

# PENNSYLVANIA BULLETIN

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Department of Labor and Industry's  
Special Funds Assessments  
(Workers' Compensation)

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**Latest Pennsylvania Code Reporter  
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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***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

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# THE COURTS

## Title 255—LOCAL COURT RULES SOMERSET COUNTY

**Consolidated Rules of Court; No. 62 Miscellaneous  
1998**

### Adopting Order

Now, this 19th day of August, 1998, it is hereby Ordered:

1. The following designated Somerset County Rule of Criminal Procedure (Som. R.Crim.P.), is hereby adopted as a rule of this Court, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

Som.R.Crim.P. 107. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the following rule with the Administrative Office of Pennsylvania Courts;

B. Distribute two (2) certified copies of this Order and the following rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

C. File one (1) certified copy of this Order and the following rule with the Pennsylvania Criminal Procedural Rules Committee; and

D. File proof of compliance with this Order in the docket for these rules, which shall include a copy of each transmittal letter.

*By the Court*

EUGENE E. FIKE, II,  
*President Judge*

### RULES OF COURT

#### Complaints and Warrants—Approval

**Som. R.Crim.P. 107. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

A. The District Attorney of Somerset County having filed a certification pursuant to Pennsylvania Rule of Criminal Procedure 107, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the following offenses, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit have the approval of the attorney for the Commonwealth prior to filing:

1. Criminal Homicide in violation of Section 2501 of the Crimes Code, 18 Pa.C.S.A. § 2501;

2. Murder in any degree in violation of Section 2502 of the Crimes Code, 18 Pa.C.S.A. § 2502;

3. Voluntary Manslaughter in violation of Section 2503 of the Crimes Code, 18 Pa.C.S.A. § 2503;

4. Involuntary Manslaughter in violation of Section 2504 of the Crimes Code, 18 Pa.C.S.A. § 2504;

5. Homicide by Vehicle in violation of Section 3732 of the Vehicle Code, 75 Pa.C.S.A. § 3732; and

6. Homicide by Vehicle While Driving Under the Influence in violation of Section 3735 of the Vehicle Code, 75 Pa.C.S.A. § 3735.

[Pa.B. Doc. No. 98-1437. Filed for public inspection September 4, 1998, 9:00 a.m.]

## SUPREME COURT

### Administrative Office of Pennsylvania Courts; Request for Proposal

The Administrative Office of Pennsylvania Courts (AOPC) of the Supreme Court of Pennsylvania is issuing a Request for Proposal (RFP) on September 8, 1998 to provide a three (3) year maintenance service contract that covers all existing hardware equipment and any hardware purchased during the term of the contract for the District Justice System. The District Justice System is comprised of 552 District Justice offices, 13 Central Courts, 8 Night Courts, 3 Traffic Courts, and 36 Concentration Sites located throughout the Commonwealth of Pennsylvania.

The terms and conditions and scope of work are outlined in the RFP. A copy of the RFP may be downloaded from the Pennsylvania Judiciary's web site on the Internet ([www.courts.state.pa.us](http://www.courts.state.pa.us)). Copies may also be requested by calling the AOPC at (717) 795-2000 or E-mailing the AOPC at [kgibb@courts.state.pa.us](mailto:kgibb@courts.state.pa.us)

Vendors interested in bidding for this contract must submit their questions by September 22, 1998 and Letters of Intent to Bid by October 13, 1998. (See the RFP for a detailed schedule of the procurement process.)

NANCY M. SOBOLEVITCH,  
*Court Administrator of Pennsylvania*

[Pa.B. Doc. No. 98-1438. Filed for public inspection September 4, 1998, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

#### Stream Redesignations (French Creek, et al.—Part A)

The Environmental Quality Board (Board) by this order amends §§ 93.9f, 93.9g, 93.9k, 93.9l, 93.9n—93.9p and 93.9r to read as set forth in Annex A.

This order was adopted by the Board at its meeting of May 21, 1998.

##### A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

##### B. *Contact Persons*

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8555, 400 Market Street, Harrisburg, PA 17105-8555, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final rulemaking is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

##### C. *Statutory Authority*

The final rulemaking is being made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law. In addition, the Federal regulation at 40 CFR 131.32 sets forth certain requirements for portions of the Commonwealth's antidegradation program.

##### D. *Background of the Amendment*

The Commonwealth's water quality standards, which are set forth in part in Chapter 93 (relating to water quality standards), implement sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards are in-stream water quality goals which are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department considers candidates for Special Protection status or redesignation in its ongoing review of water quality standards. In general, Special Protection waters must be maintained at their existing quality, and wastewater treatment requirements must comply with § 95.1 (relating to general requirements). Candidates may be identified by the Department based on routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and

Boat Commission (FBC), and by the general public through a rulemaking petition to the Board.

The Department evaluated the following streams in response to requests from Department and FBC staff, and from five petitioners submitting petitions to the Board: West Branch Brandywine Creek and Tributaries, Grimes Run, Milligan Run, South Branch Little Aughwick Creek, Sugar Valley Run, Indiantown Run and Muddy Run were reviewed based on a request by Department staff; Stony Brook, Mill Creek, South Branch Cole Creek, Browns Run and Toms Run were reviewed based on a request by the FBC; and the remaining streams were reviewed due to requests from various petitioners: French Creek by Green Valleys Association; Sutton Creek by Keep Sutton Creek Clean Committee; Cedar Run and Slate Run by the Pennsylvania Environmental Defense Foundation; Cove Creek by Friends of Cove Creek; and Trout Run by Greg McCarren and Jackie Greenfield.

The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current designations. Aquatic surveys of these streams were conducted by the Department's Bureau of Watershed Conservation and others. In reviewing whether waterbodies are subject to the Special Protection Waters Program the Department utilizes applicable State and Federal regulatory criteria and definitions. Based upon the data collected in these surveys and information gathered from Department records and other sources, the Board has made the designations set forth in Annex A.

Copies of the Department's stream evaluation reports referred to in this Preamble are available from Edward R. Brezina whose address and telephone number are listed in Section B of this Preamble.

##### E. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board approved the proposed rulemaking on January 21, 1997. The proposal was published at 27 Pa.B. 1449 (March 22, 1997), with provisions for a 45-day public comment period. Several persons requested that public hearings be scheduled during this public comment period to receive additional comments on the Browns Run and Trout Run proposals. While the regular public comment period concluded on May 6, 1997, as was scheduled, the public comment period was extended for Browns and Trout Runs to allow for the public hearings. The Browns Run public hearing was held on July 1, 1997, at the Warren County Courthouse in Warren, and the Trout Run public hearing was held on July 2, 1997, at the Friendship Fire Company in Hellam Township, York County. This extended public comment period for Browns and Trout Runs concluded on July 2, 1997.

In response to the public comments and testimony received from 317 witnesses or commentators on the Browns Run and Trout Run proposals, the Department has determined that additional stream sampling and evaluations are needed to determine the appropriate recommendations for final rulemaking. Therefore, IRRC's and the EPA Region 3 (Region 3) comments and other public comments on Browns Run and Trout Run will be considered during the development of a separate final rulemaking which will address the Browns Run and Trout Run final recommendations.

In addition, in response to the Board's decision at its May 21, 1998, meeting, the lower section of Cove Creek,

from the T-433 Bridge downstream to the Mouth, was removed from the Part A package on the basis that further analysis of the lower basin is necessary due to the dominance of sensitive mayfly populations. The Department is proposing to retain the CWF designation for this stream segment. The Department plans to seek public comment on changing the interpretation of this metric to allow for a higher rapid bioassessment protocol (RBP) score when the dominant species is indicative of good water quality.

The Board also agreed to remove Grimes Run from the Part A package to further consider whether the stream was meeting its use as a HQ-CWF on the effective date of the Clean Water Act (November 28, 1975). The Department is proposing to reclassify Grimes Run to a CWF. The FBC has additional information which they believe indicates that these uses were being met, and plans to submit it to the Department.

Final recommendations will be considered by the Board as a Part B package following completion of the additional stream evaluations for Browns Run and Trout Run and following consideration of information to be obtained relevant to Grimes Run and the lower section of Cove Creek.

The Board received comments from 121 commentators during the public comment period on this Part A of the French Creek, et al proposed rulemaking. Three commentators, the Independent Regulatory Review Commission (IRRC) and Region 3 provided general comments on the entire proposed rulemaking package. In addition to the general comments on the proposed rulemaking package, IRRC also provided specific comments on Cove Creek and Grimes Run as part of its initial submission of comments on the French Creek, et al rulemaking. Also, Region 3 commented specifically on the French Creek, West Branch Brandywine, Cove Creek, Sutton Creek, Mill Creek and Toms Run proposals.

The following is a summary of comments submitted by IRRC, Region 3 and the public for the proposed stream redesignations for the Part A package. The House and Senate Standing Committees did not provide comments on the proposed rulemaking.

One commentator supported all of the proposed redesignations in the French Creek, et al proposed rulemaking. Region 3 asked for clarification as to which criteria were applied, and how the Federal promulgation was accommodated for the proposed stream redesignations. The EPA also indicated that the United States Fish and Wildlife Service was asked to provide input on the proposed changes. Two commentators and IRRC questioned Pennsylvania's authority to continue stream redesignations because of EPA's recent promulgation of Federal regulations for a portion of Pennsylvania's Special Protection Program and the appropriateness of these redesignations in light of the Commonwealth's proposal to amend its antidegradation program published at 27 Pa.B. 1459 (March 22, 1997). The two commentators expressed that the Department should not proceed with any stream redesignations, especially EV Waters redesignations, until a clear regulatory basis for these designations is established. IRRC suggested that if the proposed stream redesignations are consistent with the Federal provisions, it is appropriate for the Board to proceed to final-form regulations. Conversely, IRRC agreed that if the proposed stream redesignations are not consistent with the Federal promulgation, the Board should defer further action on these regulations until it has adopted its new

antidegradation regulations and the Environmental Protection Agency (EPA) has withdrawn its overriding promulgation.

The Department believes that the current stream redesignations are consistent with the Federal provisions and implementation of the Commonwealth's Special Protection Program.

One commentator, representing the Chester County Water Resources Authority (CCWRA), expressed full support for the proposed designations for increased protection of more than 19 streams and stream segments in Chester County. The commentator referenced the redesignations for French Creek, Birch Runs and the mainstem segments of the West Branch Brandywine Creek and several tributary basins.

The 113 supportive commentators for the French Creek proposed redesignations included many local municipal officials, agencies, community organizations and local State Legislators.

Region 3 asked for several points of clarification on the French Creek redesignations. They were confused over the intended designation for the Beaver Run subbasin due to an inadvertently omitted entry. The Beaver Run basin designation is HQ-TSF, MF. They also questioned how several sampling scores were derived and how the downstream limit of several of the various designations were determined.

Region 3 suggested that the Board reconsider Special Protection for "Briar Run," an unnamed tributary in the West Branch Brandywine Creek basin. The Department explains that UNT #00130 ("Briar Run") was not recommended for HQ protection because it did not achieve the minimum score of 83% of the reference station score.

Region 3 expressed concerns that the low scores for Sutton Creek were due primarily to some habitat parameters being rated suboptimal. They suggested that the increased protection afforded an HQ stream could benefit the habitat. The Department does not believe the suboptimal conditions on Sutton Creek would benefit from HQ protection. The habitat parameters which rated suboptimal for all Sutton Creek stations included velocity/depth regimes, channel alterations, channel flow status, vegetative disruptive pressure and riparian vegetation zone width.

These regulatory changes allow wastewater treatment requirements for dischargers to these streams to be consistent with the water uses to be protected. These regulatory amendments do not contain any standards or requirements which exceed requirements of the companion Federal regulations.

#### F. *Summary of Changes to the Proposed Rulemaking*

In response to testimony and comments received during the public hearings and comment period, the Department decided to conduct additional stream sampling and evaluations before returning with final recommendations for Browns Run and Trout Run as a separate Part B final rulemaking package.

In response to the Board's decision at its May 21, 1998, meeting, Grimes Run and the lower section of Cove Creek were removed from the Part A package and will be reconsidered in the Part B package.

An entry that was inadvertently omitted from the proposed rulemaking has been added to Annex A for Beaver Run in the French Creek basin. This clarifies that the Beaver Run basin designation is HQ-TSF, MF.

The Department also discovered during development of this final rulemaking that a "Basin" descriptor was inadvertently omitted from the proposed rulemaking Annex A for the first Mill Creek entry. Therefore, a "Basin" entry was inserted in the Zone column to replace the "Main Stem" descriptor that was being deleted during proposed rulemaking.

#### G. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the amendments.

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in question.

2. *Compliance Costs*—Generally the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. Except as noted, no costs will be imposed directly upon local government by this recommendation. However, indirect costs may result from revisions to Act 537 Sewage Facilities Plans due to consultant and other administrative fees. Political subdivisions which add a new sewage treatment plant or expand an existing plant in the basin may experience changes in cost as noted in discussion of impacts on the private sector.

Persons proposing activities or projects which result in discharges to streams must comply with the regulatory requirements relating to current stream designations. These persons could be adversely affected by the recommended changes that increase the level of protection provided to a stream, if they expand their discharge or add a new discharge point, since they may need to provide a higher level of treatment for their new or expanded discharge. These increased costs take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and may depend upon the size of the discharge in relation to the size of the stream, and many other factors. It is, therefore, not possible to precisely predict the actual change in costs. In addition, nonpoint source controls necessary to protect High Quality and Exceptional Value Waters may add to the cost of planning and development for new or expanded nonpoint source discharges. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams which are upgraded, and potentially lower treatment costs for dischargers to streams which are downgraded.

3. *Compliance Assistance Plan*—The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980's. The proposal is consistent with and based on existing Department programs and current policies. Therefore, no policy changes are anticipated. The proposal extends additional protection to selected waterbodies that exhibit exceptional water quality and is consistent with antidegradation requirements established under the Federal Clean Water Act and Pennsylvania Clean Streams Law. All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards which prevent pollution and protect existing water uses.

The proposed amendments will be implemented through the National Pollution Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable

stream discharge effluent limitations. These permit conditions are established to assure that the water quality criteria are achieved and the designated uses are protected. New and expanded dischargers with water quality-based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with the revised designated water uses.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These regulatory revisions are based on existing Department programs and policies. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to Special Protection (HQ or EV). For example, NPDES general permits are not available for new or expanded discharges to Special Protection streams. Thus, an individual permit, and its associated additional paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification (SEJ), and the nonfeasibility of nondischarge alternatives, may be required for new or expanded discharges to certain Special Protection waters.

#### H. *Pollution Prevention*

The antidegradation program is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality. Although new and expanded wastewater discharges are not prohibited by the antidegradation program, nondischarge alternatives are encouraged and required, when appropriate. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

#### I. *Sunset Review*

These amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended. In addition, these regulations are water quality standards subject to section 303(c)(1) of the Federal Clean Water Act (33 U.S.C.A. § 1313(c)(1)).

#### J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 10, 1997, the Department submitted a copy of the notice of proposed rulemaking to IRRC and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. The notice was published at 27 Pa.B. 1449. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered all comments received from IRRC and the public. The Standing Committees did not provide comments on the proposed rulemaking.

This final-form regulation was deemed approved by the House and the Senate Committees on July 20, 1998. IRRC met on July 30, 1998, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

#### K. *Findings*

The Board finds that:



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

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

(3) These regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 1449.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

*L. Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9f, 93.9g, 93.9k, 93.9l, 93.9n—93.9p and 93.9r to read as set forth in Annex A, with ellipses referring to the existing text of the regulations. (*Editor's Note:* A proposal to amend §§ 93.9l and 93.9p, amended in this document, remains outstanding at 28 Pa.B. 1635 (April 4, 1998).

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

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

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

JAMES M. SEIF,  
*Chairperson*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4007 (August 15, 1998).)

**Fiscal Note:** 7-306A. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 93. WATER QUALITY STANDARDS**

**§ 93.9f. Drainage List F.**

**Delaware River Basin in Pennsylvania**

*Schuylkill River*

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
3-French Creek	Basin, Source to Beaver Run					Chester	EV	None
4-Beaver Run	Basin					Chester	HQ-TSF, MF	None
3-French Creek	Basin, Beaver Run to Birch Run					Chester	HQ-TSF, MF	None
4-Birch Run	Basin					Chester	EV	None
3-French Creek	Basin, Birch Run to the Junction of West Vincent, East Vincent and East Pikeland Township Borders					Chester	HQ-TSF, MF	None
3-French Creek	Basin, Junction of West Vincent, East Vincent and East Pikeland Township Borders to Mouth					Chester	TSF, MF	None
		*	*	*	*	*		

**§ 93.9g. Drainage List G.**

**Delaware River Basin in Pennsylvania**

*Delaware River*

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
		*	*	*	*	*		

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
4-West Branch Brandywine Creek	Main Stem, T 437 Bridge to Dam at Valley Station	Chester	TSF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek	Basins, T 437 Bridge to Dam at Valley Station (except those in West Brandywine Township)	Chester	TSF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek	Basins, in West Brandywine Township	Chester	HQ-TSF, MF	None
5-Birch Run	Basin, Source to Hibernia Park Dam	Chester	HQ-CWF	None
5-Birch Run	Basin, Hibernia Park Dam to Mouth	Chester	TSF, MF	None
5-Unnamed Tributary to West Branch Brandywine Creek at RM 21.2 (UNT #00215)	Basin	Chester	HQ-CWF, MF	None
5-Rock Run	Basin	Chester	TSF, MF	None
4-West Branch Brandywine Creek	Main Stem, Dam at Valley Station to Dennis Run	Chester	WWF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek	Basins, Dam at Valley Station to Dennis Run	Chester	WWF, MF	None
5-Sucker Run	Basin	Chester	WWF, MF	None
5-Dennis Run	Basin	Chester	WWF, MF	None
4-West Branch Brandywine Creek	Main Stem, Dennis Run to Buck Run	Chester	WWF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek	Basins, Dennis Run to Buck Run, except unnamed Tributary to West Branch Brandywine at RM 12.3 (UNT #00193)	Chester	WWF, MF	None
5-Unnamed Tributary to West Branch Brandywine Creek at RM 12.3 (UNT #00193)	Basin, Source to Unnamed Tributary to UNT #00193 at RM 0.3 (UNT #00194)	Chester	CWF, MF	None
6-Unnamed Tributary to UNT #00193 at RM 0.3 (UNT #00194)	Basin	Chester	EV, MF	None
5-Unnamed Tributary to West Branch Brandywine Creek at RM 12.3 (UNT #00193)	Basin, Unnamed Tributary to UNT #00193 at RM 0.3 (UNT #00194) to Mouth	Chester	CWF, MF	None
5-Buck Run	Basin	Chester	TSF, MF	None
4-West Branch Brandywine Creek	Main Stem, Buck Run to Confluence with East Branch	Chester	WWF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek	Basins, Buck Run to Confluence with East Branch except Unnamed Tributaries to West Branch Brandywine at RM's 10.0, 9.48, 9.14, 8.0 & 5.2 (UNT's #00130, 00126, 00124, 00119, 00108)	Chester	WWF, MF	None
5-Unnamed Tributaries to West Branch Brandywine Creek at RM's 10.0, 9.48, 9.14 & 8.0 (UNT's #00130, 00126, 00124, 00119)	Basins	Chester	CWF, MF	None

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
5-Unnamed Tributary to West Branch Brandywine Creek at RM 5.2 (UNT #00108)	Basin	Chester	EV, MF	None
5-Broad Run	Basin	Chester	EV, MF	None

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania

*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3-Stony Brook	Basin	Columbia	EV	None

*(Editor's Note: Final consideration of the appropriate designation of the Grimes Run basin will be part of a Part B final rulemaking action to be taken at a later date. A proposal which would have changed the designation from HQ-CWF to CWF was included in the proposed rulemaking at 27 Pa.B. 1449, 1455 (March 22, 1997).)*

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania

*West Branch Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4-Cedar Run	Basin	Lycoming	EV	None
4-Slate Run				
5-Francis Branch Slate Run	Basin, Source to Confluence with Cushman Branch	Tioga	EV	None
5-Cushman Branch	Basin, Source to Slate Run	Tioga	EV	None
4-Slate Run	Basin, Confluence of Francis and Cushman Branches to Mouth	Lycoming	EV	None

*(Editor's Note: Final consideration of the appropriate designation for the lower reach of the Cove Creek basin, from the T-433 bridge to the mouth will be part of a Part B final rulemaking action to be taken at a later date. A proposal which would have retained CWF for the lower reach was included in the proposed rulemaking at 27 Pa.B. 1449, 1456 (March 22, 1997).)*

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

*Juniata River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4-Cove Creek	Basin, Source to T 433 Bridge	Bedford	EV	None
4-Cove Creek	Basin, T433 Bridge to Mouth	Bedford	CWF	None

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
		* * * * *		
5-South Branch Little Aughwick Creek	Basin, Source to Inlet of Cowans Gap Lake	Fulton	EV	None
5-South Branch Little Aughwick Creek	Basin, Inlet of Cowans Gap Lake to Confluence with North Branch	Fulton	HQ-CWF	None
		* * * * *		
3-West Licking Creek	Basin	Huntingdon	HQ-CWF	None
3-Sugar Valley Run	Basin	Mifflin	CWF	None
3-Beaverdam Run	Basin	Mifflin	HQ-CWF	None
		* * * * *		

(*Departmental Note:* Final consideration of the appropriate designation of the Trout Run basin will be part of a Part B final rulemaking action to be taken at a later date. A proposal which would have changed the designation from WWF to EV was included in the proposed rulemaking at 27 Pa.B. 1449, 1457 (March 22, 1997).)

#### § 93.9o. Drainage List O.

##### Susquehanna River Basin in Pennsylvania

###### *Susquehanna River*

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
		* * * * *		
3-Little Swatara Creek	Basin, Berks-Lebanon County Border to Mouth	Lebanon	WWF	None
3-Indiantown Run	Basin, Source to Inlet of Marquette Lake	Lebanon	CWF	None
3-Indiantown Run	Basin, Inlet of Marquette Lake to Inlet of Memorial Lake	Lebanon	TSF	None
3-Indiantown Run	Basin, Inlet of Memorial Lake to Mouth	Lebanon	WWF	None
3-Quittapahilla Creek	Basin	Lebanon	TSF	None
		* * * * *		

#### § 93.9p. Drainage List P.

##### Ohio River Basin in Pennsylvania

###### *Allegheny River*

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
		* * * * *		
3-Mill Creek	Basin, Source to North Hollow	Potter	HQ-CWF	None
3-Mill Creek	Basin, North Hollow to Mouth	Potter	CWF	None
3-Dingman Run	Main Stem	Potter	HQ-CWF	None
		* * * * *		
4-Cole Creek	Basin, Source to South Branch Cole Creek	McKean	CWF	None
5-South Branch Cole Creek	Basin	McKean	EV	None
4-Cole Creek	Basin, South Branch Cole Creek to Mouth	McKean	CWF	None

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		

*(Departmental Note: Final consideration of the appropriate designation of the Browns Run basin in § 93.9q. will be part of a Part B final rulemaking action to be taken at a later date. A proposal to change the designation from CWF to EV was included in the proposed rulemaking at 27 Pa.B. 1449, 1458 (March 22, 1997).)*

**§ 93.9r. Drainage List R.**

**Ohio River Basin in Pennsylvania**

*Clarion River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4-Toms Run	Basin, Source to Little Hefren Run	Clarion	EV	Add TON
5-Little Hefren Run	Basin	Clarion	CWF	Add TON
4-Toms Run	Basin, Little Hefren Run to Mouth	Forest	EV	Add TON
		* * * * *		

[Pa.B. Doc. No. 98-1439. Filed for public inspection September 4, 1998, 9:00 a.m.]

**[25 PA. CODE CH. 94]  
Municipal Wasteload Management**

The Environmental Quality Board (Board) by this order adopts amendments to Chapter 94 (relating to the administration of the municipal wasteload management program). The amendments are the result of the Department of Environmental Protection's (Department) Regulatory Basics Initiative and Executive Order 1996-1 (Regulatory Review and Promulgation). This final rulemaking incorporates the goals of these initiatives. Among the more significant changes from the proposed rulemaking are elimination of provisions which would have required both influent and effluent metering; elimination of provisions which would have required additional flow meters in the collection and conveyance facilities, and the addition of provisions to encourage voluntary pollution prevention techniques.

The Board approved these final-form regulations at its June 16, 1998, meeting.

**A. Effective Date**

These amendments will go into effect immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**B. Contact Persons**

For further information regarding these amendments, contact Glenn M. Maurer, Director, Bureau of Water Quality Protection, 11th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-9666 or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, 400 Market

Street, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final rule is available electronically through the Department's Web site (<http://www/dep.state.pa.us>).

**C. Statutory Authority**

The amendments are being promulgated under the authority of section 5 of The Clean Streams Law (35 P. S. § 691.5) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510.20).

**D. Background and Purpose**

Chapter 94 establishes the framework for monitoring sewer system and sewage treatment plant loading rates; projecting future loads; limiting additional contributions of sewage to overloaded facilities; planning for necessary facility expansion and encouraging pollution prevention options.

The Department has conducted an overall review of Chapter 94 through its Regulatory Basics Initiative as outlined at 25 Pa.B. 3343 (August 19, 1995) and through Governor Ridge's Executive Order 1996-1 (Regulatory Review and Promulgation) dated February 6, 1996. These initiatives were designed with the goal of improving Department regulations. The proposed rulemaking for this chapter published at 27 Pa.B. 4334 (August 23, 1997) resulted from these initiatives. Comments received on the proposed rulemaking were reviewed and a Comment and Response document was developed. That document and the changes made in this final rulemaking were reviewed by the Water Resources Advisory Committee (WRAC) which represents a wide range of organizations with an interest in wastewater.

*E. Summary of Comments and Responses on the Proposed Rulemaking and Amendments to the Proposed Rule*

The proposed rulemaking was published with a 30-day public comment period. The Board received comments from ten commentators. Detailed summaries of all comments may be found in a Comment and Response Document which is available from the contact persons whose names and addresses are noted in Section B of this Preamble. Following are summaries and responses to the more significant comments which were received during the comment period.

*1. Significant Comments—§ 94.13 Relating to Measuring*

A majority of the comments concerned the proposed language of § 94.13(a) which would have required sewage treatment plants receiving flows in excess of 100,000 gallons per day to be equipped to measure the influent flow of the plant. Some commentators suggested that this was unnecessary because measurements of outflow accomplish the same result. In addition, some commentators noted that this would require approximately 20% of wastewater treatment plants in this Commonwealth to retrofit their facilities with new meters. The costs for a new meter could range from \$5,000 to \$50,000 per treatment plant. Accordingly, the term "influent" is being deleted in the final rule.

Proposed § 94.13(a) provided that "[a] sewage treatment plant or other part of a facility which receives or will receive within the next 5 years flows exceeding 100,000 gallons per day shall be equipped to continuously measure, indicate and record the . . . flow." A number of commentators felt that the phrase "or other part of a facility" was ambiguous. It was asserted that since there is no definition of facility, it is unclear exactly what areas of the wastewater system would have to have flow meters installed. Others felt it was also unclear if organic loading should also be monitored from facilities that are not wastewater treatment facilities. In light of these comments, the phrase "or other part of a facility" is being deleted in this final rule.

*2. Section 94.1—Definitions*

One commentator noted that the terms "facility," "plant" and "POTW" were used in the proposal somewhat interchangeably and without clear distinction. The Board agrees and the defined terms "plant" and "treatment facilities" have replaced these other terms throughout the regulation, where appropriate. The definition of "POTW" has been deleted because it was initially intended to be used in the context of the pretreatment regulations outlined in Chapter 97 (relating to industrial waters). The Department has not accepted delegation from the Environmental Protection Agency (EPA) for the administration of a pretreatment program and does not intend to do so.

The existing definition of "average daily flow" was not proposed to be changed; however, since the phrase is not used in Chapter 94 as a result of the final rule, it is being deleted.

The term "bypass" was also not proposed to be changed. The existing definition is inconsistent with the definition and use of the term under the NPDES program and 40 CFR 122.41(m) (relating to conditions applicable to all permits (applicable to state programs)). To ensure consistency, a new definition of "bypass" is being provided. The term is defined as "[t]he intentional diversion of wastewater either at or after the headworks of the plant."

A minor grammatical change has been made to the definition of "combined sewer system."

A new term which was not noted in the proposal, "CAP—corrective action plan," is defined. This term was added to more accurately reflect the type of plan which must be submitted to the Department to address an existing or projected overload as provided under §§ 94.21 and 94.22 (relating to existing overload; and projected overload).

A new definition for "headworks" was added to clarify the use of this term in the definitions of "bypass" and "sanitary sewer overflow."

The definition of "hydraulic design capacity" has been clarified. The proposal defined the term, in relevant part, as "[t]he highest monthly average flow, expressed in millions of gallons per day, at which a sewage treatment plant is expected to consistently provide the required treatment . . ." This part of the definition has been revised to make it clear that it applies to the maximum monthly design flow rather than the highest monthly average flow. A sentence has been added at the end of the definition explaining that the maximum monthly design flow is specified in the water quality management (Part II) permit issued under Chapter 91 (relating to general provisions). Information regarding the maximum monthly design flow is an important tool in determining if there is an overload and the permit is the only place where the design flow is indicated. In addition, the term "sewage treatment facility" has been changed as explained.

The definition of "hydraulic overload" has also been clarified. The proposal defined the term, in part, as "[t]he condition that occurs when the monthly average flow of the sewage treatment facility or other portion of the sewage system exceeds the hydraulic design capacity for 3-consecutive months out of the preceding 12 months. . ." The final rule clarifies this portion of the definition as "[t]he condition that occurs when the monthly average flow entering a plant exceeds the hydraulic design capacity for 3-consecutive months out of the preceding 12 months."

The term "industrial user" is changed to make it clear that it applies to an establishment which discharges or introduces industrial wastes into a sewerage facility rather than a POTW as currently provided. This change is necessitated because the term "POTW" has been deleted throughout the chapter, as discussed previously.

A new term, "monthly average organic loading," has been added and is defined as "[t]he total organic load received at a plant during any 1-calendar month divided by the number of days in that month. This value is expressed in pounds per day of BOD<sub>5</sub>." This term was added to provide consistency with the definition of "average monthly flow" and to provide a clear definition of how this loading is to be calculated.

The term "organic overload" has been revised to make it clear that it applies when the "average daily organic load exceeds the organic design capacity" rather than the load capacity.

Two terms relating to pollution prevention activities have been added to encourage pollution prevention activities. The terms are "pollution prevention" and "PPP—Pollution Prevention Plan."

Two terms relating to pretreatment program, "pretreatment" and "pretreatment program" were proposed for deletion in the proposal. During its review of these final-form regulations, the Department discerned that the deletion of these terms would affect the applicability of § 94.15 (relating to pretreatment program development).

Accordingly, the terms are reinserted with slight modifications which eliminate sections of the regulations which are no longer applicable.

The definition of "Regional Administrator" is being deleted because the term is no longer used in the chapter.

The definition of "sanitary sewer overflow" was proposed to be deleted because the term would not have been applicable if the proposal were adopted. However, the term is used in these final-form regulations in § 94.12(a)(6), and the term has, therefore, been reinserted. The definition has been changed to make it consistent with the application of the term as used under the NPDES Program administered in accordance with Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance).

The definition of "separate sanitary sewer system" has been clarified to make it clear that the system is intended to carry sanitary sewage separate from stormwater as specified in the permit. The proposal did not contain a reference to the phrase "as specified in the permit."

The definition of "sewerage facilities" has been clarified so that the term is applicable to a plant and sewer system "owned by or serving a municipality." This is intended to address those situations where privately-owned sewerage facilities are connected to municipally-owned sewerage facilities.

### 3. Section 94.2—Purpose

This section outlines the purpose of Chapter 94, which is to reduce pollution. The proposal provided that Chapter 94 is intended to prevent pollution by requiring owners and operators of sewerage facilities to manage wasteloads entering the sewerage facilities to accomplish certain enumerated objectives. The language has been revised to explain that the purpose of Chapter 94 is to "prevent unpermitted and insufficiently treated wastewater from entering waters of this Commonwealth by requiring the owners and operators of sewerage facilities to project, plan and manage future hydraulic, organic and industrial waste loadings to their sewerage facilities." Owners and operators of sewerage facilities are encouraged to apply pollution prevention practices to avoid overloads.

Among the current objectives is the prevention of the introduction of pollutants into POTWs "which will interfere with the operation of the plant or pass through or otherwise be incompatible with the plant." This objective, outlined in paragraph (3), is being deleted because this provision applies to pretreatment programs. The Department has not accepted delegation from the EPA for the administration of a pretreatment program.

Another current objective, outlined in paragraph (4) is to "improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges." This subsection is renumbered as paragraph (3) and is revised to highlight pollution prevention and source reduction opportunities. Thus, paragraph (3) provides that one of the pollution prevention objectives is to "improve opportunities to prevent or reduce the volume and toxicity of industrial wastes generated and discharged to sewerage facilities and where prevention and reduction opportunities have been maximized and to recycle and reuse municipal and industrial wastewaters and sludges."

### 4. Section 94.12—Annual Report

Among other things, the proposal would have required that annual reports required to be submitted by March 31 of each year be prepared using "a brief summary form

provided by the Department." This language has been replaced by language providing that the report be signed by the preparer and by the permittee of the plant. This phrase was added to clearly identify what signatures are required for the Department to accept the report as an official document of the permittee.

Subsection (a)(2) of the proposal provided that the information to be included in the annual report is to include a line graph depicting 5-year past and projected average daily organic loading for each month expressed as pounds per day of BOD<sub>5</sub>. In this final rulemaking, the information is to depict the monthly average organic loading rather than average daily loading. This change was made to provide consistency with defined terms.

Subsection (a)(3) of the existing regulation provides that 5-year projections are to include data supporting the projections. The language has been revised to clarify that the information in the annual report is also to include calculations and tables used to support the projections, as well as historic monthly data in tabular form.

Subsection (a)(4) of the proposal provided that the annual report is to also include a map showing, among other things, all sewer extensions approved in the past year in accordance with the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20). This portion of the subsection has been clarified to provide that the map also include sewer extensions exempt from the planning requirements of that act.

Subsection (a)(8) of the existing regulation (subsection (a)(6) of this final rulemaking) outlines certain types of sewer system problems which must be discussed in the annual report. The final-form regulations clarifies that these problems relate to combined sewer overflows and sanitary sewer overflows.

Subsection (a)(9) of the existing regulation (subsection (a)(7) of this final-form regulations) provides that a discussion in the annual report relating to the condition of sewage pumping stations include a comparison of "available capacity" with present and projected maximum flows for each station. The phrase "available capacity" has been changed to "the maximum pumping rate." This change is intended to enable the Department to determine the maximum flows which a pump station can put out without overflowing.

Subsection (a)(8) of the proposal outlined other types of information relating to ordinances and industrial waste which should be submitted with the annual report. Language has been added designed to encourage the utilization of pollution prevention measures.

### 5. Section 94.13—Measuring, Indicating and Recording Devices

Most of the changes to this section have been outlined in Part 1 of Section E of this Preamble. However, the flows threshold for measurements required in this section has been clarified to make it clear that it applies to monthly average flows rather than flows.

### 6. Sections 94.21 and 94.22—Existing and Projected Overload

These sections require the permittee of a sewerage facility to prepare a written plan setting forth actions the permittee will undertake to address either a hydraulic or organic overload at its facility. The type of plan required is more accurately a corrective action plan. Accordingly, the phrase "corrective action plan" has been inserted in lieu of existing terms referring to the plan.

7. *Section 94.31—Organic or Hydraulic Overload (Imposition of Ban)*

This section outlines the conditions which will result in the imposition of a ban on connections. Bans will be imposed whenever the Department determines that the sewerage facilities or a portion of a facility are either hydraulically or organically overloaded or that the discharge from the plant causes pollution and one or more other conditions prevail. Among the other conditions specified is that the “[f]ailure of the permittee to provide facilities to prevent an organic or hydraulic overload was not caused solely by the unavailability of Federal construction grants under section 201 of the Clean Water Act for which the permittee has applied and remains eligible.” This Federal construction grants program no longer exists and the quoted language from paragraph (3) has accordingly been deleted in this final rulemaking.

*F. Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulations. It also requires a statement of the need for, and a description of forms, reports or other paperwork required as a result of the final-form regulations.

These final-form regulations are necessary to implement the Department’s Regulatory Basics Initiative and the goals of Executive Order 1996-1. Sections of Chapter 94 were identified as obsolete, overly prescriptive or written in a way that causes significant noncompliance.

*Benefits*

Individuals, consultants and sewage treatment plant permittees will benefit from the final amendments. The simplified annual report requirements will make it easier for permittees to comply with the regulations and should increase compliance. Cost savings were estimated as \$753,000 during the development of the Regulatory Basics Initiative. In addition, elimination of obsolete regulations and modifications of the proposed rulemaking in response to comments received during the public comment period has improved the clarity of the regulations and will promote compliance.

*Compliance Costs*

The final rulemaking does not create new regulatory requirements. Several amendments included in the proposed rulemaking relating to metering flows were eliminated in the final-form rulemaking because some commentators noted these changes would substantially increase the cost of compliance. The final rulemaking will not impose additional costs on anyone.

*Compliance Assistance Plan*

The Department does not intend to develop a compliance assistance plan because there is no adverse impact on compliance.

*Paperwork Requirements*

There are no additional forms, reports or other paperwork required as the result of this final rulemaking. This final rulemaking is intended to reduce and simplify paperwork requirements.

*G. Pollution Prevention*

Pollution prevention approaches to environmental management often provide environmentally sound and longer-term solutions to environmental protection because pollution is prevented at the source. Pollution prevention is defined by the EPA as measures taken to avoid or reduce generation of all types of pollution—solid/hazardous

waste, wastewater discharges and air emissions—at their points of origin; however, it does not include activities undertaken to treat, control or dispose of pollution once it is created. The Federal Pollution Prevention Act of 1990 established a National policy and environmental management hierarchy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The hierarchy is as follows:

(a) Pollution should be prevented or reduced at the source.

(b) Pollution that cannot be prevented should be recycled in an environmentally safe manner whenever possible.

(c) Pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible to render it less hazardous, toxic or harmful to the environment.

(d) Disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

The short- and long-term health of the economy of this Commonwealth depends on clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment. The Commonwealth spends over \$1 billion per year in efforts to control pollutants through regulation of both industrial point source discharges and nonpoint sources. To meet the Commonwealth’s economic development and environmental protection goals successfully, the Commonwealth needs to adopt programs like pollution prevention that not only protect the environment, but also significantly reduce costs and increase the competitiveness of the regulated community. When pollution is prevented up front, it can reduce a company’s bottom-line costs and overall environmental liabilities. Sometimes a company can get out of the regulatory loop through a successful pollution prevention program. It also can get the Department out of the business of regulating pollution that may not need to be generated in the first place.

In keeping with Governor Ridge’s interest in encouraging pollution prevention solutions to environmental problems, this rulemaking has incorporated the following provisions and incentives to meet that goal:

The final-form regulations require permittees of wastewater treatment facilities to project, through an annual evaluation of permitted facilities, the potential for either a hydraulic or organic overload 5 years into the future. When overloads are projected, the permittee is required to take appropriate action to either eliminate the source of the overload or to expand or upgrade the wastewater facilities to handle the projected increased loading. Therefore, Chapter 94 is a pollution prevention program to the extent that permittees are required to prevent overloads preferably by eliminating the source of the overload.

Section 94.12 of the final rulemaking retains a reporting requirement to identify industrial discharges to sewerage facilities and discuss actions taken to alleviate problems caused by these discharges. Section 94.15 requires that where pollutant contributions by an industrial user results in interference or pass through and the violation is likely to recur, the sewerage facility must develop local limits for these industrial users to assure compliance with NPDES permits or sludge use or disposal practices. These elements provide important opportunities to encourage pollution prevention/source reduction programs and practices at sewage treatment facilities and at industries which discharge to these facilities.



In addition, the final rulemaking incorporates definitions of "pollution prevention" and "pollution prevention plan." Specific references to pollution prevention were added to §§ 94.2, 94.3 and 94.12(a) (relating to the purpose of the regulation; scope of the regulation; industrial wastewater discharges to municipal facilities and plans to reduce or eliminate overloads).

The Department's Office of Pollution Prevention and Compliance Assistance is available to provide assistance in identifying pollution prevention opportunities to applicants subject to these provisions. For more information, contact:

Department of Environmental Protection  
Office of Pollution Prevention and Compliance Assistance  
Rachel Carson State Office Building  
P. O. Box 8772  
Harrisburg, PA 17105-8772  
(717) 787-0540

or contact the nearest Department Regional Office or access the Department's WEB site at <http://www.dep.state.pa.us> (Choose "Pollution Prevention").

H. *Sunset Review*

These final-form regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 12, 1997, the Department submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 4334 (August 23, 1997), to IRRC and the Chairperson of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered all comments received from the Commission and the public. No comments were received from either of the Committees.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on July 31, 1998. IRRC met on August 11, 1998, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act.

J. *Findings*

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and all comments were considered.
- (3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 4334.
- (4) These final-form regulations are necessary and appropriate for the administration and enforcement of the authorizing acts identified in Section C of this Preamble.

K. *Order*

The Board, acting under authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 94, are amended by amending §§ 94.1—94.3, 94.11—94.15, 94.21, 94.22, 94.31 and 94.57 and by deleting §§ 94.61—94.64 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

(c) The Chairperson of 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 immediately upon publication in the *Pennsylvania Bulletin*.

*(Editor's Note: The following sections were not among the sections proposed to be amended at 27 Pa. B. 4334 (August 23, 1997): §§ 94.21, 94.22, 94.31 and 94.57.)*

JAMES M. SEIF,  
*Chairperson*

**Fiscal Note:** Fiscal Note 7-322 remains valid for the final adoption of the subject regulations.

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4215 (August 22, 1998).)*

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 94. MUNICIPAL WASTELOAD MANAGEMENT**

**GENERAL PROVISIONS**

**§ 94.1. Definitions.**

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

*Average daily organic load*—The arithmetic mean of all samples of 5-day Biochemical Oxygen Demand, expressed in terms of pounds per day, collected over a calendar month.

*Ban*—A restriction placed by the Department on additional connections to an overloaded sewer system or a sewer system tributary to an overloaded plant and other necessary measures the Department may require to prevent or alleviate an actual organic or hydraulic overload or an increase in an organic or hydraulic overload.

*Bypass*—The intentional diversion of wastewater either at or after the headworks of the plant.

*CAP—Corrective action plan*—A plan and schedule developed by the permittee of a sewerage facility which has an existing or projected overload. A CAP establishes actions needed and a schedule to reduce the overload and provide needed capacity.

*CSO—Combined sewer overflow*—An intermittent overflow, or other untreated discharge from a municipal combined sewer system (including domestic, industrial

and commercial wastewater and stormwater) which results from a flow in excess of the dry weather carrying capacity of the system.

*Capacity*—The rated ability of the plant to receive and effectively treat a specified load. When the term is used in reference to a pump station or sewer system, the term refers to the rated ability to effectively convey a specified load.

*Clean Water Act*—33 U.S.C.A. §§ 1251, 1252, 1254—1256, 1259, 1262, 1263, 1281—1288, 1291, 1292, 1294—1297, 1311, 1314, 1315, 1317—1319, 1321—1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375 and 1376.

*Combined sewer system*—A sewer system which has been designed to serve as both a sanitary sewer and a storm sewer.

*Connection*—The connection of a structure which generates or could generate hydraulic or organic loads to a sewer system.

*Discharge*—Wastewater flow which is or would be discharged to a sewer system.

*Exception to a ban*—An allowable connection to a sewer system even though a ban is in effect.

*Extension*—An addition to the sewer system to accommodate more than one connection.

*Facilities of public need*—Hospitals, health clinics, nursing care facilities, primary and secondary education facilities, fire and police stations and correctional institutions.

*Headworks*—For the purposes of this chapter, the first treatment unit or wetwell within the plant.

*Hydraulic design capacity*—The maximum monthly design flow, expressed in millions of gallons per day, at which a plant is expected to consistently provide the required treatment or at which a conveyance structure, device or pipe is expected to properly function without creating a backup, surcharge or overflow. This capacity is specified in the water quality management permit (Part II permit issued under Chapter 91) (relating to general provisions).

*Hydraulic overload*—The condition that occurs when the monthly average flow entering a plant exceeds the hydraulic design capacity for 3-consecutive months out of the preceding 12 months or when the flow in a portion of the sewer system exceeds its hydraulic carrying capacity.

*Industrial user*—An establishment which discharges or introduces industrial wastes into a sewerage facility.

*Interference*—A discharge which, alone or in conjunction with a discharge from other sources, does the following:

(i) Inhibits or disrupts the sewerage facility, its treatment processes or operations or its sludge processes, use or disposal.

(ii) Is a cause of a violation of a requirement of the sewerage facility's NPDES permit—including an increase in the magnitude or duration of a violation—or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder—or more stringent State or local regulations:

(A) Section 405 of the Clean Water Act (33 U.S.C.A. § 1345).

(B) The Solid Waste Disposal Act (SWDA) (42 U.S.C.A. §§ 6901—6987), including Title II, more commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA).

(C) State regulations contained in a State sludge management plan prepared under Subtitle D of the SWDA, the Clean Air Act (42 U.S.C.A. §§ 7401—7642), the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629) and the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C.A. §§ 1431—1434; 33 U.S.C.A. §§ 1401, 1402, 1411—1421 and 1441—1445).

*Load*—The rate of flow and organic strength of the wastewater, including infiltration, discharged to a plant, as measured at the influent of the plant or in the sewer system or a portion of it.

*Monthly average flow*—The total flow received at a sewerage facility or another portion of the sewer system during any 1-calendar month divided by the number of days in that month. This value is always expressed in millions of gallons per day (mgd).

*Monthly average organic loading*—The total organic load received at a plant during any 1 calendar month divided by the number of days in that month. This value is expressed in pounds per day of biological oxygen demand after 5 days (BOD<sub>5</sub>).

*NPDES permit*—A permit or equivalent document or requirements issued by the EPA, or, if appropriate, by the Department, to regulate the discharge of pollutants under section 402 of the Clean Water Act (33 U.S.C.A. § 1342).

*Official plan*—A comprehensive plan for the provision of adequate sewage systems adopted by a municipality possessing authority or jurisdiction over the provision of the systems and submitted to and approved by the Department as provided by the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and Chapter 71 (relating to administration of sewage facilities planning program).

*Organic design capacity*—The highest daily organic load at which a sewage treatment facility or a portion thereof is expected to provide a specific predetermined level of treatment. This capacity is normally specified in the water quality management permit (Part II permit issued under Chapter 91).

*Organic overload*—The condition that occurs when the average daily organic load exceeds the organic design capacity upon which the permit and the plant design are based.

*PPP—Pollution Prevention Plan*—A written document that guides a discharger in the reduction of pollutants at their source before they reach the wastewater treatment plant. The PPP shall, at a minimum, address the following elements:

(i) An explicit statement of top management support for implementation of the pollution prevention plan.

(ii) A process characterization that identifies and characterizes the input of raw materials, outflow of products and generation of wastes.

(iii) An estimate of the amount of each waste generated.

(iv) Development of pollution prevention alternatives based on an estimate of reductions in the amount and toxicity of waste from each pollution prevention activity.

(v) An identification of pollution prevention opportunities to be implemented and an implementation timetable with interim and final milestones and periodic review of implemented recommendations.

*Pass through*—A discharge which exits the plant into waters of this Commonwealth in quantities or concentra-

tions which, alone or in conjunction with a discharge from other sources, is a cause of a violation of a requirement of the plant's NPDES permit—including an increase in the magnitude or duration of a violation.

*Permit*—A permit required by section 202 or 207 of the act (35 P. S. §§ 691.202 and 691.207).

*Permittee*—A person who possesses or is required to possess a permit.

*Plant*—Devices, systems or other works installed for the purpose of treating, recycling or disposing of sewage.

*Pollution prevention*—Source reduction and other practices—for example: direct reuse or in-process recycling—that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water or other resources, or protection of natural resources by conservation.

*Pretreatment*—The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing the pollutants into a sewerage facility.

*Pretreatment program*—A program administered by a sewerage facility that has been approved by the EPA under 40 CFR 403.11 (relating to approval procedures for pretreatment programs and granting of removal credits).

*Prohibition*—A restriction placed by a permittee on additional connections to an overloaded sewer system or a sewer system tributary to an overloaded plant.

*Sanitary sewer overflow*—An intermittent overflow of wastewater, or other untreated discharge from a separate sanitary sewer system (which is not a combined sewer system), which results from a flow in excess of the carrying capacity of the system or from some other cause prior to reaching the headworks of the plant.

*Separate sanitary sewer system*—A sewer system or part thereof which is specifically designed and intended to carry sanitary sewage separate from stormwater as specified in the permit.

*Sewerage facilities*—The term used to collectively describe a plant and sewer system owned by or serving a municipality.

*Sewer system*—The pipelines or conduits, pumping stations and force mains, and other appurtenant constructions, devices and facilities used for conveying sewage to a plant.

(b) A word or phrase which is not defined in this chapter but which is defined in Chapter 92 (relating to National Pollutant Discharge Elimination System) has the meaning as defined therein.

**§ 94.2. Purpose.**

This chapter is intended to prevent unpermitted and insufficiently treated wastewater from entering waters of this Commonwealth by requiring the owners and operators of sewerage facilities to project, plan and manage future hydraulic, organic and industrial waste loadings to their sewerage facilities. Reductions in wastewater volume and pollutant mass loadings through the application of pollution prevention practices are encouraged to avoid hydraulic, organic and industrial wastewater overloads at sewerage facilities to accomplish the following objectives:

(1) Prevent the occurrence of overloaded sewerage facilities.

(2) Limit additional extensions and connections to an overloaded sewer system or a sewer system tributary to an overloaded plant.

(3) Improve opportunities to prevent or reduce the volume and toxicity of industrial wastes generated and discharged to sewerage facilities and where prevention and reduction opportunities have been maximized, and to recycle and reuse municipal and industrial wastewaters and sludges.

**§ 94.3. Scope.**

This chapter requires owners of sewerage facilities to properly plan, manage and maintain sewerage facilities in a manner which will do the following:

(1) Anticipate and prevent overloading sewerage facilities.

(2) Limit additional extensions and connections to an overloaded sewer system or a sewer system tributary to an overloaded plant.

(3) Prevent the introduction into sewerage facilities of pollutants which will interfere with the operation of the plant or pass through or otherwise be incompatible with the treatment process or sewerage facility.

(4) Improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

**GENERAL REQUIREMENTS**

**§ 94.11. Sewer extensions.**

(a) A sewer extension may not be constructed if the additional flows contributed to the sewerage facilities from the extension will cause the plant, pump stations or other portions of the sewer system to become overloaded or if the flows will add to an existing overload unless the extension is in accordance with an approved CAP submitted under § 94.21 or § 94.22 (relating to existing overload; and projected overload) or unless the extension is approved under § 94.54 (relating to sewer line extension).

(b) The Department may issue a permit for the construction of a capped sewer, which would be tributary to an overloaded sewerage facility where the capped sewer would not be placed into service until adequate conveyance and treatment capacity becomes available under all of the following conditions:

(1) The proposed project is consistent with the approved official plan of the municipality.

(2) The municipality or municipal authority which owns the sewer system to which the capped sewer would connect has an approved program for providing adequate conveyance and treatment capacity within 5 years of the date of issuance of a capped sewer permit by the Department.

(3) Other Department requirements for sewer design and construction are met.

**§ 94.12. Annual report.**

(a) To provide for annual review of sewerage facilities and ensure that there is sufficient time to address existing operational or maintenance problems or to plan and construct needed additions, plant permittees shall submit a complete and accurate wasteload management annual report, in duplicate, by March 31 of each year to the appropriate regional office of the Department. The report shall be signed by the preparer and by the permittee of the plant and include the following:

(1) A line graph depicting the monthly average flows (expressed in millions of gallons per day) for each month

for the past 5 years and projecting the flows for the next 5 years. The graph shall also include a line depicting the hydraulic design flow (also expressed in millions of gallons per day) of the plant included in the water quality management permit (Part II permit issued under Chapter 91 (relating to general provisions)).

(2) A line graph depicting the monthly average organic loading (expressed as pounds per day of BOD<sub>5</sub>) for each month for the past 5 years and projecting the monthly average organic loading for the next 5 years. The graph shall also include a line depicting the organic loading design (also expressed in pounds per day of BOD<sub>5</sub>) of the plant included in the water quality management permit (Part II permit issued under Chapter 91).

(3) A brief discussion of the basis for the projections referred to in paragraphs (1) and (2), as well as a description of the time needed to expand the plant to meet the load projections, if necessary. Data used to support those projections should be included in an appendix to the annual report.

(4) A map showing all sewer extensions constructed within the past calendar year, sewer extensions approved or exempted in the past year in accordance with the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and Chapter 71 (relating to administration of the sewage facilities program), but not yet constructed, and all known proposed projects which require public sewers but are in the preliminary planning stages. The map shall be accompanied by a list summarizing each extension or project and the population to be served by the extension or project. If a sewer extension approval or proposed project includes schedules describing how the project will be completed over time, the listing should include that information and the effect this build-out-rate will have on population served.

(5) A discussion of the permittee's program for sewer system monitoring, maintenance, repair and rehabilitation, including routine and special activities, personnel and equipment used, sampling frequency, quality assurance, data analyses, infiltration/inflow monitoring, and, where applicable, maintenance and control of combined sewer regulators during the past year.

(6) A discussion of the condition of the sewer system including portions of the system where conveyance capacity is being exceeded or will be exceeded in the next 5 years and portions where rehabilitation or cleaning is needed or is underway to maintain the integrity of the system and prevent or eliminate bypassing, combined sewer overflow, sanitary sewer overflow, excessive infiltration and other system problems.

(7) A discussion of the condition of sewage pumping stations, including a comparison of the maximum pumping rate with present maximum flows and the projected 2-year maximum flows for each station.

(8) A report, if applicable, of industrial wastes discharged into the sewer system. This report shall include the following:

(i) A copy of any ordinance or regulation governing industrial waste discharges to the sewer system or a copy of amendments adopted since the initial submission of the ordinance or regulation under this chapter, if it has not previously been submitted. Ordinances, regulations or fee structures may provide incentives to industrial waste dischargers to use pollution prevention techniques to reduce or eliminate the generation of industrial wastewater discharges to the sewer system.

(ii) A discussion of the permittee's or municipality's program for surveillance and monitoring of industrial waste discharges into the sewer system during the past year.

(iii) A discussion of specific problems in the sewer system or at the plant, known or suspected to be caused by industrial waste discharges and a summary of the steps being taken to alleviate or eliminate the problems. The discussion shall include a list of industries known to be discharging wastes which create problems in the plant or in the sewer system and action taken to eliminate the problem or prevent its recurrence. The report may describe pollution prevention techniques in the summary of steps taken to alleviate current problems caused by industrial waste dischargers and in actions taken to eliminate or prevent potential or recurring problems caused by industrial waste dischargers.

(9) A proposed plan to reduce or eliminate present or projected overloaded conditions under §§ 94.21 and 94.22 (relating to existing overload; and projected overload).

(b) Permittees of sewer systems which contribute sewage flows to the plant shall submit information to the permittee of the plant as required to facilitate preparation of the annual report.

#### **§ 94.13. Measuring, indicating and recording devices.**

(a) A plant which receives or will receive within the next 5 years, monthly average flows exceeding 100,000 gallons per day shall be equipped to continuously measure, indicate and record the flow. The permittee of the plant shall install equipment necessary for these measurements within 6 months after the date when such a flow becomes evident.

(b) Flow measuring, indicating and recording equipment shall be calibrated annually, and the calibration report shall be included in the annual report submitted under § 94.12 (relating to annual report).

#### **§ 94.14. Approval of official plans and revisions.**

No official plan, official plan revision or supplement will be approved by the Department or delegated agency, nor will an exemption from the planning requirements be granted under Chapter 71 (relating to administration of the sewage facilities planning program) that is inconsistent with this chapter.

#### **§ 94.15. Pretreatment program development.**

In cases where pollutants contributed by industrial users result in interference or pass through, and the violation is likely to recur, a permittee shall develop and implement specific local limits for industrial users and other users, as appropriate, that together with appropriate sewerage facility or operational changes, are necessary to ensure renewed or continued compliance with the plant's NPDES permit or sludge use or disposal practices.

### **ACTION ON OVERLOAD FACILITIES**

#### **§ 94.21. Existing overload.**

(a) If the annual report establishes or if the Department determines that the sewerage facilities or any portions thereof are either hydraulically or organically overloaded, the permittee of the sewerage facilities shall comply with the following program:

(1) Prohibit new connections to the overloaded sewerage facilities except as approved by the permittee under the standards for granting exceptions contained in §§ 94.55—94.57 (relating to building permit issued prior

to ban; replacement of a discharge; and other exceptions). No building permit may be issued by a governmental entity which may result in a connection to overloaded sewerage facilities or increase the load to those sewerage facilities from an existing connection. The permittee shall retain records of exceptions granted and make the records available to the Department upon request.

(2) Immediately begin work for the planning, design, financing, construction and operation of the sewerage facilities that may be necessary to provide required capacities to meet anticipated demands for a reasonable time in the future and resulting in a project that is consistent with the applicable official plans approved under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and the regulations thereunder in Chapter 71 (relating to administration of the sewerage facilities planning program) and consistent with the requirements of the Department and the Federal Government regarding areawide planning and sewerage facilities.

(3) Submit to the Regional Office, for the review and approval of the Department, a written CAP to be submitted with the annual report or within 90 days of notification of the Department's determination of overload, setting forth the actions to be taken to reduce the overload and to provide the needed additional capacity. The written CAP shall include, but not be limited, to limitations on and a program for control of new connections to the overloaded sewerage facilities and a schedule showing the dates each step toward compliance with paragraph (2) shall be completed.

(b) Upon receipt of an acceptable CAP submitted in accordance with subsection (a)(3), the Department may modify or lift the requirement to prohibit new connections and the issuance of building permits contained in subsection (a)(1). In determining whether the requirement to prohibit new connections shall be modified or lifted, the Department will consider the extent to which the permittee plans to limit new connections; the timing for provisions of additional capacity and reduction of the existing overload; and the impact of the overload on treatment plant effluent quality, water quality degradation and public health.

(c) The Department may approve permits for extensions to overloaded sewerage facilities when the following conditions are met:

(1) The proposed extension is consistent with an acceptable CAP submitted under subsection (a)(3).

(2) The proposed extension is consistent with the applicable official plan approved under the Pennsylvania Sewage Facilities Act and the regulations adopted thereunder at Chapter 71.

(3) The additional load from the proposed extension will not have a significant adverse impact on the water quality of the receiving waters.

(4) The proposed extension is in accordance with any other applicable requirement of this title.

(5) The connections to the extension are controlled in accordance with the CAP submitted in accordance with subsection (a)(3); provided that, no connections to extension may be allowed when the approved CAP is not being implemented in accordance with the schedule contained therein.

**§ 94.22. Projected overload.**

If the annual report shows or if the Department determines that the sewerage facilities or any portion

thereof will, within the next 5 years, become hydraulically or organically overloaded, the permittee of the sewerage facilities shall comply with the following:

(1) Submit a report or CAP to the regional office, with the annual report or within 90 days of notification of the Department's determination, setting forth steps to be taken by the permittee to prevent the sewerage facilities from becoming hydraulically or organically overloaded. If the steps to be taken include planning, design, financing, construction and operation of sewerage facilities, the facilities shall be consistent with an official plan approved under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and the regulations thereunder in Chapter 71 (relating to administration of the sewerage facilities planning program) and consistent with the requirements of the Department and the Federal government regarding areawide planning and sewerage facilities.

(2) Limit new connections to and extensions of the sewerage facilities based upon remaining available capacity under a plan submitted in accordance with this section.

**IMPOSITION OF BAN**

**§ 94.31. Organic or hydraulic overload.**

A ban on connections will be imposed by the Department whenever the Department determines that the sewerage facilities or any portion thereof are either hydraulically or organically overloaded or that the discharge from the plant causes actual or potential pollution of the waters of this Commonwealth and, in addition, that one or more of the following conditions prevail:

(1) The Department determines that a ban is necessary to prevent or alleviate endangerment of public health.

(2) The permittee has failed to submit a satisfactory plan or has failed to implement the program as required by § 94.21 (relating to existing overload).

**EXCEPTIONS TO BANS**

**§ 94.57. Other exceptions.**

Connections which are necessary to eliminate a public health hazard or which are necessary for the operation of a facility of public need as the term is defined in § 94.1 (relating to definitions) shall constitute an exception to a ban.

**§§ 94.61—94.64. (Reserved).**

[Pa.B. Doc. No. 98-1440. Filed for public inspection September 4, 1998, 9:00 a.m.]

**[25 PA. CODE CHS. 128, 129, 131 AND 139]  
Air Quality Amendments (RBI 2)**

The Environmental Quality Board (Board), by this Order, amends Chapters 128, 129, 131 and 139 to read as set forth in Annex A.

These amendments delete portions of Chapter 128 (relating to alternative emission reduction limitations) which established alternative emission reduction limitations for certain air contamination sources. Section 129.56 (relating to storage tanks greater than 40,000 gallons capacity containing VOCs) is amended to allow owners and operators of floating roof storage tanks with capacities greater than 40,000 gallons up to 45 days to complete repairs on defective storage tank seals. An additional

30-day extension may be granted by the Department of Environmental Protection (Department) if the storage tank vessel cannot be emptied or repaired within the 45-day time frame. Section 129.67(b)(2) (relating to graphic arts systems) is amended to include the term "less water," which was erroneously deleted in a previous rulemaking. Section 129.70 is amended to delete the Department's perchloroethylene (PCE) requirements for dry cleaning facilities because PCE is no longer regulated as a volatile organic compound (VOC). The rulemaking also deletes the sulfates (as H<sub>2</sub>SO<sub>4</sub>) ambient air quality standard in § 131.3 (relating to ambient air quality standards) and the sampling and analytical procedures in § 139.32 (relating to sampling and analytical procedures) for sulfates (as H<sub>2</sub>SO<sub>4</sub>).

This final rulemaking was adopted by the Board at its meeting of June 16, 1998.

#### A. *Effective Date*

These amendments will be effective immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. *Contact Persons*

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Compliance and Enforcement, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 (717) 787-1663, or Joyce E. Epps, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060.

#### C. *Statutory Authority*

This final rulemaking is being made under the authority of section 5 of the Air Pollution Control Act (35 P. S. § 4005), which grants to the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth.

#### D. *Background and Purpose*

On August 4, 1995, Secretary Seif issued the "Directive on Review of Existing Regulations and Technical Guidance." This directive mandated an extensive review of the Department's regulations and technical guidance and provided an opportunity for public comments on the results of this Regulatory Basics Initiative (RBI). The goals of the RBI included identifying those regulations that were more stringent than Federal requirements, obsolete or redundant or no longer necessary. The RBI also required the Department to identify regulations which inhibited new green technologies and failed to encourage pollution prevention approaches.

Subsequently, the Governor signed Executive Order 1996-1 entitled "Regulatory Review and Promulgation" on February 6, 1996. The Executive Order establishes procedures for the review of existing regulations and the drafting and promulgation of new regulations. General requirements of Executive Order 1996-1 include the promulgation of regulations which have a compelling public interest, regulatory costs which do not outweigh their benefits and regulations that are no more stringent than standards imposed by Federal law unless justified by a compelling State interest.

This final rulemaking is consistent with the principles of Executive Order 1996-1 and the Department's RBI, and deletes the obsolete alternative emission limitations in Chapter 128 as well as the redundant PCE requirements for dry cleaners in § 129.70. The volatile organic storage tank requirements in § 129.56 (relating to storage tanks greater than 40,000 gallons capacity containing VOCs) are being revised to conform to Federal requirements for repairing defective floating roof seals in volatile organic storage tanks. These amendments also delete the sulfates (as H<sub>2</sub>SO<sub>4</sub>) ambient air quality standard and sampling and analysis techniques codified in Chapters 131 and 139 (relating to ambient air quality standards; and sampling and testing) which are no longer necessary and not required by Federal law.

The Department consulted with the Air Subcommittee of the Air Quality Technical Advisory Committee (AQTAC) during the development of the final amendments to Chapters 128, 129, 131 and 139. On January 16, 1998, AQTAC voted to support the Department's recommendation to submit this final rulemaking to the Board for consideration.

#### E. *Summary of Regulatory Requirements*

These final amendments delete portions of Chapter 128. Under the existing regulations, the owners and operators of air contamination sources at 12 facilities, including Andre Greenhouses, Inc., United States Steel Corporation, Scott Paper, Bethlehem Steel Corporation and Sun Refining and Marketing Company, submitted proposals to the Department to implement alternative emission reduction limitations for certain air contamination sources. Alternative emission reduction limitations for those sources were incorporated in revised operating permits, codified in the *Pennsylvania Code* and submitted to the United States Environmental Protection Agency (EPA) as revisions to the State Implementation Plan (SIP). Eleven of the 12 alternative emission reduction limitations are no longer necessary due to changes in processes and equipment or the closing of the affected facility. Consequently, the final amendments delete the alternative emission reduction limitations for 11 of the 12 facilities.

These amendments include revisions to several provisions in Chapter 129 (relating to standards for sources). Final revisions to § 129.56 will allow the owners and operators of volatile organic liquid storage tanks to empty the tanks and repair the seals within 45 days if the floating roof seals are defective. A 30-day extension may be requested from the Department if the request includes a demonstration that alternative storage capacity is unavailable. Section 129.56 does not presently include a time frame for repairing or emptying of defective organic liquid storage tanks. This revision ensures that § 129.56 is consistent with the Federal procedures in 40 CFR 60.113b(b)(4)(iii) (relating to testing and procedures).

The amendment to § 129.67(b)(2) revises the graphic arts systems requirements by adding the term "less water." This term was inadvertently omitted during a previous rulemaking (22 Pa.B. 2720 (May 23, 1992)). The addition of the term "less water" clarifies that water is not to be considered when demonstrating compliance with the requirements.

This final rulemaking deletes § 129.70. In 1981, as part of its ozone strategy, the Department adopted PCE requirements for certain dry cleaning facilities which emitted more than 100 tons per year of VOCs. The EPA no longer considers PCE to be a photochemically reactive compound and removed the compound from its listing of

VOCs. Consequently, § 129.70 is no longer necessary as a result of EPA's finding. However, new and existing dry cleaning facilities in this Commonwealth with the potential to emit more than 10 tons of PCE a year must comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP) for PCE dry cleaning facilities published at 58 FR 49354 (September 22, 1993). The NESHAP for those PCE dry cleaning facilities specifies control of PCE emissions to the level of the maximum achievable control technology (MACT) required under section 112 of the Clean Air Act.

The final rulemaking also deletes the sulfate (as sulfuric acid [H<sub>2</sub>SO<sub>4</sub>]) ambient air quality standard in § 131.3 and the related sampling and analysis techniques in § 139.32. The Department has retained the ambient air quality standards for beryllium because of its extreme toxicity and the total settled particulates (TSP) standard because of its usefulness Statewide as an investigative tool to address citizen complaints. With the exception of beryllium, there are no Federal ambient standards for those air contaminants for which maximum ambient air concentrations were established in September 1971.

In the final rulemaking, the Department has also retained the hydrogen fluoride standard and related sampling and analysis techniques due to concerns raised by representatives for the South and Southwest Philadelphia communities. Although the ambient air quality standard for hydrogen fluoride is not specifically required by the Clean Air Act, the Department is authorized under section 4.2(f) of the Air Pollution Control Act to retain regulations approved by the Board prior to July 9, 1992. The Department may also retain any ambient air quality standards adopted by the Board where no standard has been approved by the EPA (35 P. S. § 4004.2(f)).

The ambient air quality standard for hydrogen sulfide and associated sampling and analytical procedures in §§ 131.3 and 139.32 are also retained. The sampling of hydrogen sulfide has been used to investigate malodor complaints. During the past year, the Department's Southeast Regional Office received complaints concerning odors and hydrogen sulfide emissions from mushroom composting operations in London Grove Township, Chester County. To determine hydrogen sulfide concentrations and health effect measurements in the West Grove/Avondale area, the Department, in cooperation with the Pennsylvania Health Department, is currently conducting hydrogen sulfide monitoring and health assessments. Following the completion of the hydrogen sulfide monitoring by the Department and assessments by the Department of Health, the Department will evaluate whether the ambient air quality standard for hydrogen sulfide will be deleted in a subsequent rulemaking.

The Department will submit these amendments to the EPA as a revision to the SIP.

#### F. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board held three public hearings on the proposed rulemaking published at 27 Pa.B. 3058 (June 28, 1997). The hearings were held in Pittsburgh on July 28, 1997; Harrisburg on July 30, 1997; and Conshohocken on August 5, 1997. The Board did not receive any testimony during the public hearings. During the public participation process, persons interested in providing written comments were invited to submit comments, suggestions or objections on the proposal to the Board by September 4, 1997.

The Board reviewed written comments from eight individuals and organizations concerning the proposed deletion of the ambient air quality standards for sulfates, hydrogen fluoride and hydrogen sulfide in § 131.3 and the sampling and analysis techniques for those contaminants in § 139.32. One commentator, Air Products and Chemicals, Inc. supported the proposed deletion of those standards. However, the Board received written comments from seven organizations opposed to the deletion of the ambient air standard for hydrogen fluoride. These commentators stated that retention of the hydrogen fluoride standard and sampling techniques is required for public health and safety reasons in the South and Southwest Philadelphia communities because of their proximity to a facility which uses hydrogen fluoride. Because of their concerns, the hydrogen fluoride ambient air quality standard in § 131.3 and the sampling and analysis techniques in § 139.32 have been retained.

Although the Department did not receive any comments concerning the proposed deletion of the 1-hour and 24-hour hydrogen sulfide ambient air quality standard in § 131.3 and the sampling and analytical procedures in § 139.32, these provisions are retained pending the outcome of ongoing hydrogen sulfide sampling in Chester County.

#### G. *Benefits and Costs*

Executive Order 1996-1 requires a cost/benefit analysis of the final amendments.

##### *Benefits*

Persons affected by this rulemaking will benefit from the deletion of obsolete or redundant air quality regulations. The revisions to § 129.56 will establish a time frame, consistent with Federal law, for the owners and operators of large organic liquid storage tanks to empty the storage tanks and make repairs on defective seals. The inclusion of a time frame for emptying the storage tanks and repairing the seals will also allow safer completion of repairs to defective seals on the floating roof tank.

The deletion of the PCE requirements for dry cleaning facilities in § 129.70 would allow the owners and operators of PCE dry cleaning facilities to eliminate duplicate recordkeeping to demonstrate compliance with Chapter 129 requirements and the Federal NESHAP requirements for PCE dry cleaning facilities.

##### *Compliance Costs*

These amendments are not expected to result in additional costs or savings to the regulated community or the general public. The Bureau of Air Quality will save an estimated \$34,000 to \$43,000 after sulfate analyses are no longer required for the estimated 1,281 sulfate filters analyzed each year.

##### *Compliance Assistance Plan*

The changes to § 129.67 will allow the owners and operators of storage tanks of greater than 40,000 gallons capacity up to 45 days to repair the floating roof seals or empty the storage vessels. The owners and operators of the tanks may request an additional 30 days to correct defective seals in the floating storage tanks. The regulated community, generally owners and operators of large storage tanks at petroleum terminals, chemical plants and refineries, will be advised of the compliance schedule included in the regulation for emptying and repairing large storage tanks.

*Paperwork Requirements*

This final rulemaking is not expected to result in increased paperwork requirements. Deletion of the sampling and analytical procedures for ambient air quality standard for sulfates (as sulfuric acid) will reduce paperwork requirements for the regulated community since monitoring reports required under § 139.53 will not be necessary. In addition, elimination of the PCE requirements for dry cleaning facilities will also reduce paperwork requirements for the owners and operators of PCE dry cleaning facilities.

*H. Sunset Review*

These amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 16, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the House and Senate Committees with copies of the comments as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from the public. The Committees and IRRC had no objections, comments or suggestions to offer on these amendments.

These final-form regulations were deemed approved by the House and Senate Committees on July 20, 1998. IRRC met on July 30, 1998, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

*J. Findings of the Board*

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 3058.

(4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of the Preamble and are reasonably necessary to achieve and maintain the National Ambient Air Quality Standards.

*K. Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 128, 129, 131 and 139, are amended by amending §§ 129.56, 129.67, 131.3 and 139.32 and deleting §§ 128.11—128.20, 128.22 and 129.70 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

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

(e) This order shall take effect immediately upon publication.

JAMES M. SEIF,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4007 (August 15, 1998).)*

**Fiscal Note:** Fiscal Note 7-317 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 25. ENVIRONMENTAL PROTECTION****PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION****Subpart C. PROTECTION OF NATURAL RESOURCES****ARTICLE III. AIR RESOURCES****CHAPTER 128. ALTERNATIVE EMISSION REDUCTION LIMITATIONS****SPECIFIC LIMITATIONS**

§ 128.11—128.20. (Reserved).

§ 128.22. (Reserved).

**CHAPTER 129. STANDARDS FOR SOURCES****SOURCES OF VOCs**

§ 129.56. Storage tanks greater than 40,000 gallons capacity containing VOCs.

\* \* \* \* \*

(h) If a failure is detected during inspections required in this section, the owner or operator, or both, shall repair the items or empty and remove the storage vessel from service within 45 days. If this failure cannot be repaired within 45 days and if the vessel cannot be emptied within 45 days, a 30-day extension may be requested from the Department. A request for an extension shall document that alternate storage capacity is unavailable and specify a schedule of actions the owner or operator will take that will assure that the equipment will be repaired or the vessel will be emptied as soon as possible but within the additional 30-day time requested.

§ 129.67. Graphic arts systems.

(a) This section applies to facilities whose rotogravure and flexographic printing presses by themselves or in



combination with a surface coating operation subject to § 129.52 (relating to surface coating processes) have the potential to emit or have emitted VOCs into the outdoor atmosphere in quantities greater than 1,000 pounds (460 kilograms) per day or 100 tons (90,900 kilograms) per year during any calendar year since January 1, 1987.

(b) A person may not permit the emission into the outdoor atmosphere of VOCs from a rotogravure or flexographic printing press subject to this section unless one of the following limitations is met:

(1) The volatile fraction of the ink, as applied to the substrate, contains 25% or less by volume of VOC and 75% or more by volume of water.

(2) The ink, as applied to the substrate, less water, contains 60% by volume or more of solid material.

(3) The owner or operator installs and operates a carbon adsorption system, an incineration system or an alternative VOC emission reduction system which recovers or destroys at least 90% of the VOCs entering the system. The overall level of emission recovery or destruction may not be less than that necessary to comply with subsection (c).

(c) A capture system shall be used in conjunction with the emission control systems in subsection (b)(3). The design and operation of the capture and control system shall be consistent with good engineering practice and

shall be designed to provide for a contemporaneous, overall reduction in VOC emission from each ink/press of at least the following:

(1) Seventy-five percent where a publication rotogravure process is employed.

(2) Sixty-five percent where another rotogravure process is employed.

(3) Sixty percent where a flexographic printing process is employed.

(d) Presses used only to check the quality of the image formation of newly etched or engraved printing cylinders are exempted from this section if the aggregate emissions from the presses do not exceed 400 pounds in a 30-day running period.

(e) To determine applicability under this section, emissions of VOCs used in clean-up operations shall be summed with emissions from surface coating and printing.

§ 129.70. (Reserved).

**CHAPTER 131. AMBIENT AIR QUALITY STANDARDS**

**§ 131.3. Ambient air quality standards.**

The following standards apply and, unless otherwise stated, are maximum values that may not be exceeded:

<i>Contaminant</i>	<i>1-Year</i>	<i>Concentrations Averaged Over</i>		<i>1-Hour</i>
		<i>30-Days</i>	<i>24-Hours</i>	
Settled particulate (total)	.8 mg./cm. <sup>2</sup> /mo.	1.5 mg./cm. <sup>2</sup> /mo.	—	—
Beryllium	—	.01 µg./m. <sup>3</sup>	—	—
Fluorides (total soluble, as HF)	—	—	5 µg./m. <sup>3</sup>	—
Hydrogen sulfide	—	—	.005 p.p.m.	.1 p.p.m.

**CHAPTER 139. SAMPLING AND TESTING**

**Subchapter A. SAMPLING AND TESTING METHODS AND PROCEDURES**

**AMBIENT LEVELS OF AIR CONTAMINANTS**

**§ 139.32. Sampling and analytical procedures.**

(a) Sampling and analytical techniques which may be used directly or employed as reference standards against which other methods may be calibrated shall be as follows:

<i>Contaminant</i>	<i>Sampling Method</i>	<i>Analytical Method</i>
Settled particulates (total)	Open top cylinder (6)	Gravimetric (6)
Beryllium	High-volume filtration (7)	Spectrographic (7)
Fluorides (total soluble, as HF)	Filtration plus gas absorption (9)	Thorium-alizarin lake titration (9)
Hydrogen sulfide	Gas absorption (18)	Methylene blue method (18)

(b) The numbers following the reference standards in subsection (a) refer to the references contained in § 139.4 (relating to references).

[Pa.B. Doc. No. 98-1441. Filed for public inspection September 4, 1998, 9:00 a.m.]

# Title 31—INSURANCE

## INSURANCE DEPARTMENT

### [31 PA. CODE CH. 41]

#### Fraternal Beneficial Societies Administration

The Insurance Department (Department) deletes § 41.1 (relating to extension of waiver of meetings) to read as set forth in Annex A. This rulemaking is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); and the Fraternal Benefit Societies Code (40 P. S. §§ 1142-101—1142-701). Section 41.1 sets forth requirements that must be met in a request for waiver or extension of a meeting of a domestic fraternal beneficial society.

#### *Purpose*

The purpose of the rescission of § 41.1 is to eliminate an obsolete, unnecessary regulation. Section 41.1 was adopted May 18, 1943, under the authority of section 3 of the act of July 17, 1935 (P. L. 1092, No. 357) (Act 357) (40 P. S. § 1053) (now repealed). The regulation required that a request for waiver or extension of a meeting of a fraternal beneficial society shall be made by resolution of the board of directors or similar managing body. The resolution is required to contain six items of information listed in the regulation, including a certification that the request for waiver or extension has been approved by a majority of the subordinate lodges or bodies of the fraternal beneficial society.

Act 357 which initially authorized the regulation was transferred to 15 P. S. §§ 8501—8543 and later repealed by section 5(a)(9) of the act of November 15, 1972 (P. L. 1063, No. 271) (Act 271), 40 Pa.C.S. §§ 6501—6701. Act 271 was subsequently replaced by the act of July 29, 1977 (P. L. 105, No. 38) (Act 38) (40 P. S. §§ 1141-101—1141-1001). Finally, Act 38 was replaced by section 701 of the Fraternal Benefit Societies Code (40 P. S. § 1142-701).

Section 202 of the Fraternal Benefit Societies Code (40 P. S. § 1142-202) contains requirements relating to meetings of domestic fraternal benefit societies. The current statutory requirements relating to meetings of fraternal benefit societies are consistent with requirements relating to other types of insurers. However, § 41.1 contains additional requirements beyond those contained in current law, which requirements are not imposed on other types of insurers. Imposing special requirements on fraternal benefit societies regarding their meetings serves no compelling public interest. The statutory requirements are sufficient. Therefore, the regulation has been superseded by the existing statutory requirements in the Fraternal Benefit Societies Code (40 P. S. §§ 1142-101—1142-616) and are no longer needed.

#### *Statutory Authority*

The regulation is being deleted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929; and the Fraternal Benefit Societies Code. The regulation was adopted under the authority of section 3 of Act 357.

#### *Comments*

Notice of this rescission was published at 27 Pa.B. 3063 (June 28, 1997) as a proposed rulemaking with a 30-day public comment period.

No comments were received from the standing committees, industry trade associations or other parties during

the 30-day public comment period. On August 27, 1997, the Independent Regulatory Review Commission (IRRC) submitted notice to the Department that IRRC had no objections, comments or suggestions to offer on the deletion of the regulation.

#### *Fiscal Impact*

The deletion of the regulation has no fiscal impact because of the obsolescence of the regulation.

#### *Paperwork*

The deletion of the regulation will impose no additional paperwork requirements on the Department or fraternal benefit societies.

#### *Affected Parties*

The deletion of the regulation affects fraternal benefit societies.

#### *Effectiveness/Sunset Date*

This rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking rescinds an obsolete, unnecessary regulations, no sunset date has been assigned.

#### *Contact Person*

Questions or comments regarding this final rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 18, 1997, the Department submitted a copy of the proposed rulemaking to IRRC, the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of the material is available to the public upon request.

The final rulemaking was deemed approved by the House and Senate Committees on August 2, 1998, in accordance with section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)). The amendment was deemed approved by IRRC on August 4, 1998, under section 5(g) of the Regulatory Review Act.

#### *Findings*

The Insurance Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as 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 regulation thereunder, 1 Pa. Code, §§ 7.1 and 7.2.

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

#### *Order*

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

(a) The regulations of the Department, 31 Pa. Code, are amended by deleting § 41.1 to read as set forth in Annex A.

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

(d) The regulation deleted by this order shall be abolished upon publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

**Fiscal Note:** Fiscal Note 11-153 remains valid for the final adoption of the subject regulation.

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4215 (August 22, 1998).)

**Annex A**

**TITLE 31. INSURANCE**

**Subpart D. FRATERNAL BENEFICIAL SOCIETIES**

**CHAPTER 41. (Reserved)**

**§ 41.1. (Reserved).**

[Pa.B. Doc. No. 98-1442. Filed for public inspection September 4, 1998, 9:00 a.m.]

**[31 PA. CODE CH. 57]**

**Publication of Citations and Notice of Hearings**

The Insurance Department (Department) amends § 57.1 (relating to general requirements) to read as set forth in Annex A. This rulemaking is promulgated under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). Notice of proposed rulemaking is omitted in accordance with section 204(1)(iii) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204 (1)(iii) and (3)) (CDL).

*Purpose*

The purpose of this final omitted rulemaking is to delete obsolete language referring to a nonexistent practice. This rulemaking pertains to Departmental practice concerning publication of notice in the *Pennsylvania Bulletin*. Section 57.1 was adopted March 23, 1973.

Under section 204(1)(iii) and (3) of the CDL, notice of proposed rulemaking may be omitted if the agency finds that the notice procedures are unnecessary because the regulation pertains to agency procedure or practice or the agency finds that the regulation is contrary to the public interest.

*Explanation of Regulatory Requirements*

The title of Chapter 57, "Publication of Citations and Notice of Hearings," will be amended by deleting reference to "citations."

Section 57.1 will be amended by deleting a reference to an obsolete practice. The amendment will more narrowly tailor the language to reflect actual practice.

*Fiscal Impact*

The amendment will not have any impact on costs associated with the Department, insurance companies, political subdivisions or the general public.

*Paperwork*

The amendment will not impose additional paperwork requirements on the Department, insurers or the general public.

*Persons Regulated*

The amendment applies only to Departmental practice concerning publication of notices in the *Pennsylvania Bulletin*.

*Effective/Sunset Date*

This order is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

*Contact Person*

Questions or comments regarding the rulemaking may be addressed in writing to J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on July 14, 1998, the Department submitted a copy of this amendment with the proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. On the same date, the rulemaking was submitted to the Office of Attorney General for review and approval under section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)).

In accordance with section 5.1(d) of the Regulatory Review Act, the amendment was deemed approved by the Senate Banking and Insurance Committee and the House Insurance Committee on August 3, 1998. The amendment was deemed approved by IRRC on August 4, 1998, when section 5(g) of the Independent Regulatory Review Act.

*Findings*

The Insurance Commissioner finds that:

There is good cause under section 204 of the CDL, to amend the regulation effective upon publication, because this regulation pertains only to agency procedure and practice. An immediate effective date should best serve the public interest.

*Order*

The Insurance Commissioner, acting under the statutory authority, orders that:

(a) The regulations of the Department, 31 Pa. Code Chapter 57, are amended by amending § 57.1 to read as set forth in Annex A.

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

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

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

M. DIANE KOKEN,  
Insurance Commissioner

**Fiscal Note:** 11-174. No fiscal impact; (8) recommends adoption.

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4215 (August 22, 1998).)

### Annex A

## TITLE 31. INSURANCE

### PART I. GENERAL PROVISIONS

#### Subpart F. RULES OF PROCEDURE

#### CHAPTER 57. PUBLICATION OF NOTICE OF HEARINGS

##### § 57.1. General requirements.

All notices of hearing pertaining to alleged violations of the insurance laws of the Commonwealth will hereafter be published in the *Pennsylvania Bulletin* for the purpose of informing the respondents, the insurance industry and the public of pending actions.

[Pa.B. Doc. No. 98-1443. Filed for public inspection September 4, 1998, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

#### General Revisions

The State Board of Pharmacy (Board) amends Chapter 27 (relating to State Board of Pharmacy) to read as set forth in Annex A. The amendments delete dated and redundant language and clarify standards of practice and licensure requirements.

##### A. *Effective Date*

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

##### B. *Statutory Authority*

The amendments are authorized under sections 3(f), 4(j) and 6(k)(1) and (9) of the Pharmacy Act (act) (63 P. S. §§ 390-3(f), 390-4(j) and 390-6(k)(1) and (9)).

##### C. *Background and Purpose*

The amendments are designed to maintain health and safety standards in the delivery of pharmacy services to Pennsylvanians consistent with current business and professional practices.

The amendments generally revise, clarify and update various provisions of the Board's regulations. Outdated language has been deleted, as has redundant language. Amendments define a "pharmacy technician" and enlarge the scope of technician utilization. They define a "satellite pharmacy" and clarify when institutions will be required to obtain separate permits for pharmacies in the system. Amendments further clarify and update provisions pertaining to sanitary standards, construction and equipment requirements and standards of practice. Provisions related to pharmacy internships and licensure by reciprocity are also clarified.

##### D. *Summary of Comments on Proposed Rulemaking and Board Responses*

Notice of proposed rulemaking was published at 26 Pa.B. 1032 (March 9, 1996). The Board received comments from 25 public commentators, including the Pennsylvania Society of Health-System Pharmacists, the Hospital and Healthsystem Association of Pennsylvania, individual community, chain and hospital pharmacies and pharmacists, health system pharmacists, educators and Legislators. The House Professional Licensure Committee (House Committee) and the Independent Regulatory Review Commission (IRRC) also provided comments and recommendations which the Board has considered in final rulemaking.

##### *Pharmacy Technicians*

The vast majority of commentators expressed concern that the proposed amendments would unduly restrict the utilization of pharmacy technicians in the delivery of cost-effective pharmaceutical services. Specifically, commentators objected to the requirement in proposed rulemaking that a pharmacist supervise no more than two pharmacy technicians at any time. (§ 27.12(d)(5)). Commentators suggested that certain dispensing functions involving automation and remote order entries could be safely performed with ratios higher than two-to-one, while other functions could require one-to-one supervision. The commentators recommended that a pharmacist be permitted the latitude to exercise professional judgment in determining the number of technicians the pharmacist may effectively supervise. They further contended that the use of more technicians to perform routine functions such as counting pills, stocking pharmacy shelves, preparing prescription labels and certain recordkeeping, will free pharmacists for other important activities requiring professional judgment. These activities include verifying the accuracy and appropriateness of a prescription or drug order prior to its being dispensed and providing patient counseling services. Concurring with these comments, IRRC recommended that the ratio in § 27.12(d)(5) be deleted in final rulemaking.

The Board notes that the purpose of the proposed ratio was a recognition that public health and safety issues are implicated when unlicensed persons such as technicians are performing pharmacy services. Indeed, most jurisdictions limit the number of pharmacy technicians a pharmacist may supervise at any given time. However, in view of the objections raised, and in light of the fact that the ratio represents only one factor in determining appropriate supervision of pharmacy technicians, the Board in final rulemaking has deleted § 27.12(d)(5). The Board is satisfied that other provisions in the regulation which outline the parameters of technician practice, list prohibited duties, set out supervisory responsibilities of pharmacists and require written protocols in various pharmacy settings provide adequate notice to pharmacists of their supervisory responsibilities over technicians and ultimate responsibility for all pharmacy services rendered.

Several commentators objected to the requirement that a pharmacist review a prescription or drug order prior to its preparation and again prior to its being dispensed. The commentators suggested that the review by a pharmacist of a prescription or drug order only prior to its being dispensed to verify the accuracy of the preparation would provide more efficient management of the pharmacist's time. Likewise, the commentators perceived the proposed rulemaking to require a pharmacist to be "hovering" over a technician to direct the technicians every move. This, the commentators suggested, was an ineffi-

cient and costly proposition. IRRC, on the other hand, suggested that the act requires the Board to adopt a more stringent standard than that proposed.

The Board has reviewed sections 5(a)(7) and 8(2) of the act (63 P. S. §§ 390-5(a)(7) and 390-8(2)), which provide that "other authorized personnel . . . may assist the pharmacist in the pharmacy under the direct and immediate personal supervision of a licensed pharmacist . . ." The Board does not agree that the act requires constant pharmacist supervision of all technician activities. Rather, the Board agrees with the public commentators that an "on-premises" supervision standard is not only consistent with consumer safety and efficient practice, but also tracks the language of the statute. The Board also agrees that a review of a prescription or drug order prior to its being dispensed to verify the final product is cost-effective and sufficient to satisfy consumer safety concerns. Accordingly, in final rulemaking, § 27.12(b)(1)–(3) has been amended to accomplish this goal.

Two commentators as well as IRRC acknowledged that written protocols are appropriate to define the duties of a pharmacy technician because the technician is an unlicensed person assisting in the practice of pharmacy, but sought more specific guidance as to what the contents of a written protocol should include. The Board notes that § 27.12 outlines the duties which a pharmacy technician may perform and identifies the responsibilities of the supervising pharmacist. The Board suggests that the written protocol identify the specific tasks which the pharmacy technician will be permitted to perform in the particular pharmacy practice, the supervision which the pharmacist will provide, the training the technician must have and the tasks which the technician may not perform. The Board likens the written protocol to a training or operations manual currently utilized in pharmacy practice. The Board declines to further expand upon the relatively detailed provisions already contained in § 27.12 in an effort to avoid unnecessary regulation inconsistent with Executive Order 1996-1.

A commentator representing hospital pharmacists expressed concern that proposed § 27.12(d)(3)(ii), prohibiting pharmacy technicians from assisting in the preparation of Schedule II controlled substances, would result in significant additional costs to institutions where technicians perform such tasks as delivering controlled drugs to nursing unit stock, stocking automated dispensing machines and performing some inventory functions. The Board has reviewed this provision, and has determined that the prohibition is unnecessary to safe pharmacy practice. The written protocols required in § 27.12(d)(4), together with the supervising pharmacist's acceptance of responsibility for prescriptions and drug orders which are dispensed, are sufficient to provide safe and efficient pharmaceutical care. Accordingly, in final rulemaking, the Board has deleted § 27.12(d)(3)(ii).

With regard to public comments, IRRC suggested that uniform certification of pharmacy technicians by the National Pharmacy Technician Certification Board could satisfy many concerns. Although the Board believes that the registration of pharmacy technicians may aid in tracking and reviewing technician utilization, State recognition of both certification and registration would require authorization from the General Assembly.

#### *Errata*

IRRC pointed out that § 27.18(d)(7)(v) as published requires a drug dispensed in unit dose to be labeled to indicate the patient's name, drug name, drug strength,

dosing instructions and lot number. IRRC agreed with several commentators that this labeling requirement is simply not practical because unit doses are prepackaged single dosages often no larger than 1 square inch. The Board has noted that a drafting error changed the language which should have read "a drug NOT in unit dose shall be labeled to indicate the patient name, drug name, drug strength, dosing instructions and lot number." The Board has made the correction and added further clarifying language in this section in final rulemaking.

#### *Pharmacy Internships*

IRRC suggested that the Board's qualifications for pharmacy internship registration exactly track the statutory provisions in section 3(e) of the act. The Board has, in final rulemaking, amended § 27.26(b) and (b)(2) as recommended.

The House Committee questioned why the Board proposed to allow a pharmacist desirous of becoming a preceptor to seek a waiver of the prohibition against his having once been convicted of "an offense with respect to observance of Federal, State and municipal statutes and ordinances relating to the practice of pharmacy." (§ 27.26(h)(1)). The waiver provision was intended to allow the Board some flexibility in registering as a preceptor a pharmacist whose only infraction had been a minor recordkeeping, facility or building code violation, or the like. Upon reflection, however, the Board has determined that a waiver procedure could prove unwieldy and generate potential equal protection concerns absent specific standards. Likewise, the Board finds that the requirements for registration as a pharmacist preceptor need further clarification.

In final rulemaking, § 27.26(h) has been amended to clarify that a pharmacist seeking to serve as a preceptor: (1) may not have been convicted of a criminal offense relating to the practice of pharmacy; (2) currently holds a license without restriction to practice pharmacy in this Commonwealth; and (3) is working full-time in a pharmacy approved for intern training. In this way, the public health and safety will continue to be protected through the exclusion from service as preceptors those pharmacists convicted of criminal activity involving the practice of pharmacy, while preserving the Board's ability to register as preceptors pharmacists who have been the subject of minor civil or administrative infractions.

#### *Satellite Pharmacies*

Commentators expressed confusion over the provisions in proposed rulemaking in §§ 27.1 and 27.11(i) related to satellite pharmacies. The Board has clarified these provisions to codify in regulatory form its longstanding policy that nonsatellite pharmacies must be separately permitted.

Sections 2(12) and 4(e) of the act (63 P. S. §§ 390-2(12) and 390-4(e)) require that any place where drugs are stored, compounded or dispensed must hold a pharmacy permit, have a designated pharmacist in charge and meet the drug safety and security requirements of the Board.

The Board intends by its definition of a "satellite pharmacy" in § 27.1 (relating to definitions) to refer to places in large multidisciplinary hospitals where drugs are routinely stored from the inventory of the central institutional pharmacy for the convenience of various medical departments of the hospital. Satellite pharmacies are not required to be separately permitted. § 27.11(i) (relating to pharmacy permit and pharmacist manager). Satellites are not, however, pharmacies established by hospitals to sell pharmaceuticals to the public in the

nature of retail sales. Furthermore, satellites are not institutional pharmacy activities occurring in multiple geographic locations within a health care system. These two categories of pharmacy activity require separate permits.

The purpose of the rule is twofold. First, it notifies hospitals and other institutions that if they intend to function as retail pharmacies, they must be regulated as such. In other words, they must have facilities physically separate from the institutional pharmacy and must separately meet the drug safety and security requirements and practice standards of the Board. Second, it notifies health systems that satellites are permissible only on the premises of a hospital which has a permitted institutional pharmacy. Separate permits are required for separate hospitals because the pharmacy activities which take place there require separate security, separate drug safety measures and separate clinical supervision.

With respect to the first category, Federal law at 15 U.S.C.A. § 13 prohibits institutions from unfairly competing with retail pharmacies by reselling to consumers pharmaceuticals purchased for institutional use. Institutional uses include drugs for inpatients, emergency patients, outpatients (when the drug is to be used on the premises), discharged patients (when the drug is for personal use and the prescription cannot be refilled), hospital employes, students or staff physicians and their dependents. Sales to former patients through renewal or refill of prescriptions, to staff physicians for dispensing in the course of their clinical private practices, or to walk-in customers do not constitute institutional uses. *See, Abbott Labs v. Portland Retail Druggist*, 425 U. S. 1 (1976).

The second category is grounded in the Board's primary responsibility to protect the health and safety of the public. The Board has determined that a pharmacist manager located in one facility of a health system with several institutions where acute care is provided, cannot adequately maintain supervision over drug dispensing, inventory and other pharmacy services throughout the entire system. Accordingly, remote institutional pharmacy activities, even if operated by the same entity which operates an institution's central pharmacy, must be separately permitted.

To the extent that further refinements can be made to the satellite pharmacy provisions following their adoption without compromising public health and safety, the Board pledges to work cooperatively with the Department of Health and other interested parties to develop overall standards and policies for health system-wide pharmaceutical care delivery. The amendments are not meant to inhibit innovation in the delivery of pharmaceutical care. The Board intends the amendments to establish outside parameters for public health and safety. It will continue to make judgment calls in conjunction with the Department of Health on the basis of individual institutional needs. For example, by these amendments, the Board does not intend to require a pharmacy in a long term care facility where the population is residential, where patient conditions are stable and where routine maintenance drug therapy is involved. On the other hand, where two or more acute care institutions are located miles apart and where patient conditions may change dramatically and intensive drug monitoring is necessary, a single shared pharmacy would not likely protect the public health.

#### *Pharmacies in Retail Establishments*

IRRC and the House Committee also suggested that the provisions related to a self-contained pharmacy be reorga-

nized in the amendments. The Board has considered this comment and reviewed the entire section concerning self-contained pharmacies, and determined that the phrase "self-contained" does not accurately identify the provisions in question. Accordingly, the Board has revised entirely § 27.16(b)(2) (relating to construction and equipment requirements) to accurately reflect the Board's intent that pharmacies located within retail establishments whose business hours differ from the pharmacies' hours are required to maintain certain standards of security.

#### *Miscellaneous*

In accordance with the suggestions of IRRC and the House Committee, the Board has amended § 27.11(g) to specify a 30-day time limit within which changes in name or ownership or controlling interest of a pharmacy must be reported to the Board and an application for new permit filed.

The House Committee questioned why the Board has deleted the requirement in § 27.14(c)(3) (relating to supplies) that a pharmacy refrigerator be used exclusively for the storage of drugs. The deletion relates to sanitary considerations which would not prohibit, for example, a sealed beverage or food container from being stored in the pharmacy refrigerator.

In addition to adopting a number of recommendations made by IRRC and the House Committee to clarify provisions of the regulations, the Board has also attempted, in final rulemaking, to remove redundancies and clarify, where possible, language unnecessary to the understanding of the regulations consistent with Executive Order 1996-1 and within the scope of proposed rulemaking. For the same reason, the Board has declined to unduly burden the regulation in § 27.25(a) (relating to licensure by reciprocity) by reiterating the requirements of section 3(g) of the act.

#### *E. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), the Board has sought in final rulemaking to achieve clear and, where possible, nontechnical language. The Board has also refined the regulations to achieve cost effective methods of addressing compelling public health and safety concerns in the delivery of pharmaceutical services in this Commonwealth. Likewise, it has reviewed and incorporated many of the comments received on proposed rulemaking from various individuals and organizations representing the regulated community.

#### *F. Fiscal Impact and Paperwork Requirements*

The amendments will have a positive fiscal impact on Commonwealth institutions and institutions operated by political subdivisions. Pharmacies which utilize pharmacy technicians will be required to prepare written protocols if they have not already done so. The expanded ability of pharmacies to utilize technicians will reduce overall costs. The cost for a new permit when changes in controlling interests of a pharmacy occur will increase only by the cost of the permit. Pharmacies should achieve overall savings in monetary cost and paperwork through the implementation of practice standards which recognize technological advances in drug distribution and electronic data collection and maintenance.

#### *G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

H. *Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 6, 1998, the Board submitted within the required 2-year period from the conclusion of the public comment period, the text of these final-form regulations together with the Board's responses to comments received on proposed rulemaking, a copy of the notice of proposed rulemaking, published at 26 Pa.B. 1032 and other required documentation, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of all comments received, as well as other documentation. Under section 5.1(b) of the Regulatory Review Act, the Board copied all commentators with the final-form regulations and this explanation of changes to proposed rulemaking on the same date.

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

The final-form regulations were reviewed by the House Committee on April 22, 1998, and tabled with a recommendation for revision concerning pharmacist preceptor registration requirements. The Board requested disapproval from IRRC to allow it to make revisions consistent with the House Committee's recommendation. On May 7, 1998, IRRC disapproved the final-form regulations under section 5.1(e) of the Regulatory Review Act. The disapproval order was received by the Board on May 8, 1998. In addition to the reason for which the Board sought disapproval, the order also cited concerns about satellite pharmacy provisions raised by representatives of health systems on May 7, 1998.

On May 14, 1998, the Board submitted written notice to the Governor, the House and Senate Committees and IRRC, under section 7(a) of the Regulatory Review Act (71 P. S. § 745.7(a)), of its intention to resubmit the regulation with modifications in accordance with section 7(c) of the Regulatory Review Act. Modifications were made to § 27.26(h) relating to requirements for registration as a pharmacy preceptor as outlined in Paragraph D of this Preamble.

On June 15, 1998, the Board delivered the modified final-form regulations, together with the section 7(c) report, to the Governor, the House and Senate Committees and IRRC. On July 9, 1998, IRRC disapproved the report, barring publication of the final-form regulations, on the grounds that the definition of a "satellite pharmacy" "violates [IRRC's] criteria of clarity, and raises serious questions of need, cost-effectiveness and economic impact." The disapproval order was delivered to the House and Senate Committees on July 16, 1998.

The Board's final-form regulations were subsequently deemed approved by the House and Senate Committees on July 30, 1998, clearing the way to final promulgation under section 7(d) of the Regulatory Review Act.

I. *Public Information*

Interested persons may obtain information regarding the amendments by writing to State Board of Pharmacy, 116 Pine Street, P. O. Box 2649, Harrisburg, PA 17105-2649.

J. *Findings*

The Board finds that:

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

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 26 Pa.B. 1032.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this Preamble.

K. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.1, 27.11, 27.12, 27.14—27.16, 27.18, 27.25 and 27.26, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

PAULA L. CASTOR, R.Ph.,  
*Chairperson*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 3558 (July 25, 1998).)

**Fiscal Note:** Fiscal Note 16A-542 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 27. STATE BOARD OF PHARMACY  
GENERAL REVISIONS**

**§ 27.1. Definitions.**

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

*ACPE*—The American Council of Pharmaceutical Education.

*Act*—The Pharmacy Act (63 P. S. §§ 390-1—390-13).

*Board*—The State Board of Pharmacy.

*CEU*—*Continuing Education Units*—The unit of measuring contact hours of continuing education provided by ACPE accredited providers. Ten contact hours are equivalent to 1.0 CEU.

*Commissioner*—The Commissioner of Professional and Occupational Affairs in the Department.

*Contact hours*—Continuing education units of measure equivalent to 50 to 60 minutes of participation in an

approved organized learning experience, including home study with approved educational materials.

*Continuing education*—Professional education obtained to maintain, improve or expand current skills or knowledge, or to develop new skills or knowledge.

*DEA*—The Federal Drug Enforcement Administration.

*Department*—The Department of State of the Commonwealth.

*Drug order*—An oral or written order issued by a medical practitioner which is either written on or entered by computer into the medical record of a patient in an institution for the dispensing of a drug or device for administration to the patient. The term does not include an order for a drug for a patient in an institution which the patient will self-administer which will be considered a prescription.

*Institutions*—Extended care facilities, nursing homes, nursing care facilities, convalescent homes, resident care facilities, hospitals or another place which offers medical treatment to patients who require food, board and overnight sleeping facilities and care.

*Long-term care facility*—A nursing home, retirement care, mental care or other institution that provides extended health care to resident patients.

*Medical practitioner*—A physician, dentist, veterinarian or other individual authorized and licensed by law to prescribe drugs.

*Nonproprietary drug*—A drug containing any quantity of a controlled substance or a drug which is required by an applicable Federal or state law to be dispensed only by prescription.

*Pharmacist manager*—The pharmacist named in the permit to operate a pharmacy who is in charge of a pharmacy and responsible for operations involving the practice of pharmacy under section 4 of the act (63 P. S. § 390-4).

*Pharmacy*—The place licensed by the Board where the practice of pharmacy is conducted.

*Pharmacy intern*—A person registered by the Board as a pharmacy intern under section 3(e) of the act (63 P. S. § 390-3(e)) and § 27.26 (relating to pharmacy internship).

*Pharmacy technician*—An unlicensed person working in a pharmacy to assist a pharmacist in the practice of pharmacy in accordance with § 27.12 (relating to practice of pharmacy and delegation of duties). The term does not include a pharmacy intern or clerical or housekeeping personnel.

*Practice of pharmacy*—The practice of that profession concerned with the art and science of preparing, compounding and dispensing drugs and devices, whether dispensed on the prescription of a medical practitioner or legally dispensed or sold directly to the ultimate consumer. The term includes the proper and safe storage and distribution of drugs, the maintenance of proper records therefor and the responsibility of relating information as required concerning the drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease.

*Prescription*—A written or oral order issued by a licensed medical practitioner in the course of professional practice for a controlled substance, other drug or device or medication which is dispensed for use by a consumer.

*Prescription area*—That area of the pharmacy used for compounding, legend drug storage and other activities necessary to the practice of pharmacy. The term does not include waiting counters or display space attached to the waiting counters.

*Proprietary drug*—A nonprescription, nonnarcotic medicine or drug which may be sold without a prescription and which is prepackaged for use by the consumer and labeled in accordance with the requirements of Federal and State statutes and regulations.

*Satellite pharmacy*—A pharmacy in an institution which provides specialized services for the patients of the institution and which is dependent upon the centrally located pharmacy for administrative control, staffing and drug procurement. The term does not include a pharmacy serving the public on the premises of the institution nor does it include a pharmacy located off premises from the centrally located pharmacy of the institution regardless of whether the pharmacy is owned by the same person or entity which owns the institution.

## STANDARDS

### § 27.11. Pharmacy permit and pharmacist manager.

(a) A permit to conduct a pharmacy issued under section 4 of the act (63 P. S. § 390-4) shall show the name and address of the pharmacy, the name of the current owner and the name of the current pharmacist manager.

(b) A pharmacy may not display, advertise or use any name other than the name in which it is registered.

(c) A pharmacy may not be open without a licensed pharmacist on duty at all times.

(d) A change in name or ownership or controlling interest of the pharmacy shall require a new permit. Applications for new permits shall be filed within 30 days of the change in name, ownership or controlling interest.

(e) A person or entity holding a certificate, license, permit or registration as a licensed pharmacist or pharmacy may not post or display in public view a current certificate, license, permit, registration or renewal of a person not lawfully employed by the licensee.

(f) A pharmacy which closes or otherwise ceases operation shall immediately return to the Board its current permit and shall immediately inform the Board of the disposition of the prescription files and nonproprietary drugs. After 30 days, neither prescription files nor nonproprietary drugs may be sold, transferred or disposed of without prior permission from the Board. When a pharmacy closes or ceases operation, signs, symbols or other indications of a pharmacy shall immediately be removed from both the interior and exterior of the premises.

(g) If the pharmacist manager ceases to hold that position, the pharmacy permit holder shall inform the Board in writing of this fact and of the new pharmacist manager not more than 15 days later. If the Board does not object within 30 days of notification, the new pharmacist manager may be deemed approved. If the permit holder is unable to replace the pharmacist manager within those 15 days, the permit holder may request in writing an extension of up to 30 additional days to obtain a replacement. A pharmacy may not operate without a pharmacist manager for more than 15 days unless the pharmacy first obtains from the Board an extension of time for obtaining a replacement.

(h) A pharmacist may not serve as the pharmacist manager of more than one pharmacy at any given time.



The holder of a permit to operate a pharmacy which has lost the services of a pharmacist manager and cannot obtain a suitable replacement may apply in writing to the Board for a temporary waiver of this subsection. The Board may grant a waiver which would authorize a pharmacist manager to serve as pharmacist manager of more than one pharmacy for up to 60 days after the initial 15 days permitted under subsection (g).

(i) Each pharmacy in this Commonwealth will require a separate permit regardless of ownership unless the pharmacy is a satellite pharmacy as defined in § 27.1 (relating to definitions).

**§ 27.12. Practice of pharmacy and delegation of duties.**

(a) *General.* It is unlawful for a person not licensed as a pharmacist by the Board to engage or allow another person to engage in the practice of pharmacy as defined in § 27.1 (relating to definitions) and section 2 of the act (63 P. S. § 390-2) except in accordance with this section.

(b) *Delegation.* A pharmacist may delegate aspects of the practice of pharmacy to a pharmacy intern or pharmacy technician, as defined in § 27.1, subject to the following conditions:

(1) The pharmacist shall review every prescription or drug order prior to its being dispensed to determine the name of the drug, strength, dosage, quantity, permissible refills and other information required under § 27.18(b) (relating to standards of practice) to verify the accuracy of the preparation.

(2) The pharmacist shall provide direct, immediate and personal supervision to pharmacy interns and pharmacy technicians working with the pharmacist. Direct, immediate and personal supervision means that the supervising pharmacist has reviewed the prescription or drug order prior to its being dispensed, has verified the final product and is immediately available on the premises to direct the work of interns and technicians and respond to questions or problems.

(3) The pharmacist shall ensure that the label of the container in which a nonproprietary drug is dispensed or sold pursuant to a prescription complies with the labeling requirements of § 27.18(d).

(c) *Pharmacy interns.*

(1) A pharmacy intern may work only under the direct, immediate, personal supervision of a pharmacist in accordance with subsection (b)(2).

(2) A pharmacy intern may neither accept nor transcribe an oral order or telephone prescription.

(3) A pharmacy intern may neither enter nor be in a pharmacy if a pharmacist is not on duty.

(4) A pharmacy intern working under the direct, immediate, personal supervision of a pharmacist may perform procedures which require professional skill and training. Examples of these procedures include: verifying ingredients, weighing ingredients, compounding ingredients and other similar processing of ingredients.

(d) *Pharmacy technicians.*

(1) A pharmacy technician may work only under the direct, immediate, personal supervision of a pharmacist in accordance with subsection (b)(2).

(2) The following are examples of the types of activities which a pharmacy technician may perform:

(i) Carry containers of drugs in and around the pharmacy.

(ii) Count pills, tablets and capsules and put them in a container.

(iii) Type or print, or both, labels.

(iv) Maintain records which are related to the practice of pharmacy.

(v) Assist the pharmacist in preparing and reconstituting parenteral products and other medications. After the parenteral product or other medication has been prepared, the supervising pharmacist shall initial the label of the product or medication to document his final inspection and to accept total responsibility for its preparation.

(vi) Enter prescription, drug order or patient information in a patient profile.

(3) A pharmacy technician may not:

(i) Accept or transcribe an oral order or telephone prescription.

(ii) Enter or be in a pharmacy if a pharmacist is not on duty.

(iii) Perform any act within the practice of pharmacy that involves discretion or independent professional judgment.

(iv) Perform a duty until the technician has been trained and the duty has been specified in a written protocol.

(4) The pharmacist manager shall create and maintain a written protocol for each pharmacy technician employed in the pharmacy. The protocol shall specify each duty which the pharmacy technician may perform. The pharmacist manager and the pharmacy technician shall date and sign the protocol and each amendment to the protocol. The pharmacist manager shall make the protocol available to agents of the Board upon demand.

**§ 27.14. Supplies.**

(a) A pharmacy shall maintain a supply of drugs and devices adequate to meet the needs of the health professions and the patients it is intended to serve. The applicant for a pharmacy permit shall show proof by affidavit that the applicant has ordered or possesses and shall continue to maintain an inventory of nonproprietary drugs, devices and equipment appropriate to the practice of that pharmacy. The inventory shall include at least \$5,000 worth of nonproprietary drugs and devices, at cost, from a licensed wholesaler or manufacturer. The inventory may not go below this figure at any time.

(b) Drugs which must be removed from active stock shall be removed in accordance with the following provisions:

(1) The pharmacist manager is responsible for removing from the active stock of the pharmacy and disposing of the following:

(i) A drug whose expiration date has passed.

(ii) A drug which does not meet legal standards of strength and purity.

(iii) A drug which varies from the strength and purity indicated on the label of the commercial container.

(iv) A drug which has been improperly stored.

(v) A drug which has deteriorated.

(vi) A drug which is unfit, misbranded or adulterated under Federal or State statutes.

(2) Drugs which have been removed from active stock in accordance with this subsection may not be sold or given away. The drugs shall be returned to the wholesaler or manufacturer for disposal or disposed of by the pharmacy according to Federal or State statutes or regulations.

(3) A pharmacy desiring to or required to dispose of a controlled substance shall contact the nearest DEA office for authority and instructions to dispose of the substance.

(4) The pharmacist manager shall be responsible for keeping proper records of controlled substances which have been disposed of. These records shall include the name of the substance, the number of units or the volume of the substance or the number of commercial containers and the date and manner of disposal.

(c) A pharmacy shall maintain at least the following equipment and supplies:

(1) A Class A prescription balance or other scale with a no-load sensitivity of 6 milligrams or less.

(2) Both an apothecary set of weights from 1/2 grain to 1 ounce and a set of metric weights from 10 milligrams to 50 grams.

(3) A mechanical refrigerator having the appropriate temperature control for the storage of the drugs, vaccines, biologicals or medicaments which require specific temperatures for their stability. The refrigerator shall be kept within the prescription area.

(4) At least four graduates assorted to measure 1 ml to 500 ml.

(5) At least two mortars and pestals, glass or wedge-wood.

(6) At least three spatulas of assorted sizes, metallic-rust resistant and rubber or nonmetallic composition.

(7) At least two funnels, one 120 ml and the other 480 ml.

(8) One glass or tile slab or specially treated paper for use in compounding ointments.

(9) A book to record sales and transfers of Schedule V controlled substances and poisons. This paragraph does not apply to an institutional pharmacy servicing only inpatients.

(10) An adequate supply of filter paper and powder papers and an adequate supply of empty capsules, prescription containers, prescription and poison and other applicable identification labels used in dispensing of prescription drugs and medication.

(11) Prescription files for keeping prescriptions of nonproprietary drugs in accordance with the act and, for controlled substance prescriptions, the regulations of the DEA at 21 CFR 1304.04(h) (relating to maintenance of records and inventories). The original prescription shall be retained for 2 years. A pharmacy may make use of a computerized recordkeeping system for keeping track of telephone prescriptions, refills, counseling, and the like, if the system has safeguards to prevent accidental erasure and the information can be transferred to hard copy within 72 hours.

(12) Current copies of the act and this chapter.

(13) Federal and Commonwealth statutes and regulations pertaining to the practice of pharmacy.

(14) An adequate reference library including two or more of the latest editions of the following, including current supplements:

(i) The United States Pharmacopeia, *The National Formulary*.

(ii) *Physicians Desk Reference*.

(iii) *Drug Facts and Comparisons*.

(iv) *Remington's Pharmaceutical Sciences*.

(v) *The United States Dispensatory*.

(vi) *Physicians' Generix*.

(vii) *USPDI* (United States Pharmacopeia Dispensing Information).

(viii) *American Drug Index*.

(ix) Goodman and Gilman's *Pharmacological Basis of Therapeutics*.

(x) *AHFS Drug Information*.

(xi) *Radiological Health Handbook*.

(xii) *The Merck Index: An Encyclopedia of Chemicals, Drugs, and Biologicals*.

(xiii) *Martindale: The Extra Pharmacopeia*.

#### § 27.15. Sanitary standards.

(a) The pharmacy and equipment shall be maintained in a clean and orderly condition and in good repair.

(b) The pharmacy shall comply with the health and sanitation statutes of the Commonwealth and of the municipality and county in which the pharmacy is located.

(c) Waste material may not be permitted to collect upon the floor, counter or other area of the pharmacy. The pharmacy shall have a waste removal system adequate to maintain clean and sanitary conditions.

(d) The prescription area shall be dry and well ventilated, free from rodents, insects, dirt and foreign material, and well lighted.

(e) Plumbing shall be in good repair and working order.

(f) The prescription area shall contain only appliances, instruments, equipment, materials, drugs, medicines, chemicals and supplies necessary for the practice of pharmacy, as set forth in section 2(11) of the act (63 P. S. § 390-2(11)), and other equipment and supplies deemed reasonable for the operation and management of a pharmacy as established by the Board.

(g) Persons working in the prescription area shall be required to keep themselves and their apparel in a clean, sanitary and professional manner.

#### § 27.16. Construction and equipment requirements.

(a) *Approval of plans.* The following requirements are applicable to approval of plans:

(1) *New pharmacy or change-of-location.* Plans for construction of a new pharmacy or new location for an existing pharmacy may be submitted to the Board for approval prior to proceeding with construction. Within 90 days of receiving the plans, the Board will notify the applicant of its approval of the planned pharmacy or of its disapproval and the reasons for disapproval. The plans, including dimensions, shall demonstrate compliance with applicable regulations and shall show the layout and fixtures for the prescription area and the immediately adjacent area.

(2) *Alterations.* The practice of pharmacy shall cease while substantial alterations in the layout or fixtures of an approved pharmacy are being made unless:

(i) The pharmacy makes the alterations and takes adequate precautions so that the health and safety of professionals, employes and the public is protected during the continuing operation of the pharmacy.

(ii) The plans for the alterations and a description of the precautions are submitted to the Board at least 30 days before the beginning of alteration work. If the Board raises no objection during that time, the pharmacy is authorized to proceed with the alterations as planned.

(b) *Building standards.* The following apply to building standards:

(1) *Minimum size.* The minimum size of the prescription area shall be at least 250 square feet, and shall be large enough, considering the level of activity, to carry on the practice of pharmacy in a manner that protects the health and safety of professionals, employes and the public. Within the prescription area, there shall be a prescription working counter of at least 10 linear feet in length and 2 linear feet in width. If more than two pharmacists are on duty simultaneously, the minimum counter length shall be increased by 5 linear feet for an additional pharmacist. Institutions with special considerations may apply to the Board for a waiver.

(2) *Pharmacies in retail establishments.* Pharmacies located within retail establishments whose business hours differ shall adhere to the following standards:

(i) The pharmacy can be securely sealed off from the remainder of the retail establishment.

(ii) The barrier devices which seal off the pharmacy shall be capable of providing security for the pharmacy. The barrier devices shall reach from floor to ceiling, shall be impenetrable by hand or the use of a reach extender, and shall be securely locked whenever a licensed pharmacist is not present and on duty.

(iii) The pharmacy shall be closed whenever a licensed pharmacist is not present and on duty.

(iv) Safes, electrical equipment or other facilities of the retail establishment may not be located in or approached through the pharmacy unless a pharmacist is on duty whenever staff from the retail establishment need access to these facilities.

(v) The hours of the pharmacy shall be posted at all points of public access.

(vi) Protocols for access to the pharmacy when it is closed by nonpharmacist staff for bona fide emergencies, such as fires, natural disasters or police matters, shall include notification to the pharmacist manager.

(3) *Locked compartment.* Space shall be provided in the prescription area for a substantially constructed cabinet or safe to contain controlled substances unless the pharmacy disperses controlled substances throughout the stock of noncontrolled substances in a manner that obstructs the theft of controlled substances. If the pharmacy stocks Schedule I controlled substances, these substances shall be stored in a securely locked, substantially constructed cabinet or safe.

(4) *Telephone.* At least one telephone shall be accessible in the prescription area, and the telephone number shall be the telephone number printed on the prescription label.

(5) *Sanitary facilities.* Pharmacies shall be equipped with a sink within the prescription area to be used solely for pharmaceutical purposes. The sink shall measure at least 200 square inches exclusive of drainboard area. The sink shall be connected properly to supply hot and cold water. Restroom facilities for employes of the pharmacy shall be provided reasonably close to, but outside of the prescription area.

(7) *Lighting and ventilation.* The pharmacy shall be well lighted and ventilated.

(7) *No television set.* A television set may not be placed within the prescription area or so situated in the pharmacy that its viewing screen may be seen when looking at it from within the prescription area.

(8) *Physical arrangement.* The prescription area shall be arranged so that prescription drugs and devices are inaccessible to an unlicensed or unauthorized person. The prescription area may not be used for storage of merchandise or other items other than those used in the preparation, dispensing or delivery of drugs. No animals may be allowed in a prescription area except for security reasons.

(9) *Existing pharmacies.* Existing pharmacies licensed by the Board prior to the effective date of this chapter may continue if they reasonably conform, or are made to reasonably conform, to the intent of this chapter. The Board will determine what constitutes reasonable conformity consonant with the public interest, health, safety and welfare.

**§ 27.18. Standards of practice.**

(a) A pharmacist shall dispense a new prescription in a new and clean container or in the manufacturer's original container. In refilling a prescription, the pharmacist may reuse the original container of that prescription if the container is clean and reuseable. The refill requires a new label containing the information specified in subsection (d). Pharmacies and pharmacists shall comply with the Poison Prevention Packaging Act of 1970 (15 U.S.C.A. §§ 1471—1476) which includes the use of child resistant containers.

(b) Prescriptions kept on file in the pharmacy shall meet the following requirements:

(1) Prescriptions on file shall show the name and address of the patient; the name and address or other identifier of the prescriber; the date the prescription was issued, if the prescription is for a controlled substance or if it was written with a PRN or ad lib refill designation; the name and quantity of the drug prescribed; directions for its use; cautions communicated to the ultimate consumer by means of auxiliary labels or other means when dispensed to the ultimate consumer; the date the prescription was compounded and dispensed; and the name or initials of the dispensing pharmacist.

(2) Prescriptions for controlled substances shall show the DEA number of the prescriber. Prescriptions for Schedule II controlled substances shall be written with ink, indelible pencil, typewriter, word processor or computer printer and shall be manually signed by the prescriber. The pharmacist is responsible for compounding and dispensing nonproprietary drugs consistent with the Federal Controlled Substances Act (21 U.S.C.A. §§ 801—904), The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) and the regulations promulgated under these acts.

(3) If a prescription for a nonproprietary drug is refilled, a record of the refill shall show the date of the refill, the name or initials of the dispensing pharmacist

and the quantity dispensed. If the pharmacist dispenses a quantity different from that of the original prescription, the pharmacist shall indicate the changes on the back of the original prescription or shall enter the changes in the computerized files of the pharmacy.

(4) Original prescriptions shall be kept for 2 years.

(5) In an institution, Schedule II controlled substances which the pharmacy dispensed and which were ultimately received by the patient shall be recorded and the record kept for 2 years.

(c) A pharmacist may decline to fill or refill a prescription if the pharmacist knows or has reason to know that it is false, fraudulent or unlawful, or that it is tendered by a patient served by a public or private third-party payor who will not reimburse the pharmacist for that prescription. A pharmacist may not knowingly fill or refill a prescription for a controlled substance or nonproprietary drug or device if the pharmacist knows or has reason to know it is for use by a person other than the one for whom the prescription was written, or will be otherwise diverted, abused or misused. In addition, a pharmacist may decline to fill or refill a prescription if, in the pharmacist's professional judgment exercised in the interest of the safety of the patient, the pharmacist believes the prescription should not be filled or refilled. The pharmacist shall explain the decision to the patient. If necessary the pharmacist shall attempt to discuss the decision with the prescriber.

(d) The container in which a prescription drug or device is sold or dispensed to the ultimate consumer shall bear a label which shall be written in ink, typed or computer generated and shall contain the following information:

- (1) The name, address, telephone number and DEA number of the pharmacy.
- (2) The name of the patient.
- (3) Full directions for the use of its contents.
- (4) The name of the prescriber.
- (5) The serial number of the prescription and the date originally filled.
- (6) The trade or brand name of the drug, strength, dosage form and quantity dispensed. If a generic drug is dispensed, the manufacturer's name or suitable abbreviation of the manufacturer's name shall also be shown.
- (7) On controlled substances, the statement: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

\* \* \* \* \*

(j) Prescriptions for Schedule II controlled substances may not be refilled. No controlled substance in Schedule III, IV or V may be filled or refilled more than five times in the 6-month period from the date of the prescription. Other nonproprietary drugs which may be renewed for a longer period of time or for a greater number of refills shall be in specific numbers, such as, "may be renewed ten times" and shall be in the original handwriting of the prescriber. A nonproprietary drug which is refillable by statute may not be refilled on the basis of preprinted designations or "ad lib," P.R.N., or similar instructions more than five times in the 6-month period from the date of the prescription.

\* \* \* \* \*

(r) The following provisions apply to the advertisement and sale of drugs:

\* \* \* \* \*

(7) The patient has the right to request a copy of an original prescription. The copy shall clearly indicate on its face that it is a copy and may not be used to obtain a new prescription or refill. Before a pharmacist provides a copy of a written prescription to a patient or an authorized agent of the patient, the person requesting the copy shall show the pharmacist acceptable authorization and identification, such as a driver's license. The pharmacist shall record in writing the date, to whom and by whom the copy was given.

\* \* \* \* \*

(v) A drug order in an institution is not required to conform to the labeling requirements of subsection (d) as long as the drug is dispensed in unit dose. A drug not in unit dose shall be labeled to indicate the patient name, drug name, drug strength, dosing instructions and lot number. The label of a parenteral, enteral or total parenteral nutrition product shall contain the name of the patient; the ingredients, including the name, strength, quantity of each, the diluent and expiration date; and the initials of the pharmacist.

**PHARMACISTS**

**§ 27.25. Licensure by reciprocity.**

(a) An applicant for licensure by reciprocity shall comply with section 3(g) of the act (63 P. S. § 390-3(g)).

(b) An applicant for licensure by reciprocity who received a license to practice pharmacy in any other state, territory or possession of the United States after January 26, 1983, shall be required to demonstrate that he passed the FDLE.

**§ 27.26. Pharmacy internship.**

(a) Pharmacy internship means the supervised practical experience required for licensure as a registered pharmacist. The purpose of the pharmacy internship program is to provide a registered intern with the knowledge and practical experience necessary for functioning competently under the act and this chapter.

(b) A certificate of registration as a pharmacy intern will be available to an individual of good moral character who has completed at least 2 years of pharmacy college or an accredited program leading to transfer into the third year of a pharmacy college in which the individual is enrolled or accepted. A person desiring to register as a pharmacy intern shall do the following:

(1) Apply to the Board for registration including the fee specified in § 27.91 (relating to schedule of fees) for registering as a pharmacy intern.

(2) Forward to the Board a letter or transcript certifying that the applicant has successfully completed 2 years of pharmacy college or an accredited program leading to transfer into the third year of a pharmacy college in which the applicant is enrolled or accepted.

(c) The Board will register an applicant after it receives a completed application and other items in subsection (b). A pharmacy intern certificate is valid for 6 years from the date of issue exclusive of time spent in the military.

(d) The following applies to internship credit:

(1) An intern shall serve at least 1,500 hours.

(2) A maximum of 50 hours may be credited in 1 week.

(3) An intern shall serve at least 750 of the 1,500 hours in a pharmacy.

(4) An intern may earn up to 750 of the 1,500 hours in an internship program sponsored or approved by the pharmacy college subject to the following conditions:

(i) The Board will determine the maximum number of hours available for each internship program sponsored or approved by a pharmacy college.

(ii) The Board will grant internship credit to an individual in an internship program sponsored or approved by a pharmacy college only if the following applies:

- (A) The internship program is full-time.
- (B) There is no concurrent academic courseload.

(C) The individual achieves a passing grade in the program.

(iii) A pharmacy college which desires to sponsor or approve an internship program shall request approval from the Board.

(iv) The Board will monitor internship programs which are sponsored or approved by a pharmacy college.

(5) The Board may grant internship credit for hours that an individual served in a pharmacy before the individual registered as an intern only if the individual shows good cause for failing to register in timely fashion.

(6) The Board will not grant internship credit for hours which an individual served in a pharmacy if the supervising pharmacist was not registered as a preceptor. An exception to the requirement that the supervising pharmacist register as a preceptor will be made for internship hours acquired in an internship program sponsored or approved by a pharmacy college.

(e) The Board will grant internship credit only for activities related to the practice of pharmacy. The following are examples of these activities: scrutinizing prescriptions or drug orders, compounding medications and filling prescriptions. The Board will not grant internship credit for activities which are not related to the practice of pharmacy. The following are examples of these activities: retail sales unrelated to pharmacy items, shelving or clerical functions unrelated to pharmacy.

(f) A person may not be eligible to become a candidate for registration to practice pharmacy unless the person receives instruction in practical pharmacy and pharmaceutical technique from an instructor, professor, or faculty member who is a registered pharmacist or from a faculty

member who is a registered pharmacist at a pharmacy college.

(g) The following requirements are applicable to a pharmacy approved for intern training:

(1) A pharmacy may not have been or be in violation of Federal, State or municipal statutes and ordinances governing any phase of activity in which it is engaged. A pharmacy may appeal to the Board for a waiver of this provision.

(2) A pharmacy shall be managed so that the emphasis is on activities connected with the distribution of articles and services pertaining to medical care, including drugs, medicines, prescriptions, medical supplies and materials.

(3) A pharmacy shall be kept in a sanitary, orderly and clean condition, and the prescription department shall meet the requirements in the statutes and regulations as they affect prescription departments.

(4) A pharmacy shall compound and dispense a sufficient number of prescriptions including renewals so as to provide the pharmacy intern with ample opportunity to scrutinize prescriptions and to compound and dispense under the supervision of a licensed pharmacist.

(5) A pharmacy shall have in its employ a licensed pharmacist who is registered as a pharmacist preceptor.

(6) A pharmacy which meets the qualifications of this section shall be approved by the Board after proper notification by the owner or manager of willingness to cooperate in the development of the internship program. Whenever a new intern is accepted for training in the pharmacy, the pharmacist preceptor shall notify the Board of the name of the intern and his anticipated period of internship in the pharmacy.

(h) The requirements for registration as a pharmacist preceptor are as follows:

(1) A pharmacist preceptor may not have been convicted of a criminal offense relating to the practice of pharmacy.

(2) An applicant shall hold a license without restriction to practice pharmacy in this Commonwealth and shall be engaged in the active practice of pharmacy in this Commonwealth.

(3) The applicant shall be working on a full-time basis in a pharmacy approved for intern training.

[Pa.B. Doc. No. 98-1444. Filed for public inspection September 4, 1998, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 75]

### Extension of Public Comment Period

On August 1, 1998, the Fish and Boat Commission published a notice of proposed rulemaking (Regulation No. 48A-82) inviting public comment on proposed regulations concerning threatened and endangered species of fish (28 Pa.B. 3591).

The Commission is extending the public comment period on this proposed regulation until October 9, 1998. Interested persons are invited to submit written comments, objections or suggestions about the proposed regulations to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 on or before 4 p.m. on October 9, 1998.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 98-1445. Filed for public inspection September 4, 1998, 9:00 a.m.]

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# NOTICES

## CONSERVATION AND NATURAL RESOURCES ADVISORY COUNCIL

### Meeting Notice

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will meet on Monday, September 14, 1998. The meeting will be held at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf, (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Glenda Miller directly at (717) 772-9087 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

RANDY COOLEY,  
*Chairperson*

[Pa.B. Doc. No. 98-1446. Filed for public inspection September 4, 1998, 9:00 a.m.]

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

The Delaware River Basin Commission will hold a public hearing on Wednesday, September 9, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in the Banquet Room of Arsenal on the Green Restaurant, 30 Market Street, New Castle, DE.

An informal conference among the Commissioners and staff will be held at 10:30 a.m. at the same location and will include a status report on Delaware's fisheries; discussion of the Commission's proposed Watershed Planning and Assessment Committee; and proposals concerning a non-tidal Delaware River nutrient study and development of dry weather TMDLs for the Christina Subbasin.

In addition to the following subjects which are scheduled for public hearing, the Commission will also address the following: swearing in of Carol R. Collier as the Commission's new Executive Director; minutes of the August 12, 1998 business meeting; announcements; General Counsel's Report; report on Basin hydrologic conditions; consideration of resolutions concerning a non-tidal Delaware River nutrient study and development of dry weather TMDLs for the Christina Subbasin; and public dialogue.

The subjects of the hearing will be as follows:

*Applications for Approval of the Following Projects under Article 10.3, Article 11 and/or Section 3.8 of the Compact:*

1. *Valley Township D-88-31 CP Renewal.* An application for the renewal of a groundwater withdrawal project to supply up to 4.5 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. V1, V2 and V4. Commission approval on October 26, 1988 was extended to 10 years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 4.5 mg/30 days. The project is located in Valley Township, Chester County, PA.

2. *Cloister Spring Water Company D-97-46.* A project to increase the withdrawal of water from an existing spring house intake, from approximately 100,000 gallons per day (gpd) to 300,000 gpd. The intake is located at Spring No. 3, one of several headwater springs at the Arrowhead Springs Farm which are tributary to Mill Creek in the Tulpehocken Creek watershed. The spring house is located just southeast of the intersection of West Bethany and South Fort Zellers Roads in Millcreek Township, Lebanon County, PA. The withdrawal will be exported by tank truck and will continue to serve the applicant's bottling plant located in the City of Lancaster, Lancaster County, PA in the Susquehanna River Basin.

3. *City of Trenton D-98-9 CP.* An application to expand the applicant's service area for both water supply and sewerage to include a portion of Hopewell Township, Mercer County, NJ. The applicant's water distribution system serves the City of Trenton and surrounding areas in Ewing, Lawrence and Hamilton Townships. Potable water will be provided to the project service area from the Delaware River by the applicant's existing filtration plant located near the Calhoun Street Bridge. Up to 1.35 million gallons per day of sewerage capacity will be provided to the project areas in Hopewell Township. The wastewater will be conveyed to the applicant's existing sewage treatment plant on Lambertson Road in the City of Trenton. The treated wastewater will continue to be discharged in Water Quality Zone 2 of the Delaware River, approximately 2.5 miles downstream of the applicant's water supply intake. Both the applicant's water withdrawal and discharge facilities have sufficient capacity to meet the needs of the proposed project.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883-9500 Ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883-9500 Ext. 203 prior to the hearing.

SUSAN M. WEISMAN,  
*Secretary*

[Pa.B. Doc. No. 98-1447. Filed for public inspection September 4, 1998, 9:00 a.m.]

# 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 August 25, 1998.

### BANKING INSTITUTIONS

#### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-12-98	Carnegie Savings Bank Carnegie Allegheny County	Carnegie	Effective

Represents conversion from a State-chartered mutual savings bank to a Federally-chartered savings bank.

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-21-98	Laurel Bank, Johnstown, and The Peoples National Bank of Rural Valley, Rural Valley Surviving Institution— Laurel Bank, Johnstown	Johnstown	Filed

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-17-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market Huntingdon Valley Shopping Center 737 Huntingdon Pike Huntingdon Valley Montgomery County	Opened
8-21-98	Northern Central Bank Williamsport Lycoming County	1199 Main Street Mansfield Tioga County	Approved
8-21-98	Harris Savings Bank Harrisburg Dauphin County	Martin's/Giant Food Store 1729 Dual Highway Hagerstown Washington County Maryland	Approved
8-21-98	Harris Savings Bank Harrisburg Dauphin County	Martin's/Giant Food Store 1580 Wesel Boulevard Hagerstown Washington County Maryland	Approved
8-24-98	Suburban Community Bank Chalfont Bucks County	40 East Street Road Feasterville Lower Southampton Twp. Bucks County	Filed
8-25-98	First Columbia Bank & Trust Company Bloomsburg Columbia County	279 Columbia Mall Drive Hemlock Township Columbia County	Opened



**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-24-98	Abington Savings Bank Jenkintown Montgomery County	<i>To:</i> 990 Old York Road Abington Montgomery County  <i>From:</i> 1020 Old York Road Abington Montgomery County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-19-98	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	118 North Wayne Avenue Wayne Delaware County	Filed
8-21-98	First Commonwealth Bank Indiana Indiana County	500 Hyde Park Road Leechburg Armstrong County	Approved

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 98-1448. Filed for public inspection September 4, 1998, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Eisenhower Postsecondary Grant Application Guidelines

Applications from Pennsylvania nonprofit organizations, which have previously conducted successful mathematics and/or science professional development activities, and Pennsylvania institutions of higher education will be accepted for professional development programs specially-designed to improve mathematics and science teaching and learning in this Commonwealth. Grant awards will be funded with higher education money authorized by Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P. L. 103-382). Awards are contingent upon receipt of the Federal appropriation for the Dwight D. Eisenhower Professional Development Program. Pennsylvania has \$1 million available for competition.

Copies of the Eisenhower Postsecondary Grant Application (EPGA) guidelines are available on the Department's web page at <http://www.pde.psu.edu/docs/pde/posteisen>.

html or from the Issuing Office, which is the sole point of contact for the guidelines: Division of Program Services, Bureau of Postsecondary Services, Pennsylvania Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623; TDD (717) 783-8445.

A preproposal conference is scheduled for Monday, September 21, 1998 at 10 a.m. in Heritage Room A, Lobby Level at 333 Market Street, Harrisburg. If special accommodations are required to participate in the preproposal conference, contact the Division of Program Services. Written questions are to be submitted by September 14, 1998 on PDE-4658 available on the Department's web page at <http://www.pde.psu.edu/docs/pde/posteisen.html>.

Applications submitted in response to the EPGA guidelines are due in the Division of Program Services no later than 5 p.m., Friday, October 16, 1998.

EUGENE W. HICKOK,  
*Secretary*

[Pa.B. Doc. No. 98-1449. Filed for public inspection September 4, 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 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 comment 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 Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the 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 Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (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 0052787.** Sewage, **Quakertown United Mennonite Church**, 180 Thatcher Road, Quakertown, PA 18951.

This application is for renewal of an NPDES permit to discharge treated sewage from a small flow treatment plant serving the church in Quakertown Borough, **Bucks County**. This is an existing discharge to the Tohickon 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 1,250 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	15	30
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	2.5	5.0
(11-1 to 4-30)	7.5	15.0
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine (Years 1 and 2)	monitor/report	monitor/report
(Years 3, 4 and 5)	1.5	2.0
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0051802.** Industrial waste, **Brown Printing Company**, 668 Gravel Pike, East Greenville, PA 18041-2199.

This application is for renewal of an NPDES permit to discharge treated process wastewater from plate processors and film developers. It also includes sanitary wastewater and blowdown from bathrooms, sinks, housekeeping activities and cooling tower serving Brown Printing Company in Upper Hanover Township, **Montgomery County**. This is an existing discharge to an unnamed tributary to Perkiomen Creek.

The receiving stream is classified for trout stocking fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 11,000 gallons per day are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	15	30	38
(11-1 to 4-30)	25	50	63
Suspended Solids	30	60	75
Ammonia (as N)			
(5-1 to 10-31)	1.5	3.0	3.8
(11-1 to 4-30)	4.5	9.0	11.0
Phosphorus (as P)	1.0	2.0	2.5
Fecal Coliform	200 colonies/100 ml as a geometric average		
pH	within limits of 6.0—9.0 standard units at all times		
Total Dissolved Solids	1,500	2,000	2,500
Oil and Grease	15		30
Color (Pt. Co. Scale)			100
Total Copper	0.2	0.4	0.5
Total Silver	0.0043	0.0086	0.011
Total Zinc	1.78	3.56	4.5
Vinyl Chloride	monitor	monitor	
Pentachlorophenol	monitor	monitor	
1,2-Diphenylhydrazine	monitor	monitor	
Total Cadmium	0.001	0.002	0.0025
Total Arsenic	0.003	0.006	0.0075

*Other Conditions:*

The EPA waiver is in effect.

Chemical Additives

Authorization to Discharge Stormwater Runoff from Outfalls 002 and 003.

**PA 0023256.** Sewage, **Upper Gwynedd Township**, P. O. Box 1, West Point, PA 19486.

This application is for renewal of an NPDES permit to discharge treated sewage from the Upper Gwynedd Township STP in Upper Gwynedd Township, **Montgomery County**. This is an existing discharge to Wissahickon 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 4.5 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Phosphorus (as P)			
(4-1 to 10-31)	monitor/report		monitor/report
Total Residual Chlorine			
(0 to 2 years)	monitor/report		monitor/report
(3 to 5 years)	0.04		0.13
Chloroform	.017		0.043
Dichlorobromomethane	monitor/report		
Chlorodibromomethane	monitor/report		
Cyanide Free	monitor/report		
Lead	monitor/report		
Copper	monitor/report		
Fecal Coliform	200 colonies/100 ml as a geometric average		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

*Other Conditions:*

The EPA waiver is not in effect.

**PA 0057444.** Industrial waste, **Jackson Immuno Research Laboratories, Inc.**, P. O. Box 9, West Grove, PA 19390-9156.

This application is for issuance of an NPDES permit to discharge only the backwash from the reverse osmosis treatment unit serving research laboratory, located in Penn Township, **Chester County**. This is a new discharge to an unnamed tributary to East Branch Big Elk Creek.

The receiving stream is classified for the following uses: high quality trout stocking fishery and migratory fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 430 gallons per day are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Dissolved Solids	monitor	monitor	monitor
Dissolved Iron	monitor	monitor	monitor
Oil and Grease	15		30
pH	within limits of 6.0—9.0 standard units at all times		

*Other Conditions:*

The EPA waiver is in effect.

*Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.*

**PA 0020745-A1.** Sewerage, **Nescopeck Borough**, 501 Raber Avenue, Nescopeck, PA 18635-1101.

This proposed action is for amendment of an NPDES permit to discharge treated sewage into Nescopeck Creek in Nescopeck Borough, **Luzerne County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the Danville Borough water supply located on the north branch of the Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.250 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	40.0	50.0
Total Suspended Solids	30.0	40.0	60.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0—9.0 standard units at all times		
Total Residual Chlorine (1st Month—36th Month)	monitor and report		
(37th Month—Expiration)	1.0		2.0

The EPA waiver is in effect.

*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.*

**PA 0087874.** Sewage, SIC: 6514, **Robert and Lucille Kreiser**, 1429 Elm Road, Elizabethtown, PA 17022.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to an unnamed tributary of Brills Run, in Conewago Township, **Dauphin County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Columbia Borough Water Company located in Columbia Borough, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.002 mgd are:

Parameter	Average		Instantaneous Maximum (mg/l)
	Monthly (mg/l)		
CBOD <sub>5</sub>	10		20
Total Suspended Solids	10		20
NH <sub>3</sub> -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Total Residual Chlorine	0.50		1.63
Dissolved Oxygen	minimum of 3.0 at all times		
pH	from 6.0—9.0 inclusive		
Fecal Coliforms			
(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		

The EPA waiver is in effect.

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

**PA 0000507.** Industrial waste, SIC: 2821, **Hercules Incorporated**, P. O. Box 567, West Elizabeth, PA 15088-0567.

This application is for renewal of an NPDES permit to discharge untreated cooling water, stormwater and groundwater from Jefferson Plant in Jefferson Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River and an unnamed tributary to the Monongahela River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Western PA Water Company, located at Mile 4.4—Monongahela River, approximately 19.12 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.1 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	monitor and report				
Temperature (°F)					
Oil and Grease			15		110
Suspended Solids			30		30
Phenols (4AAP)			0.016	0.032	60
Fluoride	monitor and report				
Nitrate-Nitrite	monitor and report				
Copper	monitor and report				
Lead	monitor and report				
Zinc	monitor and report				
Sulfate	monitor and report				
Phosphorus (as P)	monitor and report				
pH	not less than 6.0 nor greater than 9.0				

See Item No. 11 in Part C of the permit.

Outfalls 002, 004, 005, 008, 009, 011, 012, 013, 014, 015, 016, 017, 019, 020, 023a and b and 024: existing stormwater discharge, design flow of variable mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	monitor and report				
Oil and Grease					
Ammonia as N	monitor and report				
Zinc	monitor and report				
Aluminum	monitor and report				
Benzene	monitor and report				
Ethylbenzene	monitor and report				
Toluene	monitor and report				
Xylene	monitor and report				
Styrene	monitor and report				
Phenols (4AAP)	monitor and report				

See Item Nos. 8 and 12 in Part C of the permit.

Outfalls 006, 007a and b, 010, 018, 021 and 022: existing stormwater discharge, design flow of variable mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum

The discharge from these outfalls shall consist of uncontaminated stormwater runoff only.

Other Conditions: 1) Stormwater Discharges; 2) Pollution Reduction Reports

The EPA waiver is not in effect.

**PA 0217972.** Industrial waste, **Park Corporation**, P. O. Box 450, West Seventh Avenue, Homestead, PA 15120-0450.

This application is for issuance of an NPDES permit to discharge stormwater from the Waterfront Development in Munhall, Homestead and West Homestead, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Pennsylvania American, located at Becks Run, 3 miles below the discharge point.

Outfalls 001—010: stormwater discharges.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Suspended Solids					monitor and report
Total Dissolved Solids					monitor and report
Sulfate					monitor and report
Chromium (tot)					monitor and report
(hex)					monitor and report
Copper					monitor and report
Lead					monitor and report
Nickel					monitor and report
Zinc					monitor and report
Aluminum					monitor and report
Iron					monitor and report
Manganese					monitor and report
Tetrachloroethylene					not detectable
PCBs					not detectable
Acrolein					not detectable
Benzene					not detectable
Chloroform					not detectable
Ethylbenzene					not detectable
Toluene					not detectable
Trichloroethylene					not detectable
pH					not less than 6.0 nor greater than 9.0

The EPA waiver is in effect.

Other Conditions: Part C conditions pertaining to Erosion and Sedimentation Controls, Best Management Practices and PPC Plans.

**PA 0110469.** Sewage, **Borough of Patton**, P. O. Box 175, Patton, PA 16668.

This application is for renewal of an NPDES permit to discharge treated sewage from the Borough of Patton Wastewater Treatment Plant in the Borough of Patton, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Chest Creek, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Clearfield Municipal Authority.

Outfall 001: existing discharge, design flow of .375 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31)	15	22.5		30

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

*Other Conditions:* Outfalls 002 and 003 are to serve as emergency overflows from the Palmer Avenue and Highland Avenue pump stations.

The EPA waiver is in effect.

**PA 0030287.** Sewage, **Allegheny Country Club**, Country Club Lane, Sewickley, PA 15143.

This application is for renewal of an NPDES permit to discharge treated sewage from the Allegheny Country Club STP in Sewickley Heights Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Little Sewickley Creek, which are classified as a high quality trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority.

*Outfall 001:* existing discharge, design flow of .02 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen (5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	4.5			9.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	0.5			1.0
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0037818.** Sewage, **Saltsburg Borough**, 320 Point Street, P. O. Box 104, Saltsburg, PA 15681.

This application is for renewal of an NPDES permit to discharge treated sewage from the Saltsburg Borough STP in Saltsburg Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as the Conemaugh River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Freeport Water Company.

*Outfall 001:* existing discharge, design flow of 0.2 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	50,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

*Other Conditions:* Outfalls 002—007 are permitted as combined sewer overflows.

The EPA waiver is in effect.

**PA 0094889.** Sewage, **Westmoreland County Housing Authority**, R. D. 6, Box 233, Greensburg, PA 15601.

This application is for renewal of an NPDES permit to discharge treated sewage from the St. Clair Manor STP in St. Clair Township, **Westmoreland County**.

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

*Outfall 001:* existing discharge, design flow of .015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	13			26
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0216151.** Sewage, **Joyce C. Apple**, 778 Executive Drive, Fallentimber, PA 16639.

This application is for renewal of an NPDES permit to discharge treated sewage from Coal Country Campground STP in Reade Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Clearfield Creek, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA-American Water Company on the West Branch Susquehanna River near Milton.

*Outfall 001:* existing average design flow of 0.00425 mgd, effective until the sewage treatment plant expansion is completed and operational or permit expiration, whichever occurs first.

<i>Parameter</i>	<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia Nitrogen (5-1 to 10-31)	24	48
(11-1 to 4-30)	25	50
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	18,000/100 ml as a geometric mean	
Total Residual Chlorine	1.4	3.3
pH	not less than 6.0 nor greater than 9.0	

*Outfall 001:* proposed average design flow of 0.0085 mgd, effective after the sewage treatment plant expansion is completed and operational.

<i>Parameter</i>	<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia Nitrogen (5-1 to 10-31)	13	26
(11-1 to 4-30)	25	50
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	10,000/100 ml as a geometric mean	
Total Residual Chlorine	1.4	3.3
pH	not less than 6.0 nor greater than 9.0	

The EPA waiver is in effect.



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

**PA 0222682.** Sewage. **Leasa Maley SRSTP**, 6118 Maley Drive, Limestone, NY 14753.

This application is for a new NPDES permit to discharge treated sewage to the Unnamed Tributary to Willow Creek in Corydon Township, **McKean County**. This is a new discharge.

The receiving water is classified for the following uses: high quality-cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company intake on the Allegheny River located at Emlenton, approximately 120 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.0004 mgd, are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10	20
TSS	20	40
Fecal Coliform	200/100 ml as a geometric average	
Total Residual Chlorine	XX	
pH	6.0—9.0 at all times	

XX—monitor and report on AMRs.

**PA 0103098.** Industrial waste, SIC: 4941 (Water Supply), **Reynolds Water Company**, 301 Arlington Drive, Greenville, PA 16125-8214.

This application is for a renewal of an NPDES permit, to discharge treated industrial waste to the Shenango River in Pymatuning 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Sharpsville Water Company intake on the Shenango River located at Sharpsville, approximately 18 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.035 mgd, are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Iron	2.0	4.0	5.0
Aluminum	4.0	8.0	10.0
Manganese	1.0	2.0	2.5
Total Suspended Solids	30	60	75
Total Residual Chlorine	0.5		1.6
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0023043-Amendment No. 1.** Sewage. **Borough of North East**, 58 East Main Street, North East, PA 16428.

This is a revision to the notice published on July 4, 1998.

The notice in the July 4, 1998, *Bulletin* advertised that the action being taken on the Borough's NPDES permit resulted from an application submitted by the Borough. This was inaccurate. The permit action resulted from a determination by the EPA and DEP that the Borough must undertake a pretreatment program as part of its NPDES permit obligations. The reopening of the NPDES permit to include pretreatment program conditions was not initiated by a permit application from the Borough, as previously advertised.

## 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 protest. 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 (800) 654-5984.

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

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

**WQM Permit No. 2398405.** Sewerage. **Newtown Square Corporate Center**, 16 Campus Blvd., Suite 150, Newtown Square, PA 19007. This project is for the construction of an onsite sewage disposal system for a proposed site in Newtown Township, **Delaware County**.

**WQM Permit No. 2398406.** Sewerage. **Upper Providence Township Sewer Authority**, 935 N. Providence Road, Media, PA 19063. This project is for the construction of a new sewage pumping station to serve Braves Trail located in Upper Providence Township, **Delaware County**.

**WQM Permit No. 2398407.** Sewerage. **Claude deBotton**, 1604 Walnut Street, Philadelphia, PA 19103. This project is for the construction to expand an existing sewage treatment facility located in Edgmont Township, **Delaware County**.

**WQM Permit No. 4698428.** Sewerage. **Ambler Borough**, 122 East Butler Avenue, Ambler, PA 19002. This project is for the construction to replace existing chlorine facilities with ultraviolet light disinfection located in upper Dublin Township, **Montgomery County**.

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

**A. 3998404.** Sewerage. **Lehigh Carbon Community College**, 4525 Education Park Drive, Schnecksville, PA 18078. Application for modification of an existing wastewater treatment plant, located in North Whitehall Township, **Lehigh County**. Application received in the Regional Office—August 12, 1998.

*Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review any of these applications, should contact Mary DiSanto at (717) 705-4732.*

**A. 3677401, Amendment (98-1).** Sewerage, submitted by **Lititz Sewer Authority**, 50 Lititz Run Road, Lititz, PA 17543-8503 in Warwick Township, **Lancaster County** to re-rate their existing wastewater treatment plant from 3.50 mgd to 3.85 mgd was received in the Southcentral Region on August 17, 1998.

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

**WQM Permit No. 6298406.** Sewerage, **Michael L. Leach, SRSTP**, R. R. 4, Box 389, Sugar Grove, PA 16350. This project is for the construction of a single residence sewage treatment plant in Sugar Grove Township, **Warren County**.

**WQM Permit No. 1098407.** Sewerage, **James W. Garrett, SRSTP**, 311 Green Lake Dr., Mars, PA 16046. This project is for the construction of a single residence sewage treatment plant in Adams Township, **Butler County**.

**INDIVIDUAL PERMITS**

**(PAS)**

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**NPDES Individual**

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the 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 Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above the application.

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

*Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

**NPDES Permit PAS10Q004-R.** Stormwater. **County of Lehigh**, Robert E. Korp, 17 South 7th Street, Allen-

town, PA 18101, has applied to discharge stormwater from a construction activity located in South Whitehall Township, **Lehigh County**, to Little Lehigh Creek.

**NPDES Permit PAS10Q161.** Stormwater. **Laughlin Real Estate, Inc.**, Leighton Laughlin, Jr., 156 Tamarack Circle, Skillman, NJ 08558, has applied to discharge stormwater from a construction activity located in South Whitehall Township, **Lehigh County**, to Little Lehigh Creek.

**NPDES Permit PAS10Q003-R.** Stormwater. **Jaindl Land Company**, David Jaindl, 3150 Coffeetown Road, Orefield, PA 18069, has applied to discharge stormwater from a construction activity located in Upper Macungie Township, **Lehigh County**, to Little Lehigh Creek.

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

**NPDES Permit PAS10X092.** Stormwater. **Redstone Highlands of North Huntingdon**, 6 Garden Center, Greensburg, PA 15601 has applied to discharge from a construction activity located in North Huntingdon Township, **Westmoreland County** to Monongahela River.

## SAFE DRINKING WATER

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

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

**A. 1598511.** Public water supply. **City of Coatesville Authority**, 114 E. Lincoln Highway, Coatesville, PA 19320. This proposal involves the installation of a corrosion control feed system at the Rock Run Water Treatment Plant in the City of Coatesville, **Chester County**.

*Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**A. 4198501.** The Department has received a construction permit application from **Country Squire Courts** (P. O. Box 402, Salladasburg, PA 17740; Woodward Township, **Lycoming County**) for drawing water from Susquehanna River including surface water treatment plant, river intake and pumps and treated water storage reservoir.

*Bureau of Water Supply Management: Division of Drinking Water Management, 400 Market Street, Harrisburg, PA 17105. Contact: Godfrey C. Maduka, (717) 787-9037.*

**A. 9996462. United Dairy, Inc.**, 300 North 5th Street, P. O. Box 280, Martins Ferry, OH 43935; Gary Cowell, Vice President Production. Applicant requests Department approval to sell bottled water in this Commonwealth under the brand name United Valley Pure Drinking Water.

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

**A. 3398501.** Public water supply. **Summerville Borough Municipal Authority**, P. O. Box 278, Summerville, PA 15864. This proposal involves the construction of a new raw water well (Well No. 3) to provide an additional source of water to the Authority in Summerville Borough, **Jefferson County**.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 1

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

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

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 (800) 654-5984.

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

*Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.*

**Capital City Airport**, Fairview Township, **York County**. **Susquehanna Area Regional Airport Authority**, 135 York Drive, Suite 100, Middletown, PA 17057, has submitted a Notice of Intent to Remediate site soils contaminated with solvents, BTEX and PAHs and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet a combination of site-specific and Statewide health standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Patriot News* on August 17, 1998.

**Distribution Pole 20792S32110**, Mechanicsburg Borough, **Cumberland County**. **Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 24283S34328**, Harrisburg City, **Dauphin County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 26172S35238**, Lower Paxton Township, **Dauphin County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 26181S36799**, Lower Paxton Township, **Dauphin County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 28544S35576**, South Hanover Township, **Cumberland County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 25115S38029**, Middle Paxton Township, **Dauphin County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Patriot News* on July 22, 1998.

**Distribution Pole 40141S26711**, Lancaster City, **Lancaster County. Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Intelligencer Journal-New Era* on July 22, 1998.

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

**Stroehmann Bakeries Roll Plant**, Old Lycoming Township, **Lycoming County.** Converse Consultants East on behalf of their client Stroehmann Bakeries, P. O. Box 976, Horsham, PA 19044 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with 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 Williamsport Sun-Gazette* on June 13, 1998.

**University Park Airport**, Benner Township, **Centre County.** Major Renee M. Tatro, Environmental Manager, Pennsylvania Air National Guard, 62 Olmstead Boulevard, Middletown, PA 17057 has submitted a Notice of Intent to Remediate site soil contaminated with BTEX, PHCs and PAHs. 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 be published in *The Centre Daily Times*.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

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

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Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

*Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.*

**Capital City Airport**, Fairview Township, **York County**. **Susquehanna Area Regional Airport Authority**, 135 York Drive, Suite 100, Middletown, PA 17057, has submitted a Notice of Intent to Remediate site soils contaminated with solvents, BTEX and PAHs and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet a combination of site-specific and Statewide health standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Patriot News* on August 17, 1998.

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

**Scullin Oil Company**, City of Sunbury, **Northumberland County**. Scullin Oil Company, P. O. Box 350, Sunbury, PA 17801 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with BTEX, PHCs and PAHs. 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 Daily Item* on July 1, 1998.

## AIR QUALITY

### Notice of Plan Approval and Operating Permit Applications

#### Nonmajor Sources and Modifications

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department's Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the

Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act and regulations adopted under the act.

## OPERATING PERMITS

### Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015).

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**39-313-032B: Mallinckrodt Chemical, Inc.** (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for operation of the DMPA tanks in South Whitehall Township, **Lehigh County**.

**39-399-037A: Mallinckrodt Chemical, Inc.** (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for operation of the DMPA oxidizers in South Whitehall Township, **Lehigh County**.

**40-318-032B: Continental Whitecap Co.** (350 Jaycee Drive, Valmont Industrial Park, West Hazleton, PA 18201) for operation of Coating Line C5 in Hazle Township, **Luzerne County**.

**40-323-009: Caradon Mideast Aluminum Co.** (Crestwood Industrial Park, P. O. Box 98, Mountaintop, PA 18707) for operation of a grinding and deburring operation in Wright Township, **Luzerne County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**36-309-055B: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506) for installation of new bins, conveyors and a bucket elevator located in East Earl Township, **Lancaster County**. This source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.*

**17-399-011: Pennsylvania Electric Co., owner, and GPU Generation, Inc., operator** (1001 Broad Street, Johnstown, PA 15907) for operation of an ash disposal facility previously owned and operated by Pennsylvania Electric Company in Bradford Township, **Clearfield County**.

**59-0003: Pennsylvania Electric Co., owner, and GPU Generation, Inc., operator** (1001 Broad Street, Johnstown, PA 15907) for operation of a natural gas-fired turbine and associated No. 2 fuel oil-fired starting engine previously owned and operated by Pennsylvania Electric Company in Covington Township, **Tioga County**.

**17-0001: Pennsylvania Electric Co., owner, and GPU Generation, Inc., operator** (1001 Broad Street, Johnstown, PA 15907) for operation of four pulverized bituminous coal-fired electric utility boilers (Units 1 through 4), three diesel units (Units 5 through 7), two emergency generators, a fire pump and 15 space heaters previously owned and operated by Pennsylvania Electric

Company at their Shawville Generation Station in Bradford Township, **Clearfield County**.

**17-306-001: Pennsylvania Electric Co., owner, and GPU Generation, Inc., operator** (1001 Broad Street, Johnstown, PA 15907) for operation of two pulverized bituminous coal-fired electric utility boilers (Units 1 and 2) previously owned and operated by Pennsylvania Electric Company at their Shawville Generating Station in Bradford Township, **Clearfield County**.

**17-306-002B: Pennsylvania Electric Co., owner, and GPU Generation, Inc., operator** (1001 Broad Street, Johnstown, PA 15907) for operation of two pulverized bituminous coal-fired electric utility boilers (Units 3 through 4) previously owned and operated by Pennsylvania Electric Company at their Shawville Generating Station in Bradford Township, **Clearfield County**.

**17-305-007B: River Hill Coal Co., Inc.** (P. O. Box 141, Kylertown, PA 16847) for operation of a bituminous coal processing facility previously owned and operated by River Hill Coal Company, Inc. in Karthaus Township, **Clearfield County**.

**12-302-001A: Emporium Hardwoods, Inc.** (HC 3, Box 1, Emporium, PA 15834) for operation of a wood fired boiler and associated air cleaning device (a multiclone collector) previously owned and operated by Mallery Lumber Corporation in Shippen Township, **Cameron County**.

**08-399-003D: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848) for operation of an electroluminescent phosphor furnace and associated air cleaning devices (a fabric collector and a scrubber) in Department 212, Building 15, in North Towanda Township, **Bradford County**.

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

**10-277A: Wiest Asphalt Products** (310 Mitchell Hill, Butler, PA 16001) for operation of a batch asphalt plant in Summit Township, **Butler County**.

**24-083B: Carbone of America Graphite Materials Division** (215 Stackpole Street, St. Marys, PA 15857) for operation of a graphite machining center in Benzinger Township, **Elk County**.

**25-313-025E: Engelhard Corp.** (1729 East Avenue, Erie, PA 16503) for operation of Bldg. 300, maleic plant in Erie, **Erie County**.

**25-267A: American Meter Co.** (P. O. Box 1251, Erie, PA 16512) for operation of two rubber curing ovens in Erie, **Erie County**.

**37-291A: LaFarge Corp.** (510 West Main Street, Canfield, OH 44406) for operation of slag processing in Pulaski Township, **Lawrence County**.

**42-182A: Allegheny Store Fixtures, Inc.** (P. O. Box 61, Bradford, PA 16701) for operation of surface coating in Bradford Township, **McKean County**.

**62-312-036A: United Refining Co.** (P. O. Box 780, Warren, PA 16365) for operation of an API oil water separator in Warren, **Warren County**.

#### **Notice of Intent to Issue Title V Operating Permits**

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating

permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management at the regional office telephone number noted. For additional information, contact the regional office noted.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the person submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

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

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Attn: Kanubhai L. Patel, (717) 705-4702.*

**07-05002: Consolidated Rail Corp.** (200 Fourth Avenue, Juniata, Altoona, PA 16601) for their Hollidaysburg Car Shop, located in Hollidaysburg Borough and Frankstown Township, **Blair County**. The facility's major sources of emissions include paint booths which primarily emit VOC and a hard chromium electroplating operation which emits chromium, a hazardous air pollutant.

**28-05015: R & A Bender, Inc.** (P. O. Box 399, Scotland, PA 17254) located in Greene Township, **Franklin County**. The facility's major sources of emissions include a municipal solid waste landfill which primarily emit the following contaminants: volatile organic compounds.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.*

**65-00163: Department of Public Welfare** (P. O. Box 111, Torrance, PA 15779) at Torrance State Hospital located in Derry Township, **Westmoreland County**. The facility's major sources include boilers which emit major quantities of SO<sub>2</sub>.

**65-00865: Sony Chemical Corp. of America, Sony Technology Center—Pittsburgh** (1001 Technology Drive, Mt. Pleasant, PA 15666) located in East Huntingdon Township, **Westmoreland County**. The facility's major source of emissions include three thermal transfer ribbon coating machines. Emission of VOCs/HAPs from the coating machines are controlled by a thermal oxidizer.

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

**43-00182: Wheatland Tube Co.** (P. O. Box 608, Wheatland, PA 16161) located in Wheatland Borough, **Mercer County**. The facility's major emission sources

include galvanizing kettles, various coating lines and sulfuric acid pickling tanks. The facility is a major facility due to its potential to emit of Volatile Organic Compounds.

**43-00063: Damascus Bishop Tube Co.** (795 Reynolds Industrial Park Road, Greenville, PA 16125) located in Pymatuning Township, **Mercer County**. The facility's major emission sources include a halogenated solvent vapor degreaser, two annealing furnaces, pickling lines and a tube coating and drying line. The facility is a major facility due to its potential to emit of Volatile Organic Compounds and Trichloroethylene.

**24-00016: Keystone Powdered Metal Co.** (1935 State Street, St. Marys, PA 15857) located in St. Marys, **Elk County**. The facility's major emission sources include various heat treating and sintering furnaces and solvent vapor degreasers. The facility is a major facility due to its potential to emit of Volatile Organic Compounds.

**43-00085: Trinity Industries** (60 Union Street, Greenville, PA 16125) located in Greenville Borough, **Mercer County**. The facility's major emission sources include various shot blast and spray coating booths. The facility is a major facility due to its potential to emit of Volatile Organic Compounds.

**43-00279: Trinity Industries** (Waugh Avenue, Greenville, PA 16125) located in Hempfield Township, **Mercer County**. The facility's major emission sources include various shot blast and spray coating booths. The facility is a major facility due to its potential to emit of Volatile Organic Compounds.

**43-00270: CCL Container** (One Llodio Drive, Hermitage, PA 16148) located in Hermitage, **Mercer County**. The facility's major emission sources include seven can manufacturing and coating lines. The facility is a major facility due to its potential to emit of Volatile Organic Compounds.

#### PLAN APPROVALS

**Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**39-313-032B: Mallinckrodt Chemical, Inc.** (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for operation of the DMPA tanks in South Whitehall Township, **Lehigh County**.

**39-399-037A: Mallinckrodt Chemical, Inc.** (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for operation of the DMPA oxidizers in South Whitehall Township, **Lehigh County**.

**40-318-032B: Continental Whitecap Co.** (350 Jaycee Drive, Valmont Industrial Park, West Hazleton, PA 18201) for operation of Coating Line C5 in Hazle Township, **Luzerne County**.

**40-323-009: Caradon Mideast Aluminum Co.** (Crestwood Industrial Park, P. O. Box 98, Mountaintop, PA 18707) for operation of a grinding and deburring operation in Wright Township, **Luzerne County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**07-315-003A: Appleton Papers, Inc.** (100 Paper Mill Road, Roaring Spring, PA 16673-1488) for modification of the No. 3 Recovery Boiler at their Spring Mill Facility in Roaring Spring Borough, **Blair County**.

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

**65-625A: Gulf Oil Limited Partnership** (400 Grand Avenue, Pittsburgh, PA 15225) for installation of bulk storage tank at Delmont Terminal in Delmont, **Westmoreland County**.

**63-565A: Washington Penn Plastic Co., Inc.** (2080 North Main Street, P. O. Box 236, Washington, PA 15301) for installation of pelletizer/conveyor/blender at Arden Facility in South Strabane Township, **Washington County**.

**65-613A: International Mill Service, Inc.** (1155 Business Center Drive, Horsham, PA 19044) for installation of scrap reclamation/slag recycle at Patton Site in Rostraver Township, **Westmoreland County**.

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

**20-318-009A: Andover Industries BMPI** (R. D. 2, Dunham Road, Meadville, PA 16335) for minor modification to paint booth no. 1 in Vernon Township, **Crawford County**. The modification will not increase emissions.

**20-318-010A: Andover Industries BMPI** (R. D. 2, Dunham Road, Meadville, PA 16335) for minor modification to paint booth no. 2 in Vernon Township, **Crawford County**. The modification will not increase emissions.

**20-318-011A: Andover Industries BMPI** (R. D. 2, Dunham Road, Meadville, PA 16335) for minor modification to paint booth no. 3 in Vernon Township, **Crawford County**. The modification will not increase emissions.

**20-318-012A: Andover Industries BMPI** (R. D. 2, Dunham Road, Meadville, PA 16335) for minor modification to paint booths no. 4, no. 5, no. 6 and no. 7 in Vernon Township, **Crawford County**. The modification will not increase emissions.

**20-318-015B: Andover Industries BMPI** (R. D. 2, Dunham Road, Meadville, PA 16335) minor modification to paint booths no. 9, no. 10, no. 11 and no. 12 in Vernon Township, **Crawford County**. The modification will not increase emissions.

#### 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 Envi-

ronmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

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

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

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

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

#### *Coal Applications Received*

**32970102. Transfer from Derry International, Ltd. to M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319) commencement, operation and restoration of bituminous strip mine in Blacklick Township, **Indiana County**, affecting 167.5 acres, receiving stream unnamed tributaries to Muddy Run; unnamed tributaries to Blacklick Creek. Application received August 17, 1998.

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

**17980117. Junior Coal Contracting, Inc.** (R. D. 3, Box 225-A, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine, sandstone and clay removal permit in Decatur Township,

**Clearfield County** affecting 75.6 acres, receiving streams: Laurel Run and Little Laurel Run. Application received July 27, 1998.

**17960102. M. R. Hainsey Contracting Co.** (R. D. 2, Box 57, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a change in permit acreage from 70.1 to 73.2 acres, receiving streams: unnamed tributary to Pine Run, Pine Run, unnamed tributary to Trout Run. Application received August 7, 1998.

**17840123. River Hill Coal Co., Inc.** (P. O. Box 141, Kylertown, PA 16847), renewal of an existing bituminous surface mine permit in Karthaus Township, **Clearfield County** affecting 233.6 acres, receiving streams: unnamed tributaries to Saltlick Run and Saltlick Run to the West Branch of the Susquehanna River to the Susquehanna River. Application received August 10, 1998.

## **APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT**

### **ENCROACHMENTS**

The following permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317 as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the 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 comments, suggestions or objections within 30 days of the date of this notice as well as questions to the office noted 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 Services at (800) 654-5984.

### **Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 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.*

**E09-774. Encroachment. Orleans Corporation**, 3333 Street Rd., Suite 101, Bensalem, PA 19020. To construct four road crossings of wetlands and four stormwater management facilities at the proposed Yerkes Tract residential subdivision. The project proposes to impact regulated waters of the Commonwealth and adjacent wetland. The applicant proposes the following:

- 1) Construction in 0.07 acre of wetland (PEM) associated with the construction of road "K";
- 2) Construction in 0.06 acre of wetland (PEM) associated with the construction of road "L";



3) Construction of stormwater management facility 1B which will be excavated in 0.23 acre of wetland and the assumed 100 year floodway of unnamed tributary of Neshaminy Creek;

4) Construction in 0.23 acre of wetland (PEM) associated with the construction of road "D";

5) Construction in 0.08 acre of wetland (PEM) associated with the construction of road "P";

6) Construction of stormwater management facility (basin 3) which will be excavated in 0.09 acre of wetland and the assumed 100-year floodway of an unnamed tributary of Neshaminy Creek;

7) Construction of a 25 foot wide by 50 foot long outfall channel from Basin 4 through 0.03 acre of wetland (PFO).

The applicant also requests an environmental assessment approval for:

1) The construction, operation and maintenance of an on-stream earthen dam which impacts 55 linear feet of Robin Run (WWF0MF) and 0.08 acre of adjacent wetlands (PFO) which will serve as stormwater management facility (basin 1B);

2) The construction, operation and maintenance of an on-stream earthen dam which impacts 50 linear feet of an unnamed tributary to Neshaminy Creek (WWF-MF) and 0.02 acre of adjacent wetlands (PEM) which will serve as a stormwater management facility (basin 2B).

3) The construction operation and maintenance of an on-stream earthen dam which impacts 150 linear feet of an unnamed tributary of Neshaminy Creek (WWF-MF) and 0.09 acre of adjacent wetlands (PEM) which will serve as a stormwater management facility (basin 3).

The project is situated on two parcels of land totaling 220 acres which borders Old York Road (SR 0263) to the west, Forest Grove Road (SR 2097) to the north, and Swamp Road (SR 2079) bisecting the site, (Buckingham, PA Quadrangle, N: 7.5 inches; W: 10.75 inches) in Buckingham Township, **Bucks County**. The applicant proposes 0.98 acre of offsite replacement wetlands to compensate for wetland impacts.

**E15-589.** Encroachment. **Philadelphia Suburban Water Co.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489. To construct and maintain a raw water intake on the East Branch Brandywine Creek (HQ, TSF, MF) for transferring water from the Creek to the Cornog Quarry during periods of elevated stream flows. Water will be pumped from the quarry to the water treatment plant for treatment before distributing to customers of the water company. The site is located about 1,500 feet east of the intersection of Marshall Road and Creek Rd (Downingtown USGS Quadrangle N: 13.70 inches; W: 17.50 inches) in Wallace Township, **Chester County**.

**E15-588.** Encroachment. **Boden-Trieverl Partnership**, 750 North Pottstown Pike, Exton, PA 19341. To replace an existing corrugated pipe driveway culvert across Pine Creek (HQ, TSF) which provides access to the Boden-Trieverl Partnership property. The proposed, approximately 20-foot span, steel I-beam bridge having a 10-foot wide wooden deck, will be supported on reinforced concrete abutments and have a minimum underclearance of approximately 3 feet. The project is located at a point approximately 1,000 feet west of the intersection of Art School Road and Miller Road (Downingtown, PA Quadrangle; N: 19.4 inches; W: 2.0 inches) in West Pikeland Township, **Chester County**.

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

**E13-093A.** Encroachment. **Lehigh Water Authority**, Municipal Building, P.O. Box 29, Lehigh, PA 18235. To amend Permit No. E13-093 to include the installation and maintenance of two 12-foot x 18-foot raw water intake structures and associated 12-inch diameter concrete encased D.I. pipes within the Lehigh River (TSF) to provide potable water to Lehigh Borough. The project is located immediately east of the Packertown Railroad Yards approximately 0.2 mile east of S. R. 0209 and S. R. 3006 (Lehigh, PA Quadrangle N: 18.1 inches; W: 11.1 inches) in Mahoning and Franklin Townships, **Carbon County** (Philadelphia District, U. S. Army Corps of Engineers).

*Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.*

**E01-195.** Encroachment. **Hamilton Township**, 272 Mummert's Church Road, Abbottstown, PA 17301. To remove an existing structure and to construct and maintain an 18-foot span precast concrete box culvert having an underclearance of 4 feet, 6 inches in Seven Hundred School Run on 700 Road (T-523) west of Gun Club Road (T-493) (Hampton, PA Quadrangle N: 1.1 inches; W: 7.9 inches) in Hamilton Township, **Adams County**.

**E01-196.** Encroachment. **Latimore Township**, David Myers, P. O. Box 218, York Springs, PA 17372. To remove an existing structure and to construct and maintain a 14-foot, 6-inch single span timber bridge having an average underclearance of 3 feet, 6 inches for roadway improvements in Latimore Creek on Myers Road (Dillsburg, PA Quadrangle N: 10.1 inches; W: 14.5 inches) in Latimore Township, **Adams County**.

**E67-632.** Encroachment. **Rick Paules**, 6042 River Drive, York, PA 17406. To place fill in the floodway of the Susquehanna River measuring 200 feet long by 100 feet wide by 3 feet deep at a point located on North River Drive approximately 1 mile north of the Accomac Inn. (Columbia West, PA Quadrangle N: 8.5 inches; W: 11.5 inches) in Hellam Township, **York County**.

**E67-633.** Encroachment. **Raymond Cwiklinski**, 7425 Paxton Road, Falls Church, VA 22043. To replace the deck and provide scour protection to an existing 20-foot, 4-inch single span steel beam bridge on a private drive over South Branch Codorus Creek located east of SR 0616 approximately 120 feet south of Krebs Road, south of Seitzville (Glen Rock, PA Quadrangle N: 10.2 inches; W: 17.2 inches) in Springfield and Codorus Townships, **York County**.

**E67-634.** Encroachment. **Valley Green Land Company**, Jack Short, 1225 Valley Green Road, Etters, PA 17319. To construct and maintain a stream enclosure consisting of 155 linear feet of 24-inch diameter pipe in an unnamed tributary to Fishing Creek for the purpose of construction of a single family home located north of Byron Nelson Circle approximately 100 yards east of Valley Green Road on Lot 31-31A (Steelton, PA Quadrangle N: 5.6 inches; W: 6.3 inches) in Newberry Township, **York County**.

**E67-635.** Encroachment. **PA Dept. of Transportation, Engineering District 8-0**, 1240 Herr Street, Harrisburg, PA 17103. To (1) remove an existing structure; (2) construct and maintain a 50-foot single span reinforced concrete box beam bridge with a minimum underclearance of 5 feet, 6 inches over Bald Eagle Creek and

(3) place fill in a de minimis amount of wetlands associated with this project. The bridge will be located 6 feet west of its existing location on SR 2030 Segment 0040 Offset 2432 (Deer Road), approximately 150 feet west of SR 0425 (Woodbine Road) (Airville, PA Quadrangle N: 3.6 inches; W: 7.6 inches) in Fawn Township, **York County**.

*Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.*

**E08-336.** Encroachment. **Earl Chadwick**, 229 Oxbow Rd., Waverly, NY 14892. To construct and maintain a 12 lot motor home park on a 7 acre parcel adjacent to Wolcott Creek located .85 mile north on Macaffee Road from the intersection of North Road (Sayre, PA Quadrangle N: 8.5 inches; W: 5.9 inches) in Athens Township, **Bradford County**. The project proposes to impact 0.09 acre of wetlands and will not impact Wolcott Creek; stream classification is Warm Water Fishery.

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

**E02-1245.** Encroachment. **Grane Associates**, 221 7th Street Commons, Pittsburgh, PA 15238. To construct and maintain a residential building on and to regrade the right bank of an unnamed tributary to Turtle Creek (Fall Run) (WWF) for the purpose of constructing the Bryn Mawr Assisted Living Residence. The project is located on the east side of Ardmore Boulevard, approximately 1,700 feet north from the intersection of Ardmore Boulevard and Newport Road (Braddock, PA Quadrangle N: 9.7 inches; W: 15.7 inches) in the Borough of Forest Hill, **Allegheny County**.

**E65-708.** Encroachment. **Ligonier Township Supervisors**, 18 Old Lincoln Highway West, Ligonier, PA 15658. To remove the existing structure and to construct and maintain a single span bridge having an normal span of 19.9 feet and an underclearance of 4.5 feet across North Fork Trout Run (HQ-CWF). The proposed work will impact a de minimis area of 0.02 acre of wetlands (PEM). The project is located on Austraw Road (T-721) (Derry, PA Quadrangle N: 7.65 inches; W: 0.35 inch) in Ligonier Township, **Westmoreland County**.

**E02-1246.** Encroachment. **Jeffrey and Joan Hrynda**, 1507 Saw Mill Run Boulevard, Pittsburgh, PA 15210. To construct and maintain a two-story garage in the floodway along the left bank side of Saw Mill Run (WWF). The project is located at the corner of Goff Street and Fawn Street, (Pittsburgh East, PA Quadrangle N: 4.5 inches; W: 17.3 inches) in the City of Pittsburgh, **Allegheny County**.

## WATER ALLOCATIONS

**Applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.**

*Southcentral Regional Office: Field Operations, Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.*

**WA 67-62B.** Water Allocation. **The York Water Company, York County**. The applicant is requesting the right to extend its service areas in Railroad and New Freedom Boroughs and Shrewsbury Township. No increase in the allocated quantity is being requested.

## 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 Floor 2, 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 (800) 654-5984.

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

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

**WQM Permit No. 0998403.** Sewerage. **Sarah Wulfleff**, 6801 Easton Road, Pipersville, PA 18947. Construction and operation of a small flow STP to serve S&S Styles located in Bedminster Township, **Bucks County**.

*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.*

**NPDES Permit No. PA 0036285.** Sewerage. **MGM Enterprises, Inc.**, One Waterford Professional Center, York, PA 17402, is authorized to discharge from a facility located in Hellam Township, **York County** to the receiving waters named Dee Run.

**NPDES Permit No. PA0080527.** Sewerage. **Oliver Mobile Homes**, 986 Hoffer Road, Annville, PA 17003-9005, is authorized to discharge from a facility located in South Londonderry Township, **Lebanon County** to an unnamed tributary to Conewago Creek.

**NPDES Permit No. PA0087793.** Sewerage. **United Water Pennsylvania, Inc.**, 4211 East Park Circle, Har-

risburg, PA 17111-0151, is authorized to discharge from a facility located in Mechanicsburg Borough, **Cumberland County** to the storm sewer and ditch to Trindle Spring Run.

**Permit No. 0198405.** Sewerage. **Borough of Littlestown**, 46 East King Street, Littlestown, PA 17340. This permit approves the construction of a pump station in Littlestown Borough, **Adams County**.

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

**NPDES Permit No. PA0221015.** Sewage. **PA Turnpike Commission, Mainline North**, P. O. Box 67676,

Harrisburg, PA 17106-7676 is authorized to discharge from a facility located in North Beaver Township, **Lawrence County**, to an unnamed tributary to the Beaver River.

**INDIVIDUAL PERMITS  
(PAS)**

**The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-G320	Liberty Property Trust 65 Valley Stream Parkway Great Valley Corporate Center Malvern, PA 19355	Tredyffrin Township Chester County	Valley and Little Valley Creeks
PAS10-G325	Thomas G. Aston 1935 Horseshoe Trail Chester Springs, PA 19425	West Pikeland Township Chester County	Tributary to Pickering Creek
PAS10-G326	Honey Brook Golf Club 1420 Cambridge Road Honey Brook, PA 19344	Honeybrook Township Chester County	West Branch Brandywine Creek

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10S063	Pocono Commons, L.L.C. 1765 Merriman Road Akron, OH 44313	Monroe Co. Stroud Twp.	Pocono Creek and McMichael Creek

**Actions on plans submitted under the Storm Water Management Act (32 P. S. § 680.9).**

*Bureau of Watershed Conservation, P. O. Box 8555, Harrisburg, PA 17105-8555.*

**Plan No. SWMP 111:18. Fishing Creek/Cedar Run Watershed Storm Water Management Plan, Centre County**, as submitted by Centre County, was approved on July 22, 1998.

**INDIVIDUAL PERMITS  
(PAR)**

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

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

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

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

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant

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

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 Quality 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—PAG-2*

*Facility Location  
County and  
Municipality*

<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>
Butler County Butler Township	PAR10E020R	Southgate Limited 421 N. Main Street Butler, PA 16001	Unnamed Tributary to Butcher Run	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Butler Township	PAR10E027R	Kratsa Properties, Inc. 2801 Freeport Road Pittsburgh, PA 15239	Connoquenessing Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Harmony Borough	PAR10E029R	D. J. Developers 4004 W. Run Road Munhall, PA 15120	Little Connoquenessing Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Connoquenessing Twp.	PAR10E031R	John W. Frogge 120 Rose Haven Drive Renfrew, PA 16052	Unnamed Tributary to Little Connoquenessing Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Valencia Borough	PAR10E041R	Valencia Woods Nursing Center 85 Charity Place Valencia, PA 16059	Unnamed Tributary to Breakneck Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Cranberry Township	PAR10E052R	Newman Construction, Inc. 135 Heathercraft Drive Cranberry Twp., PA 16066	Brush Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Cranberry Township	PAR10E055R	FYT Associates 215 Corporate Drive Cranberry Twp., PA 16066	Brush Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Adams Township	PAR10E060R	Appleridge Dev. Co. R. D. 3 Evans City, PA 16033	Beaver River	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Adams Township	PAR10E070	Mars Land Associates P. O. Box 449 Mars, PA 16046	Breakneck Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270

## NOTICES

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Butler County Slippery Rock Boro.	PAR10E083	Howard E. Meyer 110 Parklane Drive Slippery Rock, PA 16057	Unnamed Tributary of Wolf Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Cranberry Township	PAR10E084	Berkley Manor Associates 16 Angle Way Pittsburgh, PA 15223	Brush Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Jackson Township	PAR10E085	Butler Auto Auction 21095 Route 19 Cranberry Twp., PA 16066	Glade Run	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Center Township	PAR10E086	Clearview Mall Association 1051 Brinton Road Pittsburgh, PA 15221	Connoquenessing Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Allegheny Township	PAR10E087	Robert Johnston 221 Bryon Center Road Emlenton, PA 16373	Unnamed Tributary to Carrs Run	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Jefferson Township	PAR10E091	Winters & Fleming Inc. 222 Airport Road Butler, PA 16001	Unnamed Tributary to Thorn Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Butler County Franklin Township	PAR10E092	G & P Land Corporation 147 Schmidt Road Harmony, PA 16037	Connoquenessing Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 724-284-5270
Erie County Summit Township	PAR10K113	Richard Cramer 8400 Pagan Road Erie, PA 16509	Unnamed Tributary to Elk Creek	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 814-796-4203
Lawrence County Shenango Township	PAR103731	Kappa Properties Co. Giant Eagle Plaza 701 Alpha Drive Pittsburgh, PA 15238	Big Run to Shenango River	Lawrence Conservation District Lawrence Co. Government Center 430 Court Street New Castle, PA 16101-3593 724-652-4512
Lehigh Co. Washington Twp.	PAR10Q102	Washington Township George Beam P. O. Box 27 Slatedale, PA 18079-0027	Trout Creek	610-391-9583
Union County White Deer Twp.	PAR106826	Ronald Hoffman Whitetail Crossing Phase II R. R. 1, Box 1492 New Columbia, PA 17856	Unt. Little Buffalo Creek	Union County CD 60 Bull Run Crossing Lewisburg, PA 17837 717-523-8782

*General Permit Type—PAG-3**Facility Location  
County and  
Municipality**Permit No.**Applicant Name  
and Address**Receiving Stream  
or Body of Water**Contact Office and  
Telephone No.*Northampton Co.  
Bethlehem Twp.

PAR322205

Binney & Smith, Inc.  
P. O. Box 321  
1100 Church Lane  
Easton, PA 18044-0431LVIP V  
Stormwater  
Retention  
BasinNortheast Region  
Water Management  
2 Public Square  
Wilkes-Barre, PA  
18711-0790  
(717) 826-2553City of Erie  
Erie County

PAR208314

EMI Co.  
603 West 12th St.  
Erie, PA 16501Presque Isle Bay  
Lake ErieNorthwest Region  
Water Management  
230 Chestnut St.  
Meadville, PA  
16335-3481  
814-332-6942*General Permit Type—PAG-4**Facility Location  
County and  
Municipality**Permit No.**Applicant Name  
and Address**Receiving Stream  
or Body of Water**Contact Office and  
Telephone No.*Pine Grove Twp.  
Warren County

PAG048497

Gail R. Wright  
R. R. 1, Box 1438  
Russell, PA 16345Unnamed  
Tributary  
of Akeley RunNorthwest Region  
Water Management  
230 Chestnut St.  
Meadville, PA  
16335-3481  
814-332-6942Adams Twp.,  
Butler County

PAG048530

Thomas B. and Alma L.  
Staskiewicz  
309 Green Lake Drive  
Mars, PA 16046Unnamed  
Tributary of Wolf  
RunNorthwest Region  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814-332-6942West Salem Twp.  
Mercer County

PAG048534

Daniel L. McMasters  
2923 Chimney Pt. Drive  
Columbus, OH 43231Unnamed  
Tributary  
to Booth RunNorthwest Region  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814-332-6942Hickory Twp.  
Forest County

PAG048529

Donald R. Eastman  
P. O. Box 351  
Northfield, OH 44067Unnamed  
Tributary  
to Allegheny  
RiverNorthwest Region  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
814-332-6942*General Permit Type—PAG-05**Facility Location  
County and  
Municipality**Permit No.**Applicant Name  
and Address**Receiving Stream  
or Body of Water**Contact Office and  
Telephone No.*Bedford County  
Bedford Borough

PAG053523

Bedford Farm Bureau  
Cooperative Assoc.  
102 Industrial Ave.  
Bedford, PA 15522-0333Raystown  
Branch/Juniata  
RiverSouthcentral Region  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707**SEWAGE FACILITIES ACT  
PLAN APPROVAL**

The Department of Environmental Protection (Department) has taken actions on municipal requests for Act 537 Plan Approval.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the

Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, 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 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.

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**Actions under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

*Southeast Regional Office: Sewage Planning Specialist Supervisor, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Plan Approval is granted for a revision to the Official Sewage Facilities Plan of **East Vincent Township, Chester County** to provide for immediate construction of an interceptor extension into the Stoney Creek Basin consisting of a 12-inch line from the existing East Vincent Township Municipal Authority line at Hill Church Road to Buckwalter Road, a 10-inch line from Buckwalter Road to Seven Stars Road and a 10-inch line up to the Centre Creek West Project. In addition, the plan recognizes potential for future extensions into the basin. This plan approval is conditioned as follows: 1. At this time only the Centre Creek East and West Projects are approved for connection to this interceptor. 2. Further planning is required prior to any extensions of the interceptor outside the current approved sewer service area.

The Plan Approval is granted for a revision to the Official Sewage Facilities Plan of **West Brandywine Township, Chester County** to provide for the following:

1. Creation of four separate sewer districts for future planning purposes;
2. Construction of a pump station and force main with a design capacity to service sub areas: No. 1 (Hammel North), No. 2 (Monacy Manor) and No. 3 (Properties along Reeceville Road, north of Friendship Village);
3. Development of an ISMO (Individual Sewage Management Ordinance) to carry out the Sewage Management Program as described on pages 1 and 2 of the Yerkes report and as described in the letter dated November 17, 1997, from Yerkes to the Chester County Health Department.

### SAFE DRINKING WATER

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

*Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.*

**Permit No. 3896505.** Public water supply. **West Lebanon Township Water Company**, Municipality: West Lebanon Township, **Lebanon County**. *Responsible Official:* Steven Shirk, Maintenance Supervisor, 322 N. 22nd Street, Lebanon, PA 17046-2711). *Type of Facility:* Provide corrosion control by the addition of caustic soda for alkalinity adjustment and zinc orthophosphate corrosion inhibitor.

*Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**Application No. M.A.** The Department issued an operation permit application to **PA American Water Company** (105 Sodom Road, Milton, PA 17847-9762; Borough of Milton, **Northumberland County**) for permit of three additional treatment chemicals at both the Milton and White Deer Creek Filter Plants.

**Application No. M.A.** The Department issued an operating permit to **Kreamer Municipal Authority** (P. O. Box 220, Kreamer, PA 17833-0220; Middlecreek Township, **Snyder County**) for operation of the recently constructed 500,000 gallon concrete finished water storage tank, booster pump station and transmission lines.

**A. 5395501.** The Department issued an operating permit to **Genesee Township Water Authority** (P. O. Box 3, Genesee, PA 16923; Genesee Township, **Potter County**) for operation of Hickox Well No. 2 and Hickox Water Treatment Facility, including disinfection and sequestration.

### HAZARDOUS SITES CLEANUP

**Under the Act of October 18, 1988**

**Proposed Consent Order and Agreement  
DuPont/New Castle Junk Yard Site  
City of New Castle and Union Township,  
Lawrence County**

Under section 1113 of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement (CO&A) with Realities, U.S.A., Inc. (Realities) concerning the cleanup of the DuPont/New Castle Junk Yard Site (Site).

In the past, hazardous substances were disposed at the Site and these substances contaminated the environment at the Site. The Department has incurred more than \$1,100,000 in response costs at the Site. The Department estimates that it will cost up to \$14 million more to abate the release and threatened release of hazardous substances at the Site. As an owner of a portion of the Site subsequent to hazardous substance disposal and initial releases at the Site, and during the time of the release and threatened release of hazardous substances at the Site, Realities is a "responsible party" as defined in section 103 of HSCA (35 P. S. § 6020.103). Under the terms of the CO&A, Realities shall pay a total of \$242,948 to the Hazardous Sites Cleanup Fund in settlement of its share of responsibility for the cleanup of the Site. The Department anticipates that a response action will be conducted at the Site in 1998—1999 to mitigate the threat to human health and the environment posed by the hazardous substances there.

The specific terms of this settlement are set forth in the CO&A between the Department and Realities. The Department will receive and consider comments relating to the CO&A for 60 days from the date of this public notice. The Department has the right to withdraw its consent to the CO&A if the comments concerning the CO&A disclose facts or considerations which indicate that the CO&A is inappropriate, improper or not in the public interest. After the public comment period, the Department's settlement with Realities shall be effective upon the date that the Department notifies Realities, in writing, that this Consent Order and Agreement is final and effective in its present form, and that the Department has filed a response to significant written comments to the CO&A, or that no comments were received.

Copies of the CO&A are available for inspection at the Department's office at 230 Chestnut Street, Meadville, PA. Comments may be submitted, in writing, to Harold Nye, Project Manager, Department of Environmental Protection, Hazardous Sites Cleanup, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting Harold Nye at (814) 332-6648. TDD users may contact the Department through the Pennsylvania Relay Service at (800) 645-5984.

## 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 (800) 654-5984.

The Department has received the following final reports:

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

**Lenape Manufacturing Co.**, Perkasio Borough, **Bucks County**. Thomas R. Severino, Environmental Science & Remediation Technologies, Inc., 105 E. Evans St., West Chester, PA 19380, has submitted a Final Report concerning remediation of site soil contaminated with PCBs, heavy metals, solvents and petroleum hydrocarbons; and groundwater contaminated with solvents and petroleum hydrocarbons. The report is intended to document remediation of the site to meet Statewide health standards for soil and site-specific standards for groundwater.

**National Label Co.**, Whitmarsh Township, **Montgomery County**. Thomas R. Marks, P.G., Tetrahedron Consultants, Inc., 422 W. First St., Parkesburg, PA 19365, has submitted a Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet Statewide health standards.

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

**Friedman's Express—Bloomsburg Truck Terminal**, City of Bloomsburg, **Columbia County**. RT Environmental Services Inc., on behalf of their client Friedman's Express, 475 South Franklin Street, Wilkes-Barre, PA 18702 has submitted a Final Report addressing soil and

groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

## AIR QUALITY

### OPERATING PERMITS

**Operating Permits Minor Modification 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.**

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**40-313-018A: HPG International, Inc.** (Crestwood Industrial Park, Oakhill Road, Mountaintop, PA 18707) for minor modification of a plastic laminating process in Wright Township, **Luzerne 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.**

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**48-323-006GP: M A Hanna Color Co.** (177 Mikron Road, Bethlehem, PA 18020) for construction and operation of a burn-off oven in Lower Nazareth Township, **Northampton County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**GPI-36-3060: Lancaster Leaf Tobacco Co. of PA, Inc.** (198 West Liberty Street, P. O. Box 897, Lancaster, PA 17608-0897) issued July 17, 1998, to operate natural gas/No. 2 fuel oil boilers in Lancaster City, **Lancaster County**.

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

**GP-61-016: Pennzoil Products Co., Rouseville Refinery** (Two Main Street, Rouseville, PA 16344) issued August 18, 1998, for a 374,000 gallon storage tank (Tank ID No. 2-140) in Cornplanter Township, **Venango County**.

**GP-20-279A: Lomak Operating Co., Humes Compressor Station** (Miller Road, Saegertown, PA 16433) for operation of a natural gas fired compressor engine in Cussewago Township, **Crawford County**.

**Administrative Amendment of 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**46-326-001A: Knoll, Inc.** (1235 Water Street, East Greenville, PA 18041) issued August 21, 1998, for alternative emission reduction in Upper Hanover Township, **Montgomery County**.



**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.*

**04-467A: J&L Structural, Inc.** (111 Station Street, Aliquippa, PA 15001) issued August 19, 1998, for operation of a billet reheat furnace at Aliquippa Plant in Aliquippa Borough, **Beaver County**.

**63-080A: Lukens Steel Co.** (P. O. Box 494, Washington, PA 15301) issued August 19, 1998, for operation of slag handling at Houston Plant in Houston Borough, **Washington County**.

**26-472A: Iron & Metal, Inc.** (P. O. Box 76, Brownsville, PA 15417) issued August 19, 1998, for operation of United AS-990 Sweat Furnace at Brownsville Plant in Jefferson Township, **Fayette 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**09-0037B: CMS Gilbreth Packaging Systems** (3001 State Road, Croydon, PA 19021) issued August 21, 1998, for operation of a reduce the "potential to emit" in Bristol Township, **Bucks County**.

**09-0037: CMS Gilbreth Packaging Systems** (3001 State Road, Croydon, PA 19021) issued August 21, 1998, for operation of a Temco Press in Bristol Township, **Bucks County**.

**46-0020: Superior Tube Co.** (3900 Germantown Pike, Collegeville, PA 19426) issued August 21, 1998, for operation of three fabric filters and one rotoclove in Lower Providence Township, **Montgomery County**.

**46-0154: Eye Designs LLC** (245 West Fifth Avenue, Trappe, PA 19426) issued August 24, 1998, for operation of two spray booths in Trappe Borough, **Montgomery County**.

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**39-399-047: Lutron Electronics Co., Inc.** (8240 Spring Street, Alburdis, PA 18011) issued August 5, 1998, for construction of a stencil cleaning operation in Alburdis Borough, **Lehigh County**.

**40-320-008: Bemis Co., Inc.** (P. O. Box 557, Hazleton, PA 18201) issued August 14, 1998, for construction of two flexographic presses in West Hazleton Borough, **Luzerne County**.

**48-304-016C: Victaulic Co. of America** (4901 Kesslerville Road, Easton, PA 18040) issued August 6, 1998, for modification of the foundry operations in Forks Township, **Northampton County**.

**48-322-003A: Chrin Brothers Sanitary Landfill** (635 Industrial Drive, Easton, PA 18042) issued August 5,

1998, for modification of the landfill gas extraction and collection system in Williams Township, **Northampton County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**28-304-011C: T. B. Woods, Inc.** (440 North Street, Chambersburg, PA 17201) issued July 17, 1998, for installation of the mold line no. 2 sand system and shakeout controlled by an air filter dust collector in Chambersburg Borough, **Franklin County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.*

**19-304-006B: Benton Foundry, Inc.** (R. R. 2, Box 110, Benton, PA 17814) issued July 2, 1998, for construction of an iron castings shakeout drum to be controlled by an existing air cleaning device (a fabric collector) in Sugarloaf Township, **Columbia County**.

**08-303-006A: Dalrymple Gravel & Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871) issued July 13, 1998, for construction of a drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) in Athens Township, **Bradford County**. This plant is subject to Subpart I of the Standards Of Performance For New Stationary Sources.

**08-301-014A: Tioga Point Crematory, Inc.** (802 North Main Street, Athens, PA 18812) issued July 20, 1998, for construction of a crematory incinerator in Athens Borough, **Bradford County**.

**12-399-009B: GKN Sinter Metals** (R. R. 2, Box 47, Emporium, PA 15834-9797) issued July 20, 1998, for installation of an air cleaning device (an electrostatic precipitator) on a sintered metal parts oil impregnation operation consisting of two impregnation vessels and four associated heated oil holding tanks at Plant No. 1 in Shippen Township, **Cameron County**.

**12-399-006B: GKN Sinter Metals** (R. R. 2, Box 47, Emporium, PA 15834-9797) issued July 20, 1998, for installation of an air cleaning device (an electrostatic precipitator) on a sintered metal parts heat treat furnace, a sintered metal parts draw furnace and a parts dryer at Plant No. 1 in Shippen Township, **Cameron County**.

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

**56-181A: Alleghenies Disposal Service** (Pk W 2, Suite 420, 2000 Cliff Mine Road, Pittsburgh, PA 15275) issued August 19, 1998, for operation of leachage evaporation system at Southern Alleghenies Landfill in Conemaugh Township, **Somerset County**.

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

**43-170B: Werner Co., Greenville Division** (93 Werner Rd., Greenville, PA 16125) issued August 10, 1998, for modification to the fiberglass pultrusion process in Sugar Grove Township, **Mercer County**.

**33-161A: Buff One Transmission and Core Buyer, Anthony Buffone** (74 First Street, Falls Creek, PA 15840) issued August 13, 1998, for construction of an aluminum melting furnace in Falls Creek, **Jefferson County**.

**25-318-119A: General Electric Transportation Systems** (2901 East Lake Road, Erie, PA 16531) issued

August 18, 1998, for modification of a surface coating operation in Lawrence Park Township, **Erie County**.

**Plan Approvals extensions 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**15-314-004: Norwood Industries, Inc.** (57 Morehall Road, East Whiteland, PA 19355) issued August 21, 1998, for operation of a dust collector in East Whiteland Township, **Chester County**.

**15-314-002: Norwood Industries, Inc.** (57 Morehall Road, Frazer, PA 19355) issued August 21, 1998, for operation of a medical device mfg. process in East Whiteland Township, **Chester County**.

**15-314-003: Norwood Industries, Inc.** (57 Morehall Road, East Whiteland, PA 19355) issued August 21, 1998, for operation of six storage tanks in East Whiteland Township, **Chester County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**01-320-004: Quebecor Printing Fairfield, Inc.** (100 North Miller Street, Fairfield, PA 17320) issued July 19, 1998, to authorize temporary operation of the web offset lithographic printing press with one dryer, covered by this Plan Approval until November 15, 1998, in Fairfield Township, **Adams County**.

**28-318-012D: Dept. of the Army, Letterkenny Army Depot** (SDSLE-EN, Chambersburg, PA 17201-4150) issued July 25, 1998, to authorize temporary operation of the chrome plating tanks controlled by fume scrubbers, in Building 1-North, covered by this Plan Approval until November 22, 1998, in Greene Township, **Franklin County**.

**36-309-055B: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506) issued July 16, 1998, to authorize temporary operation of the lime plant and crushing area, at the Weaverland Quarry, covered by this Plan Approval until November 12, 1998, in **Lancaster County**. These sources are subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

**44-03004: Guardian Industries Corp.** (One Belle Avenue, Bldg. 35, Lewistown, PA 17044-2434) issued August 11, 1998, to authorize temporary operation of the mirror coating operation controlled by a regenerative thermal oxidizer, located at the Falconer Glass Industries, Inc., and covered by this Plan Approval until December 9, 1998, in Granville Township, **Mifflin County**.

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

**26-310-018: Sand & Gravel Co.** (400 Industrial Boulevard, New Kensington, PA 15068) issued August 19, 1998, for installation of limestone crushing at Connellsville II Quarry in Bullsken Township, **Fayette County**.

**32-305-053: Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650) issued August 19, 1998, for installation of bituminous coal processing at Coral Tipple in Burrell Township, **Indiana County**.

**63-307-027: American Iron Oxide Co.** (Foster Plaza, No. 7, 661 Andersen Drive, Pittsburgh, PA 15220) issued August 5, 1998, for installation of iron oxide production at Allenport Plant in Allenport Borough, **Washington County**.

**65-309-061B: Norton Pakco Industrial Ceramics** (55 Hillview Avenue, Latrobe, PA 15650) issued May 7, 1998, for installation of ceramic mixing and firing at Derry Plant in Derry Township, **Westmoreland County**.

**65-309-074A: American Video Glass Co.** (777 Technology Drive, Mt. Pleasant, PA 15666) issued August 19, 1998, for installation of color TV glass manufacturing in Mt. Pleasant Township, **Westmoreland County**.

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

**20-194B: Lord Corp.** (601 South Street, P. O. Box 1050, Saegertown, PA 16433) issued July 31, 1998, for a latex plant expansion in Saegertown, **Crawford County**.

**REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)**

**Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 127.450 for Reasonable Available Control Technology.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**23-0005: BASF Corp.** (1830 Columbia Avenue, Folcroft, PA 19032) issued August 19, 1998, for Facility VOCs RACT in Folcroft Borough, **Delaware County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.*

**47-0002: Strick Corp.** (R. R. 8, Box 281, Danville, PA 17821-8386) amended July 31, 1998, to incorporate several additional minor volatile organic compound sources (a space heater, an emergency generator and a kerosene tank) at the Danville facility in Limestone Township, **Montour 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*

**32823005.** Permit Renewal. **Blairsville Associates, Inc.** (P. O. Box 157, Blairsville, PA 15717-0157), commencement, operation and restoration of bituminous strip mine in Burrell and West Wheatfield Townships, **Indiana County**, affecting 367.0 acres, receiving stream a tributary to Black Lick Creek and Palmers Run and unnamed tributaries to Roaring Run. Application received June 23, 1998. Issued August 18, 1998.

**56960108. PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541), commencement, operation and restoration of a bituminous strip mine in Brothersvalley Township, **Somerset County**, affecting 101.0 acres, receiving stream unnamed tributary to Buffalo Creek; Buffalo Creek. Application received August 19, 1996. Permit issued August 18, 1998.

**32970109. P & N Coal Company, Inc.** (P. O. Box 332, 240 West Mahoning Street, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous strip mine in Banks Township, **Indiana County**, affecting 62.3 acres, receiving stream UNTs to Brady Run and UNTs to Horton Run to Cush Creek. Application received August 18, 1997. Permit issued August 19, 1998.

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

**17870129. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), major revision to an existing bituminous surface mine permit to apply biosolids (stabilized sewage sludge) to enhance vegetation on a 498.3 acre operation in Morris Township, **Clearfield County**. Application received March 25, 1998. Permit issued August 19, 1998.

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

*Large Industrial Mineral Permits Issued*

**53980301. NE Hub Partners, L.P.** (2 Riverbend at Lansdowne, 44084 Riverside Parkway, Suite 340, Leesburg, VA 22075), commencement, operation and restoration of a large industrial mineral surface mine permit for the surface activities connected with surface or underground solution mining of caverns in salt formation 4,500—5,000 feet below ground surface in Lawrence, Farmington and Tioga Townships, **Tioga County** affecting 2,379 acres, receiving streams: Baldwin Creek, Cummings Creek, Crawford Run and Elkhorn Creek. Application received March 11, 1998. Permit issued August 11, 1998.

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

*Noncoal Permits Issued*

**8073SM2A1C4. Glasgow, Inc.** (Willow Grove Ave. and Limekiln Pike, P. O. Box 248, Glensides, PA 19038), correction to an existing quarry operation in Upper Merion Township, **Montgomery County** affecting 191.7 acres, receiving stream—unnamed tributary to Schuylkill River. August 21, 1998.

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

*Small Industrial Mineral Authorizations Granted*

**08980806. Marvin J. Armitage, Sr.** (R. D. 2, Box 6B, New Albany, PA 18833), commencement, operation and restoration of a small industrial mineral (bluestone) permit in Terry Township, **Bradford County** affecting 2

acres, receiving streams: none. Application received May 18, 1998. Authorization granted August 13, 1998.

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

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. (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 rule 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), 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.*

**E15-574.** Encroachment. **Donna Horvath, Ted Piersol and Tom Piersol**, Honey Brook Golf Club, 1420 Cambridge Road, Honey Brook, PA 19344. To perform the following activities associated with the construction of the Honey Brook Golf Club Development:

1. To place and maintain fill within an existing 0.75 acre pond and remove an associated on-stream nonjurisdictional dam, located along an unnamed tributary of the West Branch of Brandywine Creek (HQ-TSF-MF);
2. To place and maintain fill within various locations of the 100-year floodway of an unnamed tributary of the West Branch of Brandywine Creek (HQ-TSF-MF), associated with grading activities for fairway construction;
3. To rehabilitate and maintain an existing wooden golf cart bridge and to construct and maintain numerous bituminous cart paths, along existing terrain situated in and along the 100-year floodway of an unnamed tributary of the West Branch of Brandywine Creek;
4. To rehabilitate and maintain 2,512 linear feet of stream bank by a combination of vegetative plantings,

grading, rock riprap and stone wall construction, along an unnamed tributary of the West Branch of Brandywine Creek;

5. To excavate along the stream and within the 100-year floodway of an unnamed tributary of the West Branch of Brandywine Creek, associated with the establishment of a pond, which will impact approximately 505 linear feet of stream channel;

6. To construct and maintain an intake structure for an off-stream pond, along an unnamed tributary of the West Branch of Brandywine Creek;

7. To place and maintain fill within 0.09 acre of wetland (PEM), associated with the construction of a tee for hole 13 of the proposed golf course.

The site is located approximately 1,000 feet south of the intersection of Cambridge Road and White Horse Pike (S. R. 0322) (Honeybrook USGS Quadrangle N: 14.4 inches, W: 2.2 inches) in Honeybrook Township, **Chester County**. This approval also includes an Environmental Assessment approval for the construction of an on-stream nonjurisdictional dam, which will impact approximately 65 linear feet of stream. The permittee will provide 0.27 acre of replacement wetlands.

**E23-370.** Encroachment. **Southeastern Pennsylvania Transportation Authority**, 1234 Market Street—13th Floor, Philadelphia, PA 19107. To construct and maintain 288 linear feet of a 6.5-foot high gabion wall, to construct and maintain an additional 3 foot high course of gabions along the top of a previously constructed gabion wall that is 204 feet long, and to authorize the maintenance of 145 linear feet of 8-foot high gabion wall. These activities are located alongside SEPTA's Point Reading Road Bus Route to protect the left bank of an unnamed tributary to Cobbs Creek (WWF-MF) (Lansdowne, PA Quadrangle N: 22.2 inches; W: 7.10 inches) in Haverford Township, **Delaware County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E46-791.** Encroachment. **Bentwood Corporation**, 839 East Germantown Pike. To construct the Bentwood Executive Campus, a business complex consisting of three office buildings, a hotel and a restaurant, which will impact 425 feet of an intermittent tributary to Stoney Creek (TSF) and 1.05 acres of adjacent wetlands. The proposal includes:

1. Placing fill in 400 linear feet of stream and 0.56 acre of wetlands (PEM) associated with the construction of parking areas, a stormwater collection system and roadway accesses to the site from Old Arch Road.

2. The construction of seven stormwater outfall structures discharging to wetlands (PEM).

3. The dredging of 0.46 acre of wetland (POW).

This application also includes a request for an environmental assessment approval for a nonjurisdictional dam. The work will include the filling of 0.02 acre of wetlands (POW). This site is located at the northwest corner of the intersection of Germantown Pike and Arch Road (Lansdale, PA Quadrangle N: 2.2 inches; W: 7.7 inches) in East Norriton Township, **Montgomery County**.

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

**E45-347.** Encroachment. **Pocono Commons Associates, L.L.C.**, 1765 Merriman Road, Akron, OH 44315. To place fill in approximately 0.41 acre of wetlands for the

purpose of constructing a commercial/retail complex known as Pocono Commons. The project is located north of the intersection of S. R. 0611 and T498 (White Stone Corner Road) (Stroudsburg, PA-NJ Quadrangle N: 22.0 inches; W: 16.5 inches) in Stroud Township, **Monroe County**. The permittee is required to provide 0.41 acre of replacement wetlands.

**E64-186.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a stream enclosure of Holbert Creek, consisting of approximately 110 linear feet of 18.0-foot by 14.5-foot cast-in-place concrete box culvert, with its invert depressed 1.0 foot below streambed elevation. Construction of the culvert will permanently impact a de minimis area of wetlands equal to 0.01 acre. The project is located on S. R. 0006, Section 671, Segment 0320, Offset 1388, approximately 0.7 mile northwest of the intersection of S. R. 0006 and S. R. 0652 (White Mills, PA Quadrangle N: 9.8 inches; W: 13.5 inches), in Texas Township, **Wayne County**.

**E66-117.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501-0111. To remove the existing S. R. 0092 structure and abandoned bridge abutments approximately 400 feet upstream of S. R. 0092, to place fill in the 100-year floodplain of the Susquehanna River for the proposed S. R. 0006 roadway embankment fill, to excavate a silt and sediment deposit having a length of approximately 365 l.f., along the eastern streambank of Tunkhannock Creek near the confluence of the Susquehanna River, to construct and maintain approximately 310 l.f. of R-8 riprap slope protection above sheet piling along the western streambank of Tunkhannock Creek and to construct and maintain the following three bridges: (1) the "Eastern Terminus" structure consisting of a four-span prestressed I-beam bridge having a total span of 475 feet and a minimum underclearance of approximately 30 feet across Tunkhannock Creek on a 51° skew; (2) the S. R. 0092 structure consisting of a three-span prestressed spread box beam bridge having a total span of 256 feet and a minimum underclearance of approximately 23.9 feet across Tunkhannock Creek on a 72° skew; and (3) the "Viaduct" structure consisting of a five-span prestressed I-beam bridge having a total span of 620 feet and a minimum underclearance of approximately 31.9 feet across Tunkhannock Creek on an approximate 71° skew. This work is associated with the construction of Section E11 of the S. R. 0006 Tunkhannock By-Pass project which begins 0.2 mile east of the intersection of S. R. 0006 and S. R. 0092, continues west parallel to S. R. 0006 between Tunkhannock Creek and the Susquehanna River and ends at S. R. 0029 (Tunkhannock, PA Quadrangle N: 6.8 inches; W: 8.3 inches and N: 6.6 inches; W: 9.9 inches) in Tunkhannock Borough and Tunkhannock Township, **Wyoming County**.

*Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.*

**E07-291.** Encroachment. **Forever of Pennsylvania, Inc.**, WFGY Radio Station, Carol Mills, P. O. Box 2005, Altoona, PA 16603. To place fill in 0.18 acre of wetlands in conjunction with the construction of a 9288.4 square foot building to house the office staff at Forever of Pennsylvania, Incorporated located about 600 feet west of Logan Boulevard (SR 0220) 1.6 miles south of its intersection with Route 36 (Hollidaysburg, PA Quadrangle N: 14.5 inches; W: 3.25 inches) in Allegheny Township,

**Blair County.** The permittee is required to provide a minimum of 0.18 acre of replacement wetlands. This permit also includes 401 Water Quality Certification.

**E22-379.** Encroachment. **Milton Hershey School**, Lawrence Davenport, Founders Hall, P. O. Box 830, Hershey, PA 17033. To relocate approximately 2,950 feet of stream channel to near its original location to excavate an instream pond (Town Center Pond) to dredge and restore the banks of Founders Pond and to construct a foot bridge over Town Center Pond in the channel of a tributary to Spring Creek at a point upstream of Route 322 (Hershey, PA Quadrangle N: 4.0 inches; W: 16.7 inches) in Derry Township, **Dauphin County**. This permit also includes 401 Water Quality Certification.

**E22-384.** Encroachment. **Roy Brubaker**, 4146 Colebrook Road, Elizabethtown, PA 17022. To construct and maintain a bridge having a span of 38 feet and a clearance of 5 feet across the channel of Hoffer Creek at a point approximately 3,000 feet downstream of Route 341 (Elizabethtown, PA Quadrangle N: 15.8 inches; W: 14.1 inches) in Conewago Township, **Dauphin County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Northcentral Region: Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

**E17-321.** Encroachment. **Salvation Army**, 119 South Jared St., City of Dubois, PA 15801. To construct and maintain a 4,300 square foot addition to an existing 3,080 square foot building and to demolish approximately 2,100 square feet of existing structures in the floodway of Pentz Run approximately 1,700 feet above the mouth of Pentz Run on South Jared Street (Dubois, PA Quadrangle N: 21.6 inches; W: 2.2 inches) in the City of Dubois, **Clearfield County**. This permit was issued under section 105.13(e) "Small Projects."

**E49-218.** Encroachment. **Jim and Nellie Vargo**, R. R. 3, Muncy, PA 17756. To remove washed in gravel and restore eroded stream banks along 150 feet of Warrior Run located just downstream of Fullertown Road along SR 1007 (Muncy, PA Quadrangle N: 4.4 inches; W: 6.80 inches) in Delaware Township, **Northumberland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E10-271.** Encroachment. **Recmix of PA, Inc.**, 359 North Pike Road, Sarver, PA 16055. To relocate approximately 1,000 feet of a tributary to Little Buffalo Creek for the expansion of the existing Recmix industrial facility's slag stockpile area east of S. R. 356 approximately 3,000 feet north of Riemer Road in the village of Lernerville (Curtisville, PA Quadrangle N: 22.6 inches; W: 1.5 inches) located in Winfield Township, **Butler County**. Project includes rock riprap and gabion lined channel and a riprap and gabion energy dissipater. Energy dissipater will impact a de minimis area of wetland (0.04 acre).

**E43-267.** Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing structure and to construct and maintain a precast reinforced concrete box culvert having two 20-foot-wide by 6.33-foot-high waterway openings in Lackawannock Creek on S. R. 3022, Segment 0250, Offset 0000 approximately 1 mile north of

S. R. 258 near the village of Big Bend (Fredonia, PA Quadrangle N: 4.7 inches; 8.6 inches) located in Jefferson Township, **Mercer County**.

[Pa.B. Doc. No. 98-1450. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Citizens Advisory Council to the Department of Environmental Protection; September Meeting Change

Notice is hereby given of meetings of the Citizens Advisory Council to the Department of Environmental Protection on Wednesday, September 23, 1998, and Thursday, September 24, 1998. The meetings will be held at 6 p.m. and 9 a.m., respectively, at the Atherton Hotel, 125 S. Atherton Street, State College, PA 16801. The meeting previously scheduled for September 14, 1998, in Harrisburg has been cancelled.

Questions concerning these meetings or agenda items can be directed to Stephanie Mioff at (717) 787-4527.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Stephanie Mioff directly at (717) 787-4527 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Council may accommodate their needs.

JOLENE CHINCHILLI,  
Chairperson

[Pa.B. Doc. No. 98-1451. Filed for public inspection September 4, 1998, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Miners Memorial Medical Center for Exception to 28 Pa. Code § 153.1(b)

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Miners Memorial Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1(b), referencing the "Guidelines for Design and Construction of Hospital and Health Care Facilities," 1996—97 edition, which requires under section 7.2.A4 that handwashing facilities be located in the patient toilet room. The Medical Center proposed to reactivate 16 existing acute care beds; however, handwashing facilities are located within each patient bedroom instead of the patient toilet room.

The request is on file with the Department. Persons may receive a copy of request for exception by requesting a copy from: Division of Acute & Ambulatory Care, Room 530 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, E-Mail Address: LVIA@HEALTH.STATE.PA.US.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed above.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact Director, Division of Acute & Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984[TT].

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1452. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Availability for Public Comment of the Department of Health's Plan Required by Section 1932 of the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act of 1992

The Bureau of Drug and Alcohol Programs of the Department of Health is making available for public review and comment, under Section 1941 of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992, 42 U.S.C.A. § 290aa *et seq.*, the Department's Final Plan for the 1997-1998 Federal fiscal year required by Section 1932 of the Act.

The Plan includes provisions for complying with the funding agreements set out in the Act, which are prerequisites for receiving block grant funds, and a description of the manner in which the Department expended the grant.

The grant amount was approximately \$55 million for the period of October 1, 1997 to September 30, 1998.

A copy of the Department's Plan may be obtained by contacting: C. Thomas Brown, Program Analyst, Policy and Evaluation Unit, Bureau of Drug and Alcohol Programs, Department of Health, P. O. Box 90, Harrisburg, PA 17108, (717) 783-8200. Persons with a disability who require an alternative format of this document (for example, large print, audio tape or braille) may contact the Bureau of Drug and Alcohol Programs so that it can make the necessary arrangements.

Written comments on the Department's Plan must be submitted within 30 days of the date of publication of this Notice. All comments received will be considered in the development of the Department's Plans that will be part of the Commonwealth's application for Substance Abuse Prevention and Treatment Block Grant funding for the 1998-1999 Federal Fiscal Year and future years.

Persons with a disability may submit inquires to the Bureau in alternative formats, such as audio tape, braille or using TDD: (717) 783-6514.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1453. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Cancellation of the Health Policy Board Meeting

The Health Policy Board meeting scheduled for September 9, 1998, has been canceled. The meeting has been

rescheduled for October 28, 1998, at 10 a.m. in Room 812 of the Health & Welfare Building, Harrisburg, PA.

This meeting is subject to cancellation without notice.

For additional information, or for persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Robin Bowman at (717) 783-2500, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1454. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health under sections 301 and 317 of the Public Health Service Act, as amended, 42 U.S.C.A. §§ 241(a) and 247(b), will hold a public meeting on Wednesday, September 16, 1998.

The meeting will be held at the Harrisburg Holiday Inn, Hotel and Conference Center, I-83 and the Pennsylvania Turnpike, New Cumberland, PA, from 10 a.m. to 4 p.m.

For additional information, or persons with a disability who desire to attend the meeting and require an auxiliary aid service or other accommodation to do so, should contact Thomas M. DeMelfi at the following address and telephone number: Thomas M. DeMelfi, Department of Health, Bureau of HIV/AIDS, P. O. Box 90, Room 912, Harrisburg, PA 17108, (717) 783-0574, TDD: (717) 783-6514 or Network/TDD: (8) 717-433-6514.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1455. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Pennsylvania Cancer Control Prevention and Research Advisory Board

The Pennsylvania Cancer Control, Prevention and Research Advisory Board is scheduled to hold a meeting on October 5, 1998, from 10 a.m. to 11:30 a.m. at the Governor's Residence, 2035 North Front Street, Harrisburg, PA. Persons planning to attend this meeting must contact Brenda Reichert at (717) 787-5251 by September 25, 1998, in order to gain admittance to the Governor's residence.

Anyone wishing to attend the meeting or who has questions regarding the meeting should contact Susan F. George, Program Manager, Department of Health, Cancer Control Program, 1011 Health and Welfare Building, Harrisburg, PA, at (717) 787-5251.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Susan F. George

at (717) 787-5251, TDD: (717) 783-6514/Network TDD:8-433-6514.

DANIEL F. HOFFMANN,  
Secretary

[Pa.B. Doc. No. 98-1456. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Public Meeting Concerning the 1999 State Plan of Program Operations and Administration for WIC

In accordance with 7 CFR 246.4(b), the Department of Health (Department) has scheduled a public meeting for the purpose of obtaining comments and recommendations for an amendment to the 1999 State Plan of Program Operations and Administration for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in this Commonwealth. The amendment to the State Plan is for the purpose of including State regulations governing Retail Store Management and Administrative Appeals aspects of the Program.

The Department has drafted the regulations as a result of the decision issued by the Commonwealth Court (Judge Doyle) in the matter of *Giant Food Stores, Inc. v. Commonwealth of Pennsylvania, Department of Health*, 2623 C.D. 1997. The Court determined that the criteria the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) uses to make the decisions to authorize grocery stores for participation in the program was not valid because the criteria had not been published as regulations in accordance with the procedures set forth in the Commonwealth Documents Law (45 P.S. §§ 1102—1602) and the Commonwealth Attorneys Act (71 P.S. §§ 731-201—732-506). As a result of the court's decision, the WIC Program is unable to authorize new stores, or review currently authorized stores as required by Federal regulations. It is the Department's intention to proceed with adopting the regulations as final with proposed rulemaking omitted. However, the Department will seek public comment on the draft regulations prior to the publication.

The public meeting will be held on Thursday, September 24, 1998, from 9 a.m. to 3 p.m. at the Rachel Carson State Office Building located at 400 Market Street, Harrisburg, PA. The purpose of the meeting is to solicit comments on the draft State regulations governing the WIC Program. These regulations will amend the State Plan of Program Operations and Administration required by Federal regulations governing the program.

The Department invites comments on the Program's draft regulations and amendment to the State Plan.

Copies of the draft regulations will be available on the Department's web page ([www.health.state.pa.us](http://www.health.state.pa.us)) from September 11 to September 24, 1998. Persons may also obtain a copy by calling the WIC Program Office at (717) 783-1289.

Persons wishing to give testimony at the public meeting are requested to preregister with the State WIC Program Office by calling (717) 783-1289. Persons unable to attend the meetings, but wishing to express their views, may submit written comments to the Department. To be considered, written comments must be received no later than 5 p.m. September 24, 1998. Direct written comments to: Department of Health, Division of Women, Infants and Children (WIC), Attention: Retail Store Management Unit, P. O. Box 90, Harrisburg, PA 17108.

Persons who require reasonable accommodations in accordance with the Americans with Disabilities Act (ADA) of 1990, should contact Wendy Noel at (717) 783-1289 for assistance.

V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at 1 (800) 654-5984 [TT].

DANIEL F. HOFFMANN,  
Secretary

[Pa.B. Doc. No. 98-1457. Filed for public inspection September 4, 1998, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Take 5 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 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 Take 5.
2. *Price:* The price of a Pennsylvania Take 5 instant lottery game ticket is \$1.00.
3. *Play Symbols:* Each Pennsylvania Take 5 instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).
4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Prize" area are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$10<sup>00</sup> (TEN DOL), \$15<sup>00</sup> (FIFTN), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$75\$ (SVY FIV), \$100 (ONE HUND), \$500 (FIV HUND) and \$5,000 (FIV THOU). The prize play symbols and their captions located in the "Fast \$5 Bonus Box" area are: \$5<sup>00</sup> (FIV DOL) and NO BONUS (NO BONUS).
5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$5, \$10, \$15, \$25, \$50, \$75, \$100, \$500 and \$5,000.
6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,760,000 tickets will be printed for the Pennsylvania Take 5 instant lottery game.
7. *Determination of Prize Winners:*
  - (a) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$5,000 (FIV THOU) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$5,000.
  - (b) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$500 (FIV HUND) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$500.
  - (c) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$100 (ONE HUND) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$75\$ (SVY FIV) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$75.

(e) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$50\$ (FIFTY) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$25\$ (TWY FIV) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$25.

(g) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$15<sup>00</sup> (FIFTN) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$15.

(h) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$10<sup>00</sup> (TEN DOL) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets with a prize play symbol of \$5<sup>00</sup> (FIV DOL) in the "Fast \$5 Bonus Box" area, on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$3<sup>00</sup> (THR DOL) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$3.

(k) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$2<sup>00</sup> (TWO DOL) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$2.

(l) Holders of tickets with three matching play symbols of 5 (FIVE) in the same row, column or diagonal, and a prize play symbol of \$1<sup>00</sup> (ONE DOL) in the "Prize" area, on a single ticket, shall be entitled to a prize of \$1.

(m) A prize will be paid only for the highest Pennsylvania Take 5 instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

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:

*Get Three 5's In Any Row, Column Or Diagonal With Prize(s) Of:*

	Win	Approximate Odds	Approximate No. of Winners Per 5,760,000 Tickets
\$1	\$1	1:8.33	691,200
\$2	\$2	1:15	384,000
\$3	\$3	1:75	76,800
FAST \$5	\$5	1:60	96,000
\$10	\$10	1:600	9,600
\$15	\$15	1:300	19,200
\$25	\$25	1:300	19,200
\$50	\$50	1:2,400	2,400
\$75	\$75	1:4,800	1,200
\$100	\$100	1:12,000	480
\$500	\$500	1:40,000	144
\$5,000	\$5,000	1:480,000	12

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Take 5 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 Take 5, prize money from winning Pennsylvania Take 5 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 Take 5 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. §§ 3761-101—3761-314), 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 Take 5 or through normal communications methods.

ROBERT A. JUDGE, Sr.,  
*Secretary*

[Pa.B. Doc. No. 98-1458. Filed for public inspection September 4, 1998, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Addendum and Revision of the Listing of Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

*Addendum*

The Department of Transportation, Bureau of Motor Vehicles, under the authority of section 3368 of the Vehicle Code (75 Pa.C.S. § 3368), published at 28 Pa.B.



167 on January 10, 1998, a notice of approved speed-timing devices and maintenance and calibration stations for use until the next comprehensive list is published.

*Approval*

Under 75 Pa.C.S. § 3368(c)(2), the Department has approved, for use only by members of the State Police, the following electronic speed-timing device (radar):

(1) Stalker. Manufactured by Applied Concepts Incorporated, 730 F. Avenue, Suite 200, Plano, Texas 75074.

*Deletion*

As an addendum to the listing of approved Official Electronic Device Testing Stations for radar devices which may only be used by members of the State Police, the Department hereby gives notice of the deletion of the following station:

Transcat/EIL, 701 Rodi Road, Suite 35, Pittsburgh, Allegheny County, Pa. 15235 (Appointed: 05/20/97, Station R5).

As an addendum to the listing of approved Official Speedometer Testing Stations, the Department hereby gives notice of the deletion of the following station:

Hertz Penske Truck Leasing, Incorporated, 255 Penske Plaza, Reading, Berks County, Pa 19603 (Appointed: 07/03/74, Station S76).

As an addendum to the listing of approved Official Stopwatch Testing Stations, the Department hereby gives notice of the deletion of the following station:

William H. Nagle, Incorporated, 617 Penn Avenue, West Reading, Berks County, PA 19611 (Appointed: 11/02/77, Station W25).

As an addendum to the listing of approved Official Electronic Device Testing Stations for nonradar devices which measure elapsed time between measured road surface points by using two sensors, the Department hereby gives notice of the deletion of the following station:

Transcat/EIL, 701 Rodi Road, Suite 35, Pittsburgh, Allegheny County, PA 15235 (Appointed: 05/20/97, Station EL17).

Comments, suggestions or questions may be directed to Barb Tomassini, Manager, Inspection Processing Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Third Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104 or by telephoning (717) 787-2895.

Other approved speed-timing devices and appointment of maintenance and calibration stations appear at 28 Pa.B. 167 (January 10, 1998) and 28 Pa.B. 2327 (May 16, 1998).

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-1459. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Finding**

**Lycoming 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 replace the existing through truss bridge which carries S. R. 0220 over Muncy Creek in the Borough of Picture Rocks, Lycoming County. The bridge will be replaced on its existing horizontal alignment.

The project limits are within the Picture Rocks Historic District. The bridge, a stone wall, and a residence are contributing elements to the Historic District. These elements will be impacted by the proposed project. To mitigate impacts, the historic elements will be recorded in accordance with established guidelines.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-1460. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Finding**

**Tioga 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 replace the existing through truss bridge which carries Township Road T-493 over the Tioga River in Richmond Township, Tioga County. The bridge will be replaced on an alignment slightly downstream (north) of the existing location.

The subject bridge was determined eligible for the National Register of Historic Places. The proposed action will impact the historically significant bridge. To mitigate impacts, the bridge will be recorded in accordance with established guidelines.

As a result of the above mitigation, no adverse environmental effect is likely to result from the replacement of the subject bridge.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-1461. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Retention of Engineering Firms**

**Westmoreland County  
Project Reference No. 08430AG2242**

The Department of Transportation will retain an engineering firm to perform final design and services during construction (consultation during construction and shop drawing review) for S. R. 0022, Section B02, the reconstruction of Traffic Route 22 located in the Municipality of Murrysville and Salem Township, Westmoreland County, Engineering District 12-0. The estimated construction cost is \$25 million.

The proposed project consists of the reconstruction of Traffic Route 22 from just east of the Cozy Inn cutoff (Segment 0070/0000) eastward to S. R. 0022/S. R. 0066 Interchange (Segment 0160/0000), in Westmoreland County, a total distance of 4.0 miles.

The selected firm will be required to perform field surveys; roadway design; intersection geometry investigation; signing layout; geotechnical reports; traffic control plans; hydraulic computations, storm water management plans; utility coordination; right-of-way plans; preliminary and final structure design; erosion and sedimentation control plans; signing; sign lighting and pavement marking plans; traffic signal plans; construction plans; forms; estimates and specifications; roadway and structure borings; project partnering and public involvement.

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

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Experience in roadway and bridge design.
- c. Ability to expedite project.
- d. Project team composition and experience.
- e. Past performance.
- f. Current Workload.

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

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Michael H. Dufalla, P.E., District Engineer, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401, Attention: Mr. P. Gregory Bednar, P.E.

Any technical questions concerning the requirements for this project should be directed to: Mr. P. Gregory Bednar, P.E., District 12-0, at (412) 439-7243.

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

#### **General Requirements and Information**

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

The first copy of the Letter of Interest and required information must be submitted to: Mr. Charles W. Allwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P. O. Box 3060, Harrisburg, Pennsylvania 17105-3060. Note: The Zip Code for express Mailing is 17101-1900.

The Letter of Interest and required information must be received within twenty (20) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 P.M. prevailing time of the twentieth day.

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

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

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

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act, WBEs or combinations thereof).

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

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

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

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

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

2. Project Organizational Chart (one page, one side, maximum size 11" x 17")

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

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

The Standard Form 255 must be signed, dated, and filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project.

Under Item 4 of this form, Column A must specify only the number of subconsultant personnel and Column B must specify only the number of prime consultant personnel to be assigned to work on this project reference number. Do not include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant may include no more than one page each for Items 10 and 11.

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

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

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, must accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

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

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

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

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

6. Authorization Letters (For Construction Inspections Services, if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the

Letter of Interest, the letters from proposed prime employees must be first, followed by subconsultant employees, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

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

8. Overhead Rates (one page)

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

9. Additional Information

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

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-1462. Filed for public inspection September 4, 1998, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Township of Collier v. DEP and Collier Stone Company, Permittee; EHB Doc. No. 98-149-R**

The Township of Collier has appealed the renewal by the Department of Environmental Protection of an NPDES permit to Collier Stone Company for a facility in Collier Township, Allegheny County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by an interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at

(717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 98-1463. Filed for public inspection September 4, 1998, 9:00 a.m.]

## GOVERNOR'S OFFICE OF ADMINISTRATION

### Request for Qualified Contractors (RFQC): Commonwealth Telecommunications Services Acquisition

The Commonwealth of Pennsylvania is seeking to conduct the most comprehensive and complete Telecommunications Services Acquisition in its history. All Commonwealth Telecommunications Services (CTS) used by State government agencies will be brought together in this single acquisition. The CTS will include basic digital transport, voice, data, video and Internet access telecommunications services, together with the appropriate support infrastructures. This acquisition process has been specifically designed to encourage the best and the most innovative service providers to seek out new and innovative solutions.

The primary mission of this acquisition process is to acquire reliable and cost effective telecommunication services to serve better the State Government. It is also anticipated that local governments, schools, as well as the general public will benefit from the expansion of telecommunications services throughout the State. To conduct this acquisition, the Commonwealth will use a much more flexible, and we believe, a more appropriate process, which we have termed a Request for Qualified Contractors (RFQC) process.

The Request for Qualified Contractors will be issued in the near future. Telecommunications Service vendors, and others, interested in receiving an announcement of its release should either email, fax, or mail their request (email preferred) to the Issuing Office: Commonwealth of Pennsylvania, OA/OIT, Room 310 Finance Building, Harrisburg, PA 17120, Att: Nicholas Giordano, Fax: 717-787-0939, Internet: cts\_email@state.pa.us

Please provide a complete organization name and the name of the individual within the organization who should receive the announcement, along with a complete mailing address, and if available, a telephone number, fax number and an Internet email address. The announcement will provide the date of availability, and information concerning the various methods for obtaining a complete document with detailed appendices on electronic media (CD-ROM).

When the RFQC is released, the text document will be available over the Internet through the Pennsylvania State government home page (web address [www.state.pa.us](http://www.state.pa.us), search under "Technology"). The detailed appendices containing all of the locations and individual

service requirements per location will, however, only be available on CD-ROM. When the RFQC is released, receipt of the CD-ROM may be requested through the web site.

For those without access to the Internet, the announcement of release will provide information on how to obtain printed copies of appropriate material. In addition, the announcement sent to those responding to this notice will also provide information on alternative methods for obtaining the CD-ROM.

CHARLES F. GERHARDS,  
*Director*  
*Commonwealth Technology Center*

[Pa.B. Doc. No. 98-1464. Filed for public inspection September 4, 1998, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council (Council) review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Senator F. Joseph Loeper, Majority Leader and Chairperson of the Senate Committee on Rules and Executive Nominations, to review House Bill 1873, Printers Number 3473 (Gruppo), which would require Hepatitis B immunization for attendance at school after August 1, 1999.

Initial notification of request for information and documentation was published in the *Pennsylvania Bulletin* on July 11, 1998, with documentation due to the Council by August 21, 1998.

Following is a list of the documentation received. This information is available for public review and comment at the Council offices during regular business hours (8:30 a.m. to 5 p.m.) until September 25, 1998. Any additional comments on this information must be received by this time. Council offices are located at: 225 Market Street, Suite 400, Harrisburg, PA 17101. Send comments (six copies) to Flossie Wolf at this address.

#### *House Bill 1873 Submissions*

1. Representative John M. Perzel, Majority Leader of the Pennsylvania House of Representatives
  - Letter from Representative Perzel supporting House Bill 1873.
  - Medical literature on Hepatitis B Immunization
2. The Insurance Federation of Pennsylvania
  - Letter from John R. Doubman, Secretary & Counsel, addressing section 9 requirements.
3. Hepatitis B Foundation
  - Letter from Joan M. Block, President, supporting Hepatitis B immunization.
  - Pamphlets on Hepatitis B.
4. Hepatