselli Spagnolli & Beachler, LLC; Stephen J. Bosacco, M.D., Pennsylvania Orthopaedic Society; Thomas H. Malin, M.D., Chairman, Workers' Compensation Committee of the Pennsylvania Orthopaedic Society; H. Elton Blenden; Lorrie McKinley, Community Legal Services, Inc.; Mark A. Clukey, D.C., Clukey Chiropractic & Rehab.; Steven A. Bennett, American Insurance Association Law Department; John G. DiLeonardo and J. Kent Culley, Tucker Arensberg, P.C.; Victor F. Greco, M.D., President, Pennsylvania Medical Society; Lois S. Hagarty, Pepper Hamilton & Scheetz, LLP; Martha J. Hampton, Galfund Berger Lurie Brigham Jacobs Swan Jurewicz Jensen, Ltd. - as Chair of the Workers' Compensation Section Regulations Committee of the Pennsylvania Bar Association; Roy M. Love, D.C., President of the Pennsylvania Chiropractic Association; Vince Phillips, Vice President for Government Affairs for the Independent Insurance Agents of Pennsylvania; Jay Elliot Shor, Lawrence Levin and Joseph DeRita, Shor, Levin & DeRita, P.C.; Charles S. Katz, Jr., Swartz, Campbell & Detweiler; Fred H. Hait, McGraw, Hait & Deitchman; Mary Anne O'Malley, O'Malley & Langan, P.C.; Samuel R. Marshall, The Insurance Federation of Pennsylvania Inc.; Stuart W. Benson, III, Pietragallo Bosick & Gordon; Anthony J. Bilotti, Duane Morris & Heckscher LLP; Stephen J. Harlen, Swartz, Campbell & Detweiler; and Thomas E. Lucas, Jr., O'Malley & Langan, P.C. The Department also received written comments from the Independent Regulatory Review Commission (IRRC), by means of a letter dated August 27, 1997.

This notice of final rulemaking supplants and further clarifies and expands upon the previous interpretation of Act 57 provided in the notice of proposed rulemaking. In response to comments received, some changes have been made to the previously published interpretation.

Purpose

The purpose of these amendments is to implement Act 57. The amendments in sections 204; 306(a.2), (b)(2) and (3), (f.1)(1)(i) and (5); 311.1; 402.1; 413(a.1), (c) and (d); and 450 were intended to curtail the escalating costs associated with work-related injuries, while preserving the right of injured workers to be adequately compensated for their work-related injuries. Generally, these cost savings are effectuated through the offset of workers' compensation benefits by amounts received by employees in unemployment compensation, Social Security (old age), severance and pension benefits; the abrogation of the reconsideration stage of the UR process and the placement of time limitations on health care providers for the filing of applications for Medical Fee Review; the addition of an impairment rating evaluation after the employee's receipt of 104 weeks of total disability benefits, unless otherwise agreed to, in order to determine the percentage of whole body impairment; the addition of new employee reporting requirements; the allowance of collective bargaining over certain issues relating to workers' compensation benefits; and the compromise and release of claims.

Since the passage of Act 57, interested parties have expressed their desire for the expeditious promulgation of regulations to provide definitive interpretation and guid-

ance, so that all parties have a clear understanding of their rights and obligations under the Act 57 amendments. These amendments provide the guidance needed to ensure consistent application and compliance with Act 57.

Affected Persons

Those affected by these amendments are all private and public sector employers in this Commonwealth, workers' compensation insurance carriers, self-insured employers, health care providers and injured workers.

Fiscal Impact

There is no significant fiscal impact associated with this final rulemaking. Although Act 57 required the creation of new Departmental forms for public use, significant costs are not expected. Furthermore, any costs to the regulated community associated with the implementation of these amendments will be offset by the expected savings of Act 57's amendments. Cost savings to the regulated community are estimated at over \$225 million for the first policy year which commenced on February 1, 1997. Additionally, any costs to the Commonwealth will be offset by the savings experienced by the Commonwealth as a self-insured employer.

Response to Comments

The following addresses the common areas of concerns found in the comments received from the public and IRRC.

1. *Offset of Benefits*

Section 123.2 (relating to definitions) of the proposed rulemaking contains the definition of a "multi-employer pension plan." Commentators question whether the definition excludes multiple-employer plans created by trade and employe associations. The definition of "multi-employer pension plan" does exclude these other plans, because typically the funds paid into plans created by trade and employe associations for any individual employe are paid by a single employer. In contrast to these plans, the multi-employer pension plans governed by § 123.10 (relating to multi-employer pension fund offsets) involve employes whose pensions are funded by contributions from more than one employer. The term "multi-employer pension plan" is intended to have the same meaning as found within the Employee Retirement Income Security Act of 1974 (ERISA). Any question regarding the usage of the term and its applicability to a particular plan is governed by the ERISA definition.

Section 123.4(a) (relating to application of the offset, generally) of the proposed rulemaking provided that the offset of workers' compensation benefits shall only apply with respect to amounts of unemployment compensation, Social Security (old age), severance and pension benefits received subsequent to the work-related injury. IRRC, as well as other commentators, believe that the provision should specify that the offset is applicable "subsequent to date of disability"—their concern apparently being that, absent the specification of "disability," the offset may be viewed as accumulating during a period in which the employe is not receiving an indemnity benefit. However, the Department has determined that no change to the language is required for this section. As a general matter, the date of injury is the date which fixes the rights and duties of the parties under the act. Further, the language, as proposed, is consistent with the language in section 204(c) of the act which requires that the employe report the receipt of unemployment compensation, Social Secu-

rity (old age), severance and pension benefits "which post-date the compensable injury under the act."

Section 123.4(b) of the proposed rulemaking provided that at least 15 days prior to taking the offset, the insurer shall notify the employe that the workers' compensation benefit will be offset. The rationale for requiring notice in this section is to ensure that employes have sufficient time in which to financially plan for any offset. Because the bulk of compensation benefits are paid biweekly, it was determined that the 15-day period provided adequate notice, allowing insurers to include the notice with a scheduled biweekly check. At the suggestion of IRRC and other commentators, the Department has determined that the notice requirement will be changed from 15 to 20 days in order to remain consistent with other notice and filing provisions of the act.

Section 123.4(d) of the proposed rulemaking required that the insurer provide a copy of Form LIBC-761, "Notice of Workers' Compensation Benefit Offset," to the employe, employe's counsel, if known, and the Department. This section further provides that the "insurer's burden is met if it provides evidence that the form was mailed to the employe, at the employe's last known address, by first-class mail." IRRC and other commentators argue that the Department's use of the above-quoted language creates an irrebuttable presumption of the claimant's receipt of the form. The Department has, in the interest of clarity, revised the language of this section to reflect the statutorily prescribed procedures for serving notices and forms under section 406 of the act.

Sections 123.4(e) and 123.5(d) (relating to offset for benefits already received) of the proposed rulemaking provided that an employe may challenge an offset to the workers' compensation benefit by filing a Petition for Review with the Department. IRRC, as well as other commentators, question the lengthiness of this procedure. IRRC specifically suggested that the Department adopt an expedited hearing procedure, similar to that found in section 413(c) and (d) of Act 57, which provides the employe with the opportunity to challenge the return to work suspension/modification, by means of a "check-off box" on the notification form. Although the Department does not adopt IRRC's proposal, the Department does agree that the challenge of the offset should be afforded special consideration. Therefore, the Department has amended LIBC-378, the "Petition to" form, to include a Petition to review offset. While the regulation has not included any expedited procedures, the Department intends to implement internal operating procedures which will expedite the processing of these challenges.

Section 123.6(c) (relating to application of offset for Unemployment Compensation (UC) benefits) of the proposed rulemaking provided that an insurer "may" be required to repay the employe for amounts previously offset from workers' compensation benefits when an employe calculates and remits payments for amounts due in Federal, State and local taxes for the receipt of unemployment compensation benefits. IRRC, as well as other commentators, opined that the use of the permissive term "may" indicates that the insurer would have the option, as opposed to the duty, to reimburse the employe. In the interest of clarity, the Department has changed the term "may" to "shall." Further, IRRC and others suggested that the Department explain the manner by which an employe should seek reimbursement from the insurer. Because parties routinely handle reimbursements to employes without the need for regulation, that is, for travel-related and medical expenses, the Department has determined that there is no need to regulate this issue.

Some commentators suggested that the Department erred in providing an offset based upon the "net" benefit in § 123.6 of the proposed rulemaking. These commentators suggested that the tax treatment of benefits which may be calculated toward an offset of workers' compensation benefits is irrelevant and should not be the subject of regulation. This would result, however, in granting the employer an entitlement to the offset regardless of whether the employe must later pay taxes on the sum. Although the Department disagrees with this analysis, the Department does concur in the suggestion of IRRC and others that the provision in § 123.6(c) for reimbursement where the employe has paid Federal, State and local taxes on amounts which had previously been used to calculate an offset, should be applicable to all the offset provisions. Accordingly, the Department has amended proposed § 123.4 to include subsection (f), which allows reimbursement of sums paid in taxes for unemployment compensation, Social Security (old age), severance or pension benefits if the offset was calculated on the pretax amount. In the interest of consistency, the Department has vacated the language of § 123.6(c) which references only unemployment compensation.

Sections 123.5(b), 123.6(e) and 123.11(c) (relating to application of offset for severance benefits) of the proposed rulemaking contain formulas for determining offset amounts on future payments of workers' compensation when an employe receives a lump-sum award in unemployment compensation, Social Security (old age) and severance benefits. IRRC, the Pennsylvania Trial Lawyers' Association and the Workers' Compensation Section Regulations Committee of the Pennsylvania Bar Association have challenged the formulas contained in the proposed regulations. These commentators assume that, if a Social Security (old age), severance or unemployment compensation benefit is received on a weekly basis and the amount of the weekly offset exceeds the amount of the weekly indemnity benefit, the difference is not subject to the offset. They deduce, therefore, that if the unemployment compensation, Social Security (old age), severance and pension offset results in a lump-sum payment, the proposed regulation, which provided that the offset amount be divided by the weekly compensation rate, permitted insurers to receive a greater offset than would have occurred if the same benefit were received on a weekly basis. This interpretation of the offset provisions of Act 57 is without support in the language of the act. The Department, therefore, consistent with Act 57, interprets section 204(a) of the act to mean that any offset calculated on a weekly basis in excess of the weekly workers' compensation rate shall accumulate as a credit toward the future payment of workers' compensation benefits. Therefore, the calculation for all offsets, whether achieved on a weekly basis or in a lump sum, will yield an offset equal to the amount which is eligible to be calculated as an offset.

Finally, there appears to be some confusion over certain terms utilized in §§ 123.3—123.11 which were not specifically defined. The Department has determined that no definitions are necessary, as 1 Pa.C.S. § 1903 (relating to words and phrases) provides that nontechnical words shall be construed according to their common usage.

2. Impairment Ratings

Section 123.102(b) (relating to IRE requests) of the proposed rulemaking allowed an impairment rating evaluation (IRE) to be performed prior to the expiration of 104 weeks of total disability when agreed to by the parties. IRRC, as well as several other commentators,

expressed the belief that no statutory authority exists for this position. However, the Department, in drafting this regulation, finds support in the express language of section 306(a.2)(1) of the act, which provides "when an employe has received total disability compensation pursuant to clause (a) for a period of one hundred four weeks, unless otherwise agreed to, the employe shall be required to submit to a medical examination which shall be requested by the insurer within sixty days upon the expiration of the one hundred four weeks to determine the degree of impairment due to the compensable injury, if any." (emphasis added) The text of the statute does not contain any restrictions with regard to whether an employe may have the IRE performed prior to the expiration of the 104 weeks, if the parties so agree. Accordingly, the Department has made no change to this section.

IRRC, as well as several other commentators, expressed concern regarding § 123.102(a) of the proposed regulations which permits an insurer to request an impairment rating 60 days prior to the expiration of the employe's receipt of 104 weeks of total disability benefits. The confusion regarding this provision has led the Department to amend the final regulation to reflect that the request for the performance of the IRE may not occur prior to the expiration of the employe's receipt of 104 weeks of total disability benefits, unless otherwise agreed to by the parties.

Section 123.102(h) of the proposed rulemaking provided that an employe's failure to attend the IRE under this section may result in a suspension of the employe's right to benefits consistent with section 314 of the act (77 P. S. § 651). IRRC expressed the opinion that this section allows an insurer to unilaterally suspend benefits if the employe fails to attend the IRE. IRRC further suggested that the regulation should be clarified to point out that the benefits may only be suspended in "accordance with the procedures" of section 314 of the act. It is the Department's position that the language as written does, in fact, require the insurer to act in accordance with the provisions of section 314 of the act. However, the Department has determined that the addition of the term "provisions" would add clarity to the language of the section.

Section 123.104(a) (relating to initial IRE; designation of physician by Department) of the proposed rulemaking provides that when parties are unable to reach agreement on a physician to perform an impairment rating evaluation, the parties may request that the Department appoint such a physician. IRRC, as well as other commentators, asked that the Department clarify this provision so that either party may request that the Department designate a physician. The Department, however, declines to embrace this position, instead stating in § 123.104 that only the insurer may request that the Department designate the IRE physician and that the Department's duty to designate an IRE physician pertains only to the initial IRE. Additionally, the Department has revised § 123.104 to clarify that the parties are not required to attempt to reach agreement on who should be the evaluating physician prior to requesting designation by the Department.

Section 123.105(a) (relating to impairment rating determination) of the proposed rulemaking provided that the IRE physician, chosen by the parties or designated by the Department, must render an impairment rating determination after conducting an IRE, unless the evaluating physician indicates on the "Impairment Rating Determination Face Sheet" that the impairment of the employe is

not subject to being rated under the most recent edition of the "AMA Guides to the Evaluation of Permanent Impairment." IRRC, as well as others, expressed concern that the proposed regulation did not specify the outcome if the physician does not assign an impairment rating percentage. IRRC specifically suggested that the Department regulate the outcome in such cases.

The Department has determined, however, that no regulation is required because the language of Act 57 expressly controls the outcome if an IRE physician does not assign a percentage rating. Section 306(a.2) of the act describes the outcome if an IRE determination results either in an impairment rating equal to or greater than 50%, or in an impairment rating less than 50%. It is, therefore, axiomatic that if no rating is assigned, the outcomes described in section 306(a.2) of the act are inapplicable.

3. *Qualification of Vocational Experts*

Several commentators, as well as IRRC, noted that the organizations listed for certification of vocational evaluators in the proposed rulemaking are incorrectly named. Accordingly, the Department has amended the regulations to properly identify the certification organizations for vocational evaluators. Commentators also expressed concerns that the qualifications are unnecessarily broad and inadequate to insure the proper qualifications for vocational evaluators. However, the Department maintains that the regulation, as proposed, will promote professionalism within the vocational evaluation field, while at the same time ensuring affordability and accessibility of vocational evaluators to employes and employers alike. As in any other instance of adjudication, all credibility determinations remain the province of the workers' compensation judge.

IRRC noted that the phrase "direct supervision," as used in § 123.202 (relating to qualifications), is confusing and suggests that, in the interest of clarity, the Department define the phrase. However, the Department has determined that this term may be interpreted according to its common usage and, therefore, further definition of the phrase is not needed.

4. *Verification Form and Reporting Requirement*

Section 123.501 (relating to reporting requirement) of the proposed rulemaking provided that the insurer provide the employe with the forms required to fulfill the employe's reporting and verification requirements. IRRC, as well as others, expressed their belief that proposed use of the term "shall" exceeded the statutory authority of section 311.1(d) of the act (77 P. S. § 631.1(d)), which states that the insurer "may" submit a verification form to the employe. However, the commentators' reading of the regulation does not incorporate the employe's duty to return the form sent by the insurer and the serious consequences for the employe's failure to do so. The regulation, as proposed, preserved the insurer's option to send the verification form to the employe while ensuring that, if the insurer intends to exercise the right to suspend an employe's workers' compensation benefits for failure to return the form, the insurer must first have provided the form to the claimant.

Section 123.502 (relating to verification) of the proposed rulemaking contained provisions for verification of an employe's employment status and change in physical condition. IRRC, as well as other commentators, raised several concerns with this section. The initial concern is with regard to the manner in which an insurer's burden of proof with respect to sending the form to the claimant

is to be met. As with § 123.4(d), the Department has amended this section to provide that the verification form, if mailed, may be served on the employe in accordance with section 406 of the act.

Section 123.502(d)(1) of the proposed rulemaking provided that Form LIBC-762, "Notice of Suspension for Failure to Return LIBC-760" indicate that the employe failed to return the form within the statutorily prescribed time period. IRRC recommended that, in the interest of clarity and providing notice to the employe, the statutorily prescribed time period be included in the "Notice of Suspension for Failure to Return LIBC-760." Accordingly, § 123.502(d)(1) and the corresponding form have been amended to include language that the employe must return Form LIBC-760, "Employee Verification of Employment, Self-Employment, or Change in Physical Condition," within the "30-day statutorily prescribed time period."

Section 123.502(d)(2) of the proposed rulemaking, which stated that the workers' compensation benefit shall be reinstated by the insurer within 15 days of receipt of the completed verification form, raised some concern with IRRC, as well as other commentators. Specifically, the commentators assumed that the language extended the insurer's suspension for a period of 15 days beyond the date the form was returned. The Department's inclusion of the 15-day period in which to reinstate benefits was for the sole purpose of providing a reasonable period in which an employer may process the reinstatement of benefits, beginning from the date the employe returned the form. However, the Department has, in the interest of clarity, deleted the 15-day requirement of this section.

IRRC and other commentators express concern with regard to the provision of § 123.502(f) which provided that employes forfeit the right to payment of indemnity benefits during periods of noncompliance with the verification reporting requirements. IRRC and others, contend that the forfeiture of benefits in this context is contrary to Act 57 and its Legislative intent. In particular, IRRC suggested that the Legislature's use of the term "suspension" should be interpreted as a "temporary postponement of benefits." It should be noted that a "temporary postponement of benefits" is a concept foreign to the Pennsylvania workers' compensation system; in contrast, the term "suspension" has an established meaning within the practice of workers' compensation case law and within other sections of the act, that is, sections 314 and 413(c) and (d) of the act, which confirm that the term "suspension" as used in this section has no other interpretation except that the employe has permanently forfeited the right to compensation. Accordingly, no change has been made to this section.

5. *Disposition of Automatic Request for Supersedeas*

Section 123.601(c), as proposed, stated that a workers' compensation judge shall approve the request for supersedeas if prima facie evidence of a change in the medical status or of any other fact which would serve to modify or terminate the payment of compensation is submitted at the hearing. This provision is found in section 413(a.1) of Act 57. As pointed out by IRRC and several commentators, section 413(a.1) of Act 57 further provides "unless the employe establishes, by a preponderance of the evidence a likelihood of prevailing on the merits of his defense." The commentators have indicated and the Department concurs, that the language of the regulation should reflect the language of Act 57 which establishes the employe's opportunity to rebut the prima

facie evidence presented by the insurer. Accordingly, the Department incorporates this additional language in the final-form rulemaking.

It should be noted that Subchapter G of the proposed rulemaking in §§ 123.601—123.603 provided for the procedures surrounding the disposition of the automatic request for supersedeas under section 413(a.1) of the act (77 P. S. § 774.2) and the disposition of the employee's request for special supersedeas hearing in connection with the return to work suspension/modification of section 413(c) and (d) of the act (77 P. S. §§ 774.2 and 774.3). After further review of these sections and of comments received, the Department has determined that the procedures for the disposition of these supersedeas requests are more appropriately addressed under the Special Rules of Administrative Practice and Procedure Before Referees contained in Chapter 131. Therefore, Subchapter G of the rulemaking is now codified under Chapter 131 in §§ 131.49—131.51. As a result, the remaining sections of the rulemaking, that is, informal conferences and optical scanning, have been renumbered under Subchapters G and H respectively.

6. *Informal Conferences*

Section 123.701 of the proposed rulemaking stated that a corporation may be represented by an agent or other representative of the corporation other than an attorney, at an informal conference. Commentators have asserted that the language provided for the unauthorized practice of law. IRRC recommended that the language be amended to mirror the language of Act 57. In the alternative, IRRC recommends that the section be deleted in its entirety. The Department has determined that § 123.701, as written, clarifies that the informal conference is not an adversarial proceeding and that participation is optional. As such, the representation of a corporation by an attorney at the informal conference is neither required by law nor is representation the unauthorized practice of law. Furthermore, the codification of existing law in this regard promotes the use of this section. The Department maintains that the language, as proposed, fulfills the intent of this section; however, in the interest of clarity the Department has amended this section to more precisely reflect the provisions of section 402.1 of Act 57.

7. *Unreasonable or Excessive Delay*

Section 123.901 of the proposed rulemaking stated that a delay of 10 or more days shall be presumed to be an unreasonable or excessive delay. IRRC and others expressed concern that the creation of such a "presumption" would require judges to find that an unreasonable or excessive delay had occurred after the expiration of 10 days. Although the Department provided the 10-day period as a means to lend uniformity to determinations of unreasonable or excessive delay, by establishing an expectation for the time in which an insurer may accomplish the administrative steps to fulfill duties under the act, the commentators expressed unanimous opposition to this provision. The Department has decided that § 123.901 should be deleted. As in the past, a finding of unreasonable and excessive delay is within the discretion of the workers' compensation judge.

Reporting, Recordkeeping and Paperwork Requirements

A number of forms were necessary to implement and interpret Act 57 and to implement the provisions of this final-form rulemaking. Some of these forms were created under the explicit instructions of Act 57, while others were designed to effectively implement Act 57, from a practical, administrative standpoint. The following is a list of new forms and a short explanation of their origin:

1. Form LIBC-756, "Employee's Report of Benefits," and Form LIBC-750, "Employee Report of Wages (Other Than Workers' Compensation Benefits Received)," were created under section 204(d) of the act, which requires that the Department prepare forms necessary to enforce the requirements of that section. Form LIBC-756 is to be used when the employee is required to report the receipt of benefits subject to section 204(c) of the act and Form LIBC-750 is to be used when the employee is required to report wages under sections 204(c) and 311.1 of the act. These forms are required by the express language of section 204 of the act.

2. Form LIBC-761, "Notice of Workers' Compensation Benefit Offset," was also created under section 204(d) of the act. This form is to be used by the insurer when notifying an employee that the employee's benefits are to be offset under section 204 of the act.

3. Form LIBC-766, "Request for Designation of a Physician to Perform an Impairment Rating Evaluation," was created to meet the requirement under section 306(a.2)(1) of the act that the Department designate physicians to perform IREs.

4. Form LIBC-767, "Impairment Rating Determination Face Sheet," was created to provide a standardized format for physicians to record specific information obtained under section 306(a.2)(1) and (2) of the act.

5. Form LIBC-765, "Impairment Rating Evaluation Appointment," was created to provide a standardized format for notifying an employee of a forthcoming IRE under section 306(a.2)(1) of the act and to notify the employee of the employee's rights or duties thereunder.

6. Form LIBC-764, "Notice of Change of Workers' Compensation Disability Status," was created to ensure that proper notice is given to the employee, under section 306(a.2)(2) of the act, that the status of the employee's disability has changed.

7. Form LIBC-757, "Notice of Ability to Return to Work," was created under section 306(b)(3) of the act and was designed to notify the employee that the insurer believes that the employee is capable of returning to work. This form is required by the express language of section 306(b)(3) of the act.

8. Form LIBC-760, "Employee Verification of Employment, Self-employment or Change in Physical Condition," was created to provide a means for the insurer to obtain the information contemplated by section 311.1(d) of the act. This form is required by the express language of section 311.1(d) of the act.

9. Form LIBC-762, "Notice of Suspension for Failure to Return Form LIBC-760," was created to notify the employee that the employee's benefits have been suspended because of the employee's failure to return Form LIBC-760 under section 311.1 of the act. Additionally, this form notifies the employee of the employee's rights and remedies regarding the suspension of benefits under section 311.1 of the act.

10. Form LIBC-763, "Notice of Reinstatement of Workers' Compensation Benefits," was created to notify the employee that the employee's benefits have been reinstated after the insurer has received Form LIBC-760, under section 311.1 of the act.

11. Form LIBC-753, "Notice of Request for an Informal Conference," and Form LIBC-754, "Informal Conference Agreement Form," were designed to implement the informal conference procedures of section 402.1 of the act. Form LIBC-753 was created to standardize and simplify

requests for informal conferences before workers' compensation judges or hearing officers. Form LIBC-754 was created to provide a mechanism for the parties to record matters which were agreed upon at the informal conference and to provide a standardized mechanism for the Departmental recordkeeping of these agreements.

12. Form LIBC-751, "Notification of Suspension or Modification Pursuant to §§ 413(C)&(D) of the Workers' Compensation Act," was designed to provide notice to the employe, under section 413(c) and (d) of the act, that the employe's benefits have been suspended or modified because the employe has returned to work. This form is required by the express language of section 413(c) and (d) of the act.

13. Form LIBC-755, "Compromise and Release Agreement by Stipulation Pursuant to Section 449 of the Workers' Compensation Act," was created to provide a means to record all information necessary for a valid compromise and release under section 449 of the act. This form was required by the express language of section 449 of the act.

Sunset Date

No sunset date is necessary for these amendments. These amendments will be continuously monitored, since the Department regularly receives and decides petitions to which these amendments apply in proceedings conducted by workers' compensation judges. Issues regarding the regulations' effectiveness, clarity or impartiality will undoubtedly be raised before the Department in these proceedings. If needed, corrections can be initiated based on information obtained in these proceedings.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 28, 1997, the Department submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 3141 to IRRC and the Chairpersons of the House Labor Relations Committee and the Senate Committee on Labor and Industry for review and comment. IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested.

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

These final-form regulations were deemed approved by the House and Senate Committees on November 18, 1997. IRRC met on November 20, 1997, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

Contact Person

The contact person is Richard A. Himler, Director, Bureau of Workers' Compensation, Department of Labor and Industry, (717) 783-5421, 1171 South Cameron Street, Room 324, Harrisburg, PA 17104.

Findings

The Department finds that:

(1) Public notice of intention to amend the administrative regulations amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment of the regulations of the Department in the manner provided in this order is necessary

and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Department, 34 Pa. Code, are amended by deleting §§ 122.1—122.11, 122.101—122.104, 122.201, 122.202, 122.301—122.303, 122.401, 122.501 and 122.502, 127.501—127.515, adding §§ 123.1—123.11, 123.101—123.105, 123.201—123.203, 123.301, 123.302, 123.401—123.404, 123.501, 123.502, 123.601, 123.701 and 131.49—131.51; and by amending §§ 127.105, 127.208, 127.252, 127.401, 127.404, 127.405, 127.451—127.457, 127.465, 127.466, 127.476, 127.477, 127.479, 127.551—127.553, 127.555, 127.556, 127.751, 127.752, 127.755 to read as set forth in Annex A.

(*Editor's Note:* Section 31.2 of Act 57 of 1996 (77 P. S. § 531.1 note) requires that the Legislative Reference Bureau transfer 28 Pa. Code §§ 9.201—9.227 to 34 Pa. Code §§ 122.601—122.627. The transfer will occur in the March 1998 *Pennsylvania Code Reporter* (MTS 280).)

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

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

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

JOHNNY J. BUTLER,
Secretary

(*Editor's Note:* The addition of §§ 123.203, 123.402—123.404 and 131.49—131.51 was not included in the proposal at 27 Pa.B. 3141 (June 28, 1997). The amendment of §§ 127.465 and 127.476 was not included in the proposal at 27 Pa.B. 3141. The proposal to add §§ 123.602, 123.603, 123.801 and 123.901, included in the proposed rulemaking at 27 Pa.B. 3141, has been withdrawn by the Department.)

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6385 (December 6, 1997).)

Fiscal Note: Fiscal Note 12-50 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VIII. BUREAU OF WORKERS' COMPENSATION

CHAPTER 123. GENERAL PROVISIONS—PART II

Subch.

- A. OFFSET OF UNEMPLOYMENT COMPENSATION, SOCIAL SECURITY (OLD AGE), SEVERANCE AND PENSION BENEFITS
- B. IMPAIRMENT RATINGS
- C. QUALIFICATIONS FOR VOCATIONAL EXPERTS APPROVED BY THE DEPARTMENT
- D. EARNING POWER DETERMINATIONS
- E. COLLECTIVE BARGAINING
- F. EMPLOYE REPORTING AND VERIFICATION REQUIREMENTS
- G. INFORMAL CONFERENCES
- H. USE OF OPTICALLY SCANNED DOCUMENTS

**Subchapter A. OFFSET OF UNEMPLOYMENT
COMPENSATION, SOCIAL SECURITY (OLD AGE),
SEVERANCE AND PENSION BENEFITS**

Sec.	
123.1.	Purpose.
123.2.	Definitions.
123.3.	Employe report of benefits subject to offset.
123.4.	Application of the offset generally.
123.5.	Offset for benefits already received.
123.6.	Application of offset for Unemployment Compensation (UC) benefits.
123.7.	Application of offset for Social Security (old age) benefits.
123.8.	Offset for pension benefits generally.
123.9.	Application of offset for pension benefits.
123.10.	Multiemployer pension fund offsets.
123.11.	Application of offset for severance benefits.

§ 123.1. Purpose.

This subchapter interprets the provisions of the act which authorize the offset of workers' compensation benefits by amounts received in unemployment compensation, Social Security (old age), severance and pension benefits, subsequent to the work-related injury. Offsets shall be dollar-for-dollar and calculated as set forth in §§ 123.4—123.11. Offsets in excess of the weekly workers' compensation rate shall accumulate as a credit toward the future payment of workers' compensation benefits.

§ 123.2. Definitions.

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

ADR—Alternative Dispute Resolution.

Act—The Workers' Compensation Act (77 P. S. §§ 1—2626).

Actuarial equivalent—The value of lump-sum pension payout in terms of a monthly benefit if the funds had been used to purchase an annuity (either qualified joint and survivor or life annuity) available on the market, considering interest and mortality, at the time of the employe's receipt of the lump-sum benefit.

CBA—Collective Bargaining Agreements.

Defined-benefit plan—A pension plan in which the benefit level is established at the commencement of the plan and actuarial calculations determine the varying contributions necessary to fund the benefit at an employe's retirement.

Defined-contribution plan—A pension plan which provides for an individual account for each participant and for benefits based solely upon the amount of accumulated contributions and earnings in the participant's account. At the time of retirement the accumulated contributions and earnings determine the amount of the participant's benefit either in the form of a lump-sum distribution or annuity.

IRA—An individual retirement account as that term is utilized in 26 U.S.C.A. §§ 219 and 408(a).

IRE—Impairment Rating Evaluation.

Multi-employer pension plan—A plan to which more than one employer is required to contribute and is maintained under one or more collective bargaining agreements between one or more employe organizations and more than one employer.

Net—The amount of unemployment compensation, Social Security (old age), severance or pension benefits received by the employe after required deductions for

local, State and Federal taxes and amounts deducted under the Federal Insurance Contributions Act (FICA) (26 U.S.C.A. §§ 3101—3126).

Pension—A plan or fund established or maintained by an employer, an employe organization, or both, which provides retirement income, in the form of retirement or disability benefits to employes or which results in deferral of income by employes extending to termination of employment and beyond.

Severance benefit—A benefit which is taxable to the employe and paid as a result of the employe's separation from employment by the employer liable for the payment of workers' compensation, including benefits in the form of tangible property. The term does not include payments received by the employe based on unused vacation or sick leave or otherwise earned income.

Social Security (old age) benefits—Benefits received by an employe under the Social Security Act (42 U.S.C.A. §§ 301—1397(e)) relating to Social Security retirement income.

§ 123.3. Employe report of benefits subject to offset.

(a) Employes shall report to the insurer amounts received in unemployment compensation, Social Security (old age), severance and pension benefits on form LIBC-756, "Employee's Report of Benefits." This includes amounts withdrawn or otherwise utilized from pension benefits which are rolled over into an IRA or other similarly restricted account while at the same time the employe is receiving workers' compensation benefits.

(b) Form LIBC-756 shall be completed and forwarded to the insurer within 30 days of the employe's receipt of any of the benefits specified in subsection (a) or within 30 days of any change in the receipt of the benefits specified in subsection (a), but at least every 6 months.

§ 123.4. Application of the offset generally.

(a) After receipt of Form LIBC-756, the insurer may offset workers' compensation benefits by amounts received by the employe from any of the sources in § 123.3 (relating to employe report of benefits subject to offset). The offset of workers' compensation benefits only applies with respect to amounts of unemployment compensation, Social Security (old age), severance and pension benefits received subsequent to the work-related injury.

(1) The offset applies only to wage-loss benefits (as opposed to medical benefits, specific loss or survivor benefits).

(2) The offset for amounts received in Social Security (old age), severance and pension benefits only applies to individuals with claims for injuries suffered on or after June 24, 1996.

(3) The offset for amounts received in unemployment compensation benefits applies to all claims regardless of the date of injury.

(b) At least 20 days prior to taking the offset, the insurer shall notify the employe, on Form LIBC-761, "Notice of Workers' Compensation Benefit Offset," that the workers' compensation benefits will be offset. The notice shall indicate:

(1) The amount of the offset.

(2) The type of offset (that is—unemployment compensation, Social Security (old age), severance or pension).

(3) How the offset was calculated, with supporting documentation, which may include information provided by the employe.

- (4) When the offset commences.
 - (5) The amount of any recoupment, if applicable.
- (c) Whenever the insurer's entitlement to the offset changes, the insurer shall notify the employe of the change at least 20 days prior to the adjustment on Form LIBC-761.
- (d) The insurer shall provide a copy of Form LIBC-761, to the employe, the employe's counsel, if known, and the Department. The form shall be provided to the employe consistent with section 406 of the act (77 P. S. § 717).
- (e) The employe may challenge the offset by filing a petition to review offset with the Department.

(f) When Federal, State or local taxes are paid with respect to amounts an employe receives in unemployment compensation, Social Security (old age), severance or pension benefits, the insurer shall repay the employe for amounts previously offset, and paid in taxes, from workers' compensation benefits, when the offset was calculated on the pretax amount of the benefit received. To request repayment for amounts previously offset and paid in taxes, the employe shall notify the insurer in writing of the amounts paid in taxes previously included in the offset.

§ 123.5. Offset for benefits already received.

- (a) If the insurer receives information that the employe has received benefits from one or more of the sources in § 123.3 (relating to employe report of benefits subject to offset) subsequent to the date of injury, the insurer may be entitled to an offset to the workers' compensation benefit.
- (b) The net amount received by the employe shall be calculated consistent with §§ 123.6—123.11. The amount received by the employe shall be divided by the weekly workers' compensation rate. The result shall be the number of weeks, and fraction thereof, the insurer is entitled to offset against future payments of workers' compensation benefits.
- (c) The insurer shall notify the employe, the employe's counsel, if known, and the Department of the offset as specified in § 123.4(b) (relating to application of the offset generally).
- (d) The employe may challenge the offset by filing a petition to review offset with the Department.

§ 123.6. Application of offset for Unemployment Compensation (UC) benefits.

- (a) Workers' compensation benefits otherwise payable shall be offset by the net amount an employe receives in UC benefits subsequent to the work-related injury. This offset applies only to UC benefits which an employe receives and which are attributable to the same time period in which an employe also receives workers' compensation benefits.
- (b) The offset may not apply to benefits for which an employe may be eligible, but is not receiving.
- (c) The offset to workers' compensation benefits for amounts received in UC benefits is triggered when an employe becomes eligible for and begins receiving the UC benefits.
- (1) When an employe receives UC benefits which the employe is later required to repay based upon a determination of ineligibility, the insurer may not offset the workers' compensation benefits.

(2) When an employe's workers' compensation benefits have been offset by the amount received in UC benefits, and the employe is required to repay UC benefits based upon a determination of ineligibility, the insurer shall repay the employe for the amounts previously offset from the workers' compensation benefits. The employe may request that the insurer remit repayment directly to the Bureau of Unemployment Compensation Benefits and Allowances (BUCBA).

(d) When an employe receives a lump-sum award from BUCBA, the insurer may offset the amount received by the employe against future payments of workers' compensation benefits. The amount received by the employe shall be divided by the weekly workers' compensation rate. The result shall be the number of weeks, and fraction thereof, the insurer is entitled to offset against future payments of workers' compensation benefits.

§ 123.7. Application of offset for Social Security (old age) benefits.

(a) Workers' compensation benefits otherwise payable shall be offset by 50% of the net amount received in Social Security (old age) benefits. The offset shall only apply to amounts which an employe receives subsequent to the work-related injury. The offset may not apply to Social Security (old age) benefits which commenced prior to the work-related injury and which the employe continues to receive subsequent to the work-related injury.

(b) The offset may not apply to benefits to which an employe may be entitled, but is not receiving.

(c) The offset shall be applied on a weekly basis. To calculate the weekly offset, 50% of the net monthly Social Security (old age) benefit received by the employe shall be divided by 4.34.

§ 123.8. Offset for pension benefits generally.

(a) Workers' compensation benefits otherwise payable shall be offset by the net amount an employe receives in pension benefits to the extent funded by the employer directly liable for the payment of workers' compensation.

(b) The pension offset shall apply to amounts received from defined-benefit and defined-contribution plans.

(c) The offset may not apply to pension benefits to which an employe may be entitled, but is not receiving.

(d) In calculating the offset amount for pension benefits, investment income attributable to the employer's contribution to the pension plan shall be included on a prorata basis.

§ 123.9. Application of offset for pension benefits.

(a) Offsets of amounts received from pension benefits shall be achieved on a weekly basis. If the employe receives the pension benefit on a monthly basis, the net amount contributed by the employer and received by the employe shall be divided by 4.34. The result is the amount of the weekly offset to the workers' compensation benefit.

(b) When an employe receives a pension benefit in the form of a lump-sum payment, the actuarial equivalent of the lump-sum with respect to the annuity options (qualified joint and survivor annuity or life annuity) available at the time of the employe's receipt shall be used as the basis for calculating the offset to the workers' compensation benefit. The monthly annuity equivalent shall be divided by 4.34. The result shall be the offset to the workers' compensation benefit on a weekly basis.

(c) Pension benefits which are rolled over into an IRA or other similarly restricted account may not offset workers' compensation benefits, so long as the employe does not withdraw or otherwise utilize the pension benefits from the restricted account while simultaneously receiving workers' compensation benefits from the liable employer.

(d) If the employe, while receiving workers' compensation benefits from the liable employer, withdraws or otherwise utilizes pension benefits from the IRA or other similarly restricted account, when the IRA or account is funded in whole or in part by the liable employer's contributions, the insurer is entitled to an offset to workers' compensation benefits.

(1) If the employe begins receiving a monthly payment from the IRA or other similarly restricted account, the insurer shall receive an offset to the workers' compensation benefit equal to the offset the insurer would be entitled to if the employe were receiving a monthly pension benefit under subsection (a).

(2) If the employe withdraws or otherwise utilizes an amount from the IRA or other similarly restricted account which is greater than the actuarial equivalent of the lump sum with respect to the annuity options (qualified joint and survivor annuity or life annuity) available at the time of the employe's receipt, the insurer shall be entitled to an offset against future payments of workers' compensation benefits in an amount equal to the amount of the pension benefit withdrawn or otherwise utilized by the employe. The amount of the pension benefit withdrawn or otherwise utilized by the employe shall be divided by the weekly workers' compensation rate. The result shall be the number of weeks, and fraction thereof, the insurer may offset against future payments of workers' compensation benefits.

(e) The employe shall report the subsequent receipt of pension benefits from the IRA or other similarly restricted account to the insurer on Forms LIBC-756 and LIBC-750, "Employee Report of Wages (Other Than Workers' Compensation Benefits Received)."

§ 123.10. Multiemployer pension fund offsets.

(a) When the pension benefit is payable from a multi-employer pension plan, only that amount which is contributed by the employer directly liable for the payment of workers' compensation shall be used in calculating the offset to workers' compensation benefits.

(b) To calculate the appropriate offset amount, the portion of the annuity purchased by the liable employer's contributions shall be as determined by the pension fund's actuary. The ratio of the portion of the annuity purchased by the liable employer's contributions to the total annuity shall be multiplied by the net benefit received by the employe from the pension fund on a weekly basis. The result is the amount of the offset to be applied to the workers' compensation benefit on a weekly basis.

(c) If the employe receives the multi-employer pension benefit on a monthly basis, the net amount received by the employe shall be multiplied by the ratio of the liable employer's contribution to the pension plan on behalf of the employe and that product shall be divided by 4.34. The result is the amount of the offset to be applied to the workers' compensation benefit on a weekly basis.

(d) If the employe receives the multi-employer pension benefit in a lump sum, the actuarial equivalent of the lump sum with respect to the annuity options (qualified

joint and survivor annuity or life annuity) available at the time of the employe's receipt of the benefit shall be used as the basis for calculating the offset to the workers' compensation benefit. The ratio of the employer's contribution to the pension plan shall be multiplied by the monthly annuity value of the pension benefit. The result shall be divided by 4.34 to achieve the offset to the workers' compensation benefit on a weekly basis.

§ 123.11. Application of offset for severance benefits.

(a) Workers' compensation benefits otherwise payable shall be offset by amounts an employe receives in severance benefits subsequent to the work-related injury. The offset may not apply to severance benefits to which an employe may be entitled, but is not receiving.

(b) The net amount of any severance benefits shall offset workers' compensation benefits on a weekly basis except as provided in subsections (c) and (d).

(c) When the employe receives severance benefits in a lump-sum payment, the net amount received by the employe shall be divided by the weekly workers' compensation rate. The result is the number of weeks, and fraction thereof, the insurer may offset against future payments of workers' compensation benefits.

(d) When an employe receives a severance benefit in the form of tangible property, the market value of the property, as determined for Federal tax purposes, shall be divided by the weekly workers' compensation rate. The result is the number of weeks, and fraction thereof, the insurer may offset against future payments of workers' compensation benefits.

Subchapter B. IMPAIRMENT RATINGS

Sec.

123.101. Purpose.

123.102. IRE requests.

123.103. Physicians.

123.104. Initial IRE; designation of physician by Department.

123.105. Impairment rating determination.

§ 123.101. Purpose.

This subchapter interprets section 306(a.2) of the act (77 P. S. § 511.2) which provides for a determination of whole body impairment due to the compensable injury after the receipt of 104 weeks of total disability compensation, unless otherwise agreed to by the parties.

§ 123.102. IRE requests.

(a) During the 60-day period subsequent to the expiration of the employe's receipt of 104 weeks of total disability benefits, the insurer may request the employe's attendance at an IRE. If the evaluation is scheduled to occur during this 60-day time period, the adjustment of the benefit status shall relate back to the expiration of the employe's receipt of 104 weeks of total disability benefits. In all other cases, the adjustment of the disability status shall be effective as of the date of the evaluation or as determined by the evaluating physician.

(b) Absent agreement between the insurer and the employe, an IRE may not be performed prior to the expiration of the employe's receipt of 104 weeks of total disability benefits.

(c) When an insurer requests the employe's attendance at an IRE during the 60-day period subsequent to the expiration of the employe's receipt of 104 weeks of total disability benefits and the employe fails, for any reason, to attend the IRE, when the failure results in the performance of the IRE more than 60 days beyond the expiration of the 104-week period, the adjustment of

disability status shall relate back to the expiration of the employee's receipt of 104 weeks of total disability benefits.

(d) The employee's receipt of 104 weeks of total disability benefits shall be calculated on a cumulative basis.

(e) The insurer shall request the employee's attendance at the IRE in writing on Form LIBC-765, "Impairment Rating Evaluation Appointment," and specify therein the date, time and location of the evaluation and the name of the physician performing the evaluation, as agreed by the parties or designated by the Department. The request shall be made to the employee and employee's counsel, if known.

(f) Consistent with section 306(a.2)(6) of the act (77 P. S. § 511.2), the insurer's failure to request the evaluation during the 60-day period subsequent to the expiration of the employee's receipt of 104 weeks of total disability benefits may not result in a waiver of the insurer's right to compel the employee's attendance at an IRE.

(g) The insurer maintains the right to request and receive an IRE twice in a 12-month period. The request and performance of IREs may not preclude the insurer from compelling the employee's attendance at independent medical examinations or other expert interviews under section 314 of the act (77 P. S. § 651).

(h) The employee's failure to attend the IRE under this section may result in a suspension of the employee's right to benefits consistent with section 314(a) of the act.

§ 123.103. Physicians.

(a) Physicians performing IREs shall:

(1) Be licensed in this Commonwealth and certified by an American Board of Medical Specialties-approved board or its osteopathic equivalent.

(2) Be active in clinical practice at least 20 hours per week.

(b) For purposes of this subchapter, the phrase "active in clinical practice" means the act of providing preventive care and the evaluation, treatment and management of medical conditions of patients on an ongoing basis.

(c) Physicians chosen by employees to perform IREs, for purposes of appealing a previous adjustment of benefit status, shall possess the qualifications in subsection (a) and shall be active in clinical practice as specified in subsection (b).

(d) In addition to the requirements of subsections (a) and (b), physicians designated by the Department to perform IREs shall meet training and certification requirements which may include, but are not limited to, one or more of the following:

(1) Required attendance at a Departmentally approved training course on the performance of evaluations under the AMA "Guides to the Evaluation of Permanent Impairment."

(2) Certification upon passage of a Departmentally approved examination on the AMA "Guides to the Evaluation of Permanent Impairment."

(3) Other requirements as approved by the Department.

§ 123.104. Initial IRE; designation of physician by Department.

(a) The insurer is responsible for scheduling the initial IRE. Only the insurer may request that the Department designate an IRE physician.

(b) The Department's duty to designate an IRE physician pertains only to the initial IRE. A list of Departmentally approved IRE physicians will be available upon request.

(c) The request to designate a physician shall be made on Form LIBC-766, "Request for Designation of a Physician to Perform an Impairment Rating Evaluation."

(d) Within 20 days of receipt of the designation request, the Department will designate a physician to perform the IRE.

(e) The Department will provide the name and address of the physician designated to perform the IRE to the employee, the insurer and the attorneys for the parties, if known.

§ 123.105. Impairment rating determination.

(a) When properly requested under § 123.102 (relating to IRE requests), an IRE shall be conducted in all cases and an impairment rating determination must result under the most recent edition of the AMA "Guides to the Evaluation of Permanent Impairment."

(b) To ascertain an accurate percentage of the employee's whole body impairment, when the evaluating physician determines that the compensable injury incorporates more than one pathology, the evaluating physician may refer the employee to one or more physicians specializing in the specific pathologies which constitute the compensable injury. Any physician chosen by the evaluating physician to assist in ascertaining the percentage of whole body impairment shall possess the qualifications as specified in § 123.103(a) and (b) (relating to physicians). The referring physician remains responsible for determining the whole body impairment rating of the employee.

(c) The physician performing the IRE shall complete Form LIBC-767, "Impairment Rating Determination Face Sheet" (Face Sheet), which sets forth the impairment rating of the compensable injury. The physician shall attach to the Face Sheet the "Report of Medical Evaluation" as specified in the AMA "Guides to the Evaluation of Permanent Impairment." The Face Sheet and report shall be provided to the employee, employee's counsel, if known, insurer and the Department within 30 days from the date of the impairment evaluation.

(d) If the evaluation results in an impairment rating of less than 50%, the employee shall receive benefits partial in character. To adjust the status of the employee's benefits from total to partial, the insurer shall provide notice to the employee, the employee's counsel, if known, and the Department, on Form LIBC-764, "Notice of Change in Workers' Compensation Disability Status," of the following:

(1) The evaluation has resulted in an impairment rating of less than 50%.

(2) Sixty days from the date of the notice the employee's benefit status shall be adjusted from total to partial.

(3) The adjustment of benefit status does not change the amount of the weekly workers' compensation benefit.

(4) An employee may only receive partial disability benefits for a maximum of 500 weeks.

(5) The employee may appeal the adjustment of benefit status to a workers' compensation judge by filing a Petition for Review with the Department.

(e) If the evaluation results in an impairment rating that is equal to or greater than 50%, the employee shall be

presumed to be totally disabled and shall continue to receive total disability compensation. The presumption of total disability may be rebutted at any time by a demonstration of earning power in accordance with section 306(b)(2) of the act (77 P. S. § 512(b)(2)) or by a subsequent IRE which results in an impairment rating of less than 50%.

(f) At any time during the receipt of 500 weeks of partial disability compensation, the employe may appeal the adjustment of benefit status to a workers' compensation judge by filing a Petition for Review.

Subchapter C. QUALIFICATIONS FOR VOCATIONAL EXPERTS APPROVED BY THE DEPARTMENT

Sec.
123.201. Purpose.
123.202. Qualifications.
123.203. Credibility determinations.

§ 123.201. Purpose.

This subchapter interprets provisions of the act which require the Department to approve experts who will conduct earning power assessment interviews under sections 306(b)(2) and 449 of the act (77 P. S. §§ 512(b)(2) and 1000.5). The experts contemplated by this subchapter are vocational evaluators.

§ 123.202. Qualifications.

To be an expert approved by the Department for the purpose of conducting earning power assessment interviews, the individual shall possess a minimum of one of the following:

- (1) Both of the following:
 - (i) Certification by one of the following Nationally recognized professional organizations:
 - (A) The American Board of Vocational Experts.
 - (B) The Commission on Rehabilitation Counselor Certification.
 - (C) The Commission on Disability Management Specialists Certification.
 - (D) The National Board of Certified Counselors.
 - (E) Other Nationally recognized professional organizations approved by the Department.
 - (ii) One year experience in analyzing labor market information and conditions, industrial and occupational trends, with primary duties providing actual vocational rehabilitation services, which include the following:
 - (A) Job seeking skills.
 - (B) Job development.
 - (C) Job analysis.
 - (D) Career exploration.
 - (E) Placement of individuals with disabilities.
 - (F) Vocational testing and assessment.

(2) Certification by a Nationally recognized professional organization specified in paragraph (1) (i) under the direct supervision of an individual possessing the criteria in paragraph (1).

(3) Possession of a Bachelor's degree or a valid license issued by the Department of State's Bureau of Professional and Occupational Affairs, as long as the individual is under the direct supervision of an individual possessing the criteria in paragraph (1).

(4) At least 5 years experience primarily in the workers' compensation field prior to August 23, 1996, as a vocational evaluator, with experience in analyzing labor market information and conditions, industrial and occupational trends, with primary duties providing actual vocational rehabilitation services, which include, but are not limited to, the following:

- (i) Job seeking skills.
- (ii) Job development.
- (iii) Job analysis.
- (iv) Career exploration.
- (v) Placement of individuals with disabilities.
- (vi) Vocational testing and assessment.

§ 123.203. Credibility determinations.

Credibility determinations relating to the experts contemplated by this subchapter are within the province of the workers' compensation judge.

Subchapter D. EARNING POWER DETERMINATIONS

Sec.
123.301. Employer job offer obligation.
123.302. Evidence of earning power.

§ 123.301. Employer job offer obligation.

(a) For claims for injuries suffered on or after June 24, 1996, if a specific job vacancy exists within the usual employment area within this Commonwealth with the liable employer, which the employe is capable of performing, the employer shall offer that job to the employe prior to seeking a modification or suspension of benefits based on earning power.

(b) The employer's obligation to offer a specific job vacancy to the employe commences when the insurer provides the notice to the employe required by section 306(b)(3) of the act (77 P. S. § 512(b)(3)) and shall continue for 30 days or until the filing of a Petition for Modification or Suspension, whichever is longer. When an insurer files a Petition for Modification or Suspension which is not based upon a change in medical condition, the employer's obligation to offer a specific job vacancy commences at least 30 days prior to the filing of the petition.

(c) The employer's duty under subsections (a) and (b) may be satisfied if the employer demonstrates facts which may include the following:

- (1) The employe was notified of a job vacancy and failed to respond.
- (2) A specific job vacancy was offered to the employe, which the employe refused.
- (3) The employer offered a modified job to the employe, which the employe refused.
- (4) No job vacancy exists within the usual employment area.

(d) When more than one job which the employe is capable of performing becomes available, the employer maintains the right to select which job will be offered to the employe.

(e) The employer's duty under subsections (a) and (b) does not require the employer to hold a job open for a minimum of 30 days. Job offers shall be made consistent with the employer's usual business practice. If the making of job offers is controlled by the provisions of a

collective bargaining agreement, the offer shall be made consistent with those provisions.

(f) If the employer has presented evidence that no job vacancy exists, the employe may rebut the employer's evidence by demonstrating facts which may include the following:

(1) During the period in which the employer has or had a duty to offer a specific job, the employer is or was actively recruiting for a specific job vacancy that the employe is capable of performing.

(2) During the period in which the employer has or had a duty to offer a specific job, the employer posted or announced the existence of a specific job vacancy, that the employe is capable of performing, which the employer intends to fill.

(g) A job may not be considered vacant if the employe's ability to fill the position was precluded by any applicable collective bargaining agreement.

§ 123.302. Evidence of earning power.

For claims for injuries suffered on or after June 24, 1996, an insurer may demonstrate an employe's earning power by providing expert opinion evidence relative to the employe's capacity to perform a job. The evidence shall include job listings with agencies of the Department, private job placement agencies and advertisements in the usual employment area within this Commonwealth. Partial disability applies if the employe is able to perform his previous work, or can, considering the employe's residual productive skill, education, age and work experience, engage in any other kind of substantial gainful employment in the usual employment area in which the employe lives within this Commonwealth. If the employe does not live within this Commonwealth, the usual employment area where the injury occurred applies.

Subchapter E. COLLECTIVE BARGAINING

Sec.

- 123.401. Use of ADR systems.
- 123.402. Forms and filing requirements.
- 123.403. Effect of creation, continuation and termination of ADR systems.
- 123.404. Effect and appeal of ADR final determinations.

§ 123.401. Use of ADR systems.

CBAs may provide for the use of an ADR system which may include arbitration, mediation and conciliation, for the resolution of claims for work-related injuries.

§ 123.402. Forms and filing requirements.

(a) If the employer and the recognized or certified and exclusive representative of its employes agree to establish an ADR system, a copy of the portion of the CBA which establishes the ADR system shall be provided to the Governor's Office of Labor-Management Cooperation in the Department.

(b) The standard forms and filing requirements of the act which reflect the voluntary action or agreement of the parties remain in effect for parties participating in an ADR system under section 450 of the act (77 P.S. § 1000.6). The forms exclusively pertaining to filings before a workers' compensation judge are inapplicable to parties participating in an ADR system.

(c) Documents submitted to the Department under this subchapter shall clearly indicate, by notation on the top page of the document, that a section 450 ADR system governs the disposition of the matter.

(d) Final determinations rendered by means of an ADR system shall be documented and a copy of the determination shall be submitted to the parties and to the Department.

§ 123.403. Effect of creation, continuation and termination of ADR systems.

(a) Once established by a CBA, an ADR system shall be the exclusive system for resolving claims for work-related injuries during the existence of the CBA or longer, if the CBA provides for the continued operation of the ADR system at the expiration of the CBA.

(b) When an ADR system governing a work-related injury is no longer in effect, resolution of claims shall be fully subject to the act, including review by a workers' compensation judge.

§ 123.404. Effect and appeal of ADR final determinations.

(a) Final determinations rendered under an ADR system are binding and enforceable.

(b) Appeals from determinations rendered under an ADR system are limited to those made under the conditions specified by 42 Pa.C.S. § 7314 (relating to vacating award by court).

Subchapter F. EMPLOYE REPORTING AND VERIFICATION REQUIREMENTS

Sec.

- 123.501. Reporting requirement.
- 123.502. Verification.

§ 123.501. Reporting requirement.

An insurer shall notify the employe of the employe's reporting requirements under sections 204 and 311.1(a) and (d) of the act (77 P.S. §§ 71 and 631.1(a) and (d)). In addition, the insurer shall provide the employe with the forms required to fulfill the employe's reporting and verification requirements under section 311.1(d) of the act.

§ 123.502. Verification.

(a) Insurers may submit Form LIBC-760, "Employee Verification of Employment, Self-employment or Change in Physical Condition," to the employe and employe's counsel, if known, to verify, no more than once every 6 months, that the status of the employe's entitlement to receive compensation has not changed.

(b) Form LIBC-760 shall be delivered to the employe in person or consistent with section 406 of the act.

(c) The employe shall complete and return form LIBC-760 to the insurer within 30 days of receipt of the form.

(d) If the employe fails to comply with subsection (c), the insurer may suspend payments of wage-loss benefits until Form LIBC-760 is returned by the employe.

(e) To suspend payments of compensation due to the employe's failure to comply with subsection (c), the insurer shall provide written notice to the employe, the employe's counsel, if known, and the Department, on Form LIBC-762, "Notice of Suspension for Failure to Return Form LIBC-760 (Employee Verification of Employment, Self-employment or Change in Physical Condition)" of the following:

(1) The workers' compensation benefits have been suspended because of the employe's failure to return the verification form within the 30-day statutorily prescribed time period.

(2) The workers' compensation benefits shall be reinstated by the insurer, effective upon receipt of the completed verification form.

(3) The employe has the right to challenge the suspension of benefits by filing a petition for reinstatement with the Department.

(f) Upon receipt of the completed verification form, the insurer shall reinstate the workers' compensation benefits for which the employe is eligible. The insurer shall provide written notice to the employe, employe's counsel, if known, and the Department, on Form LIBC-763, "Notice of Reinstatement of Workers' Compensation Benefits," that the employe's workers' compensation benefits have been reinstated due to the return of the completed verification form. The notice shall further indicate the date the verification form was received by the insurer and the date of reinstatement of the workers' compensation benefits.

(g) Employes are not entitled to payments of workers' compensation during periods of noncompliance with subsection (c).

Subchapter G. INFORMAL CONFERENCE

Sec.

123.601. Representation of corporation at informal conference.

§ 123.601. Representation of corporation at informal conference.

Each party may be represented at the informal conference conducted under section 402.1 of the act (77 P. S. § 711.1), but the employer may only be represented by an attorney at the informal conference if the employe is also represented by an attorney. When the employe is not represented at the informal conference, an employer may be represented by an agent or other representative, other than an attorney, at the informal conference.

Subchapter H. USE OF OPTICALLY SCANNED DOCUMENTS

Sec.

123.701. Use of optically scanned documents.

§ 123.701. Use of optically scanned documents.

(a) The Bureau may optically scan original documents, or make other images or paper copies which accurately reproduce the originals, and may dispose of originals so copied.

(b) Copies made under this section, and certified by the custodian of records for the Bureau, are admissible in evidence in a proceeding with the same effect as though they were an original.

CHAPTER 127. WORKERS' COMPENSATION MEDICAL COST CONTAINMENT CALCULATIONS

Subchapter B. MEDICAL FEES AND FEE REVIEW

§ 127.105. Outpatient providers subject to the Medicare fee schedule—chiropractors.

(a) Payments for services rendered by chiropractors shall be made for those services permitted by the Chiropractic Practice Act (63 P. S. §§ 625.101—625.1106).

(b) Payments for spinal manipulation procedures by chiropractors shall be based on the Medicare fee schedule for HCPCS codes 98940—98943, multiplied by 113%.

(c) Payments for physiological therapeutic procedures by chiropractors shall be based on the Medicare fee schedule for HCPCS codes 97010—97799, multiplied by 113%.

(d) Payments shall be made for documented office visits and shall be based on the Medicare fee schedule for HCPCS codes 99201—99205 and 99211—99215, multiplied by 113%.

(e) Payment shall be made for an office visit provided on the same day as another procedure only when the office visit represents a significant and separately identifiable service performed in addition to the other procedure. The office visit shall be billed under the proper level HCPCS codes 99201—99215, and shall require the use of the procedure code modifier "-25" (indicating a Significant, Separately Identifiable Evaluation and Management Service by the Same Physician on the Day of a Procedure).

BILLING TRANSACTION

§ 127.208. Time for payment of medical bills.

(a) Payments for treatment rendered under the act shall be made within 30 days of receipt of the bill and report submitted by the provider.

(b) For purposes of computing the timeliness of payments, the insurer shall be deemed to have received a bill and report 3 days after mailing by the provider. Payments shall be deemed timely made if mailed on or before the 30th day following receipt of the bill and report.

(c) If an insurer requests additional information or records from a provider, the request may not lengthen the 30-day period in which payment shall be made to the provider.

(d) If an insurer proposes to change a provider's codes, the time required to give the provider the opportunity to discuss the proposed changes may not lengthen the 30-day period in which payment shall be made to the provider.

(e) The 30-day period in which payment shall be made to the provider may be tolled only if review of the reasonableness or necessity of the treatment is requested during the 30-day period under the UR provisions of Subchapter C (relating to medical treatment review). The insurer's right to suspend payment shall continue throughout the UR process. The insurer's right to suspend payment shall further continue beyond the UR process to a proceeding before a workers' compensation judge, unless there is a UR determination made that the treatment is reasonable and necessary.

(f) The nonpayment to providers within 30 days shall only apply to that particular treatment or portion thereof in dispute. If a portion of the treatment is not in dispute, payment shall be made within 30 days.

(g) If a URO determines that medical treatment is reasonable or necessary, the insurer shall pay for the treatment. Filing a petition for review before a workers' compensation judge, does not further suspend the obligation to pay for the treatment once there has been a determination that the treatment is reasonable or necessary. If it is finally determined that the treatment was not reasonable or necessary, and the insurer paid for the treatment in accordance with this chapter, the insurer may seek reimbursement from the Supersedeas Fund under section 443(a) of the act (77 P. S. § 999(a)).

§ 127.252. Application for fee review—filing and service.

(a) Providers seeking review of fee disputes shall file the original and one copy of a form prescribed by the Bureau as an application for fee review. The application shall be filed no more than 30 days following notification

of a disputed treatment or 90 days following the original billing date of the treatment which is the subject of the fee dispute, whichever is later. The form shall be accompanied by documentation required by § 127.253 (relating to application for fee review—documents required generally).

(b) Providers shall serve a copy for the application for fee review, and the attached documents, upon the insurer. Proof of service shall accompany the application for fee review and shall indicate the person served, the date of service and the form of service.

(c) Providers shall send the application for fee review and all related attachments to the address for the Bureau listed on the application form.

(d) The time for filing an application for fee review will be tolled if the insurer has the right to suspend payment to the provider due to a dispute regarding the reasonableness and necessity of the treatment under Subchapter C (relating to medical treatment review).

Subchapter C. MEDICAL TREATMENT REVIEW

UR GENERAL REQUIREMENTS

§ 127.401. Purpose/review of medical treatment.

(a) Section 306(f.1)(6) of the act (77 P.S. § 531(6)) provides a UR process, intended as an impartial review of the reasonableness or necessity of medical treatment rendered to, or proposed for, work-related injuries and illnesses.

(b) UR of medical treatment shall be conducted only by those organizations authorized as UROs by the Secretary, under the process in §§ 127.651—127.670 (relating to authorization of UROs and PROs).

(c) UR may be requested by or on behalf of the employer, insurer or employee.

(d) A party, including a health care provider, aggrieved by the UR determination, may file a petition for review of UR, to be heard and decided by a workers' compensation judge.

§ 127.404. Prospective, concurrent and retrospective review.

(a) UR of treatment may be prospective, concurrent or retrospective, and may be requested by any party eligible to request UR under § 127.401(c) (relating to purpose/review of medical treatment).

(b) If an insurer or employer seeks retrospective review of treatment, the request for UR shall be filed within 30 days of the receipt of the bill and medical report for the treatment at issue. Failure to comply with the 30-day time period shall result in a waiver of retrospective review. If the insurer is contesting liability for the underlying claim, the 30 days in which to request retrospective UR is tolled pending an acceptance or determination of liability.

(c) If an employe files a request for UR of treatment, the Bureau will confirm whether the insurer is liable for the underlying alleged work injury. The Bureau will process the UR request only when workers' compensation liability for the underlying injury has been accepted or determined.

(d) If an employe files a request for UR of prospective treatment which satisfies the requirements of subsection (c), the Bureau will determine whether the insurer is denying payment for the treatment.

(1) The Bureau will send a copy of the employe's request for UR to the insurer, together with a written notice asking the insurer whether it will accept payment for the treatment or is denying payment for the treatment. The insurer shall respond in writing to the Bureau's written notice within 7 days of receipt of the notice.

(2) If the insurer responds that it is willing to accept payment for the treatment, the Bureau will not process the employe's request for UR. After the treatment at issue has been provided, the insurer may not request, and the Bureau will not process, a retrospective UR on the same treatment. The insurer shall pay for the treatment as if there had been an uncontested UR determination finding the treatment to be reasonable or necessary.

(3) If the insurer is denying payment for the treatment, the insurer shall state the reasons for the denial in its written response. If no reasons are stated for the denial, or if the insurer's written response to the Bureau notice is untimely, the insurer shall pay for the cost of the UR and pay for treatment found to be reasonable or necessary by an uncontested UR determination.

(4) If the insurer responds in writing to the Bureau's notice by denying a causal relationship between the work-related injury and the treatment, the Bureau will not process the employe's UR request until the underlying liability is either accepted by the insurer or determined by a Workers' Compensation judge.

§ 127.405. UR of medical treatment in medical only cases.

(a) In medical only cases, when an insurer is paying for an injured worker's medical treatment but has not either filed documents with the Bureau admitting liability for a work-related injury nor has there been a determination to the effect, the insurer may still seek review of the reasonableness or necessity of the treatment by filing a request for UR.

(b) If the insurer files a request for UR in a medical only case, the insurer is responsible for paying for the costs of the UR.

(c) If the insurer files a request for UR in a medical only case, then the insurer shall be liable to pay for treatment found to be reasonable or necessary by an uncontested UR determination.

UR—REQUEST INITIAL

§ 127.451. Requests for UR—who may file.

Requests for UR may be filed by an employe, employer or insurer. Health care providers may not file requests for UR.

§ 127.452. Requests for UR—filing and service.

(a) A party seeking UR of treatment rendered under the act shall file the original and 8 copies of a form prescribed by the Bureau as a request for UR. All information required by the form shall be provided. If available, the filing party shall attach authorizations to release medical records of the providers listed on the request.

(b) The request for UR shall be served on all parties and their counsel, if known, and the proof of service on the form shall be executed. If the proof of service is not executed, the request for UR will be returned by the Bureau.

(c) Requests for UR shall be sent to the Bureau at the address listed on the form.

(d) The request for UR shall identify the provider under review. Except as specified in subsection (e), the provider under review shall be the provider who rendered the treatment or service which is the subject of the UR request.

(e) When the treatment or service requested to be reviewed is anesthesia, incident to surgical procedures, diagnostic tests, prescriptions or durable medical equipment, the request for UR shall identify the provider who made the referral, ordered or prescribed the treatment or service as the provider under review.

§ 127.453. Requests for UR—assignment by the Bureau.

(a) The Bureau will randomly assign a properly filed request for UR to an authorized URO.

(b) The Bureau will send a notice of assignment of the request for UR to the URO; the employee; the employer or insurer; the health care provider under review; and the attorneys for the parties, if known.

§ 127.454. Requests for UR—reassignment.

(a) If a URO is unable, for any reason, to perform a request for UR assigned to it by the Bureau, the URO shall, within 5 days of receipt of the assignment, return the request for UR to the Bureau for reassignment.

(b) A URO may not directly reassign a request for UR to another URO.

(c) A URO shall return a request for UR assigned to it by the Bureau if the URO has a conflict of interest with the request, as set out in § 127.455 (relating to requests for UR—conflicts of interest).

§ 127.455. Requests for UR—conflicts of interest.

(a) A URO shall be deemed to have a conflict of interest and shall return a request for UR to the Bureau for reassignment if one or more of the following exist:

(1) The URO has a previous involvement with the patient or with the provider under review, regarding the same underlying claim.

(2) The URO has performed precertification functions in the same matter.

(3) The URO has provided case management services in the same matter.

(4) The URO has provided vocational rehabilitation services in the same matter.

(5) The URO is owned by or has a contractual arrangement with any party subject to the review.

(b) A URO shall inform the reviewer assigned to perform UR of the reviewer's obligation to notify the URO of any potential or realized conflicts arising under § 127.468 (relating to duties of reviewers—conflict of interest).

§ 127.456. Requests for UR—withdrawal.

(a) A party who wishes to withdraw a request for UR shall notify the Bureau of the withdrawal in writing. The withdrawal notice may not be sent directly to the URO.

(b) The Bureau will promptly notify the URO of the withdrawal.

(c) The insurer or employer shall pay the costs incurred by the URO prior to the withdrawal.

(d) A withdrawal of a request for UR shall be without prejudice.

§ 127.457. Time for requesting medical records.

A URO shall request records from the treating providers listed on the request for UR within 5 days from receipt of the Bureau's notice of assignment.

§ 127.465. Requests for UR—deadline for URO determination.

(a) A request for UR shall be deemed complete upon receipt of the medical records or 35 days from the date of the notice of assignment, whichever is earlier.

(b) A URO shall complete its review, and render its determination, within 30 days of a completed request for UR.

§ 127.466. Assignment of UR request to reviewer by URO.

Upon receipt of the medical records, the URO shall forward the records, the request for UR, the notice of assignment and a Bureau-prescribed instruction sheet to a reviewer licensed by the Commonwealth in the same profession and having the same specialty as the provider under review.

§ 127.476. Duties of UROs—form and service of determinations.

(a) Each determination rendered by a URO on the merits shall include a form prescribed by the Bureau as a medical treatment review determination face sheet and the reviewer's report. The face sheet shall be signed by an authorized representative of the URO.

(b) When a determination is rendered against the provider under review on the basis that no records were supplied by the provider, the determination shall consist only of the face sheet. However, in these cases, the face sheet shall clearly indicate that the basis for the decision is the failure of the provider under review to supply records to the URO.

(c) The URO's determination, consisting of both the face sheet and the reviewer's report, shall be served on the employee, the insurer or employer, the provider under review, the attorneys for the parties, if known, and the Bureau.

(d) The URO shall also serve a copy of a petition for review of a UR determination on all parties and their attorneys, if known.

(e) Service shall be made by certified mail, return receipt requested and shall be made on the same date as is entered on the appropriate line of the face sheet.

§ 127.477. Payment for request for UR.

The insurer or the employer shall pay the reasonable and customary charge of the URO for the UR determination, regardless of who the requesting party is. Payment shall be made within 30 days of the date the UR determination was received. The URO shall send its itemized bill to the insurer responsible for payment and a copy of the itemized bill to the Bureau.

§ 127.479. Determination against insurer—payment of medical bills.

If the UR determination finds that the treatment reviewed was reasonable or necessary, the insurer shall pay the bills submitted for the treatment in accordance with § 127.208 (relating to time for payment of medical bills).

§§ 127.501—127.515. (Reserved).

UR-PETITION FOR REVIEW

§ 127.551. Petition for review by Bureau of UR determination.

If the provider under review, the employe, the employer or the insurer disagrees with the determination rendered by the URO, a request for review by the Bureau may be filed on a form prescribed by the Bureau as a petition for review of a UR determination.

§ 127.552. Petition for review by Bureau—time for filing.

The original and eight copies of the petition for review shall be filed with the Bureau within 30 days of receipt of the URO's determination.

§ 127.553. Petition for review by Bureau—notice of assignment and service by Bureau.

(a) The Bureau will assign the petition for review to a workers' compensation judge. The Bureau will serve the notice of assignment and the petition for review upon the URO, the employe, the employer or insurer, the health care provider under review, and the attorneys for the parties, if known.

(b) When a petition for review is filed in a case already in litigation before a workers' compensation judge, the Bureau will assign the petition for review to the workers' compensation judge who is hearing the case-in-chief.

(c) Before assigning a petition for review, the Bureau will review the petition to ensure that a UR has been filed and a determination has been rendered.

§ 127.555. Petition for review by Bureau—transmission of URO records to workers' compensation judge.

(a) Upon the workers' compensation judge's own motion, or motion of any party to the proceeding, the workers' compensation judge may order the URO to forward all medical records obtained for its review to the workers' compensation judge. The URO shall forward all records within 10 days of the date of the workers' compensation judge's order.

(b) When a petition for review has been filed, the Bureau will forward the URO report to the workers' compensation judge assigned to the case.

(c) An authorized agent of the URO shall sign a verification stating that, to the best of his knowledge, the complete set of unaltered records obtained by the URO is being transmitted to the workers' compensation judge.

(d) When records are provided under subsection (a), the URO shall transmit its itemized bill for record copying costs to the manager of the Medical Treatment Review Section, together with a copy of the workers' compensation judge's order directing the URO to provide the records. The URO shall be reimbursed by the Bureau for its record copying costs at the rate specified by Medicare, and for actual postage costs. Reproduction of radiologic films shall be reimbursed at a reasonable cost.

§ 127.556. Petition for Review by Bureau—de novo hearing.

The hearing before the workers' compensation judge shall be a de novo proceeding. The URO report shall be part of the record before the workers' compensation judge and the workers' compensation judge shall consider the report as evidence. The workers' compensation judge will not be bound by the URO report.

Subchapter D. EMPLOYER LIST OF DESIGNATED PROVIDERS

§ 127.751. Employer's option to establish a list of designated health care providers.

(a) Employers have the option to establish a list of designated health care providers under section 306(f.1)(1)(i) of the act (77 P. S. § 531(1)(i)).

(b) If an employer has established a list of providers which meets the requirements of the act and this subchapter, an employe with a work-related injury or illness shall seek treatment with one of the designated providers from the list. The employe shall continue to treat with the same provider or another designated provider for 90 days from the date of the first visit for the treatment of the work injury or illness.

(c) The employer may not require treatment with any one specific provider on the list, nor may the employer restrict the employe from switching from one designated provider to another designated provider.

(d) An employe may not be required to obtain emergency medical treatment from a listed provider. However, once emergency conditions no longer exist, the injured employe shall treat with a listed provider for the remainder of the 90-day period.

(e) If an employer's list of designated providers fails to comport with the act and this subchapter, the employe shall have the right to treat with a health care provider of the employe's choice from the time of the initial visit.

(f) If an employer chooses not to establish a list of designated providers, the employe shall have the right to seek medical treatment from any provider from the time of the initial visit.

(g) If a designated provider prescribes invasive surgery for the employe, the employe may seek an additional opinion from any health care provider of the employe's choice. If the additional opinion differs from the opinion of the designated provider and the additional opinion provides a specific and detailed course of treatment, the employe shall determine which course of treatment to follow. If the employe opts to follow the course of treatment outlined by the additional opinion, the treatment shall be performed by one of the health care providers on the employer's designated list for 90 days from the date of the first visit to the provider of the additional opinion.

§ 127.752. Contents of list of designated health care providers.

(a) If an employer establishes a list of designated health care providers, there shall be at least six providers on the list.

(1) At least three of the providers on the list shall be physicians.

(2) No more than four of the providers on the list may be CCOs.

(b) The employer shall include the names, addresses, telephone numbers and areas of medical specialties of the designated providers on the list.

(c) The employer shall include on the list only providers who are geographically accessible and whose specialties are appropriate based on the anticipated work-related medical problems of the employes.

(d) If the employer lists a CCO, as an option on the list of designated providers, the employer may not individually list any provider participating in that CCO, under

circumstances when those individually listed providers are bound by the terms of the CCO for the treatment rendered to the injured workers.

(e) The employer may change the designated providers on a list. However, changes to the list may not affect the options available to an employe who has already commenced the 90-day treatment period.

§ 127.755. Required notice of employe rights and duties.

(a) If a list of designated providers is established, the employer shall provide a clearly written notice to an injured employe of the employe's rights and duties under section 306(f.1)(1)(i) of the act (77 P. S. § 531(1)(i)).

(b) The contents of the written notice shall, at a minimum, contain the following conditions:

(1) The employe has the duty to obtain treatment for work-related injuries and illnesses from one or more of the designated health care providers for 90 days from the date of the first visit to a designated provider.

(2) The employe has the right to have all reasonable medical supplies and treatment related to the injury paid for by the employer as long as treatment is obtained from a designated provider during the 90-day period.

(3) The employe has the right, during this 90-day period, to switch from one health care provider on the list to another provider on the list, and that all the treatment shall be paid for by the employer.

(4) The employe has the right to seek treatment from a referral provider if the employe is referred to him by a designated provider, and the employer shall pay for the treatment rendered by the referral provider.

(5) The employe has the right to seek emergency medical treatment from any provider, but that subsequent nonemergency treatment shall be by a designated provider for the remainder of the 90-day period.

(6) The employe has the right to seek treatment or medical consultation from a nondesignated provider during the 90-day period, but that these services shall be at the employe's expense for the applicable 90 days.

(7) The employe has the right to seek treatment from any health care provider after the 90-day period has ended, and that treatment shall be paid for by the employer, if it is reasonable and necessary.

(8) The employe has the duty to notify the employer of treatment by a nondesignated provider within 5 days of the first visit to that provider. The employer may not be required to pay for treatment rendered by a nondesignated provider prior to receiving this notification. However, the employer shall pay for these services once notified, unless the treatment is found to be unreasonable by a URO, under Subchapter C (relating to medical treatment review).

(9) The employe has the right to seek an additional opinion from any health care provider of the employe's choice when a designated provider prescribes invasive surgery for the employe. If the additional opinion differs from the opinion of the designated provider and the additional opinion provides a specific and detailed course of treatment, the employe shall determine which course of treatment to follow. If the employe opts to follow the course of treatment outlined by the additional opinion, the treatment shall be performed by one of the health care providers on the employer's designated list for 90

days from the date of the first visit to the provider of the additional opinion.

(c) The written notice to an employe of the employe's rights and duties under this section shall be provided at the time the employe is hired and immediately after the injury, or as soon thereafter as possible under the circumstances of the injury. If the employe's injuries are so severe that emergency care is required, notice of the employe's rights and duties shall be given as soon after the occurrence of the injury as is practicable.

(d) The employer's duty under subsection (a) shall be evidenced by the employe's written acknowledgment of having been informed of and having understood the notice of the employe's rights and duties. Any failure of the employer to provide and evidence the notification relieves the employe from any duties specified in the notice, and the employer remains liable for all treatment rendered to the employe. However, an employe may not refuse to sign an acknowledgment to avoid duties specified in the notice.

CHAPTER 131. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE REFEREES

Subchapter C. FORMAL PROCEEDINGS SUPERSEDEAS

Sec.

131.49. Disposition of automatic request for special supersedeas.

131.50. Return to work—modification or suspension.

131.51. Employe request for special supersedeas hearing under section 413(c) and (d) of the act.

§ 131.49. Disposition of automatic request for special supersedeas.

(a) The filing of a petition alleging full recovery, accompanied by a physician's affidavit to that effect, which was prepared in connection with an examination of the employe no more than 21 days from the filing of the petition, shall act as an automatic request for supersedeas.

(b) A special supersedeas hearing will be held within 21 days of the assignment of the petition filed under this section.

(c) The workers' compensation judge shall approve the request for supersedeas if prima facie evidence of a change in the medical status or of any other fact which would serve to modify or terminate the payment of compensation is submitted at the hearing, unless the employe establishes by a preponderance of the evidence a likelihood of prevailing on the merits of the employe's defense. In making this determination the workers' compensation judge shall consider the physician's affidavit alleging full recovery and may consider the following:

(1) The report of the physician.

(2) The testimony of a party or witness.

(3) The records of a physician, hospital or clinic or other similar entity.

(4) The written statements or reports of another person expected to be called by a party at the hearing of the case.

(5) Other evidence relevant to the request for supersedeas.

(d) If the judge to whom the special supersedeas request has been assigned fails to hold a hearing within 21 days of assignment of the request to the judge or fails to issue a written order within 7 days of the hearing of the supersedeas request, the automatic request for supersedeas shall be deemed denied. The automatic re-

quest for supersedeas shall remain denied until the judge issues a written order granting the supersedeas, in whole or in part.

§ 131.50. Return to work—modification or suspension.

(a) If an employe returns to work, the insurer may modify or suspend the workers' compensation benefits.

(b) The insurer shall complete and file Form LIBC-751, "Notification of Suspension or Modification Pursuant to §§ 413(C) & (D)." The form shall be provided to the employe, employe's counsel, if known, and the Department within 7 days of the effective date of the suspension or modification of the workers' compensation benefits.

(c) When the insurer previously modified or suspended the employe's benefits under section 413(c) or (d) of the act (77 P. S. § 774.2 and § 774.3), to effectuate a subsequent modification or suspension of the employe's workers' compensation benefits, the insurer shall file the form under subsection (b), indicating the change in the employe's wages and corresponding change in the employe's workers' compensation benefits.

§ 131.51. Employe request for special supersedeas hearing under section 413(c) and (d) of the act.

(a) This section governs the disposition of an employe's request for a special supersedeas hearing made in connection with a challenge to the suspension or modification of workers' compensation benefits under section 413(c) and (d) of the act (77 P. S. §§ 774.2 and 774.3).

(b) A special supersedeas hearing will be held within 21 days of the employe's filing of the notice of challenge.

(c) The workers' compensation judge to whom the notice of challenge has been assigned will issue a written order on the challenge within 14 days of the hearing.

(d) If the judge fails to hold a hearing within 21 days or fails to issue a written order approving the suspension or modification of benefits within 14 days of the hearing, the insurer shall reinstate the employe's workers' compensation benefits at the weekly rate the employe received prior to the insurer's suspension or modification of benefits under section 413(c) or (d) of the act.

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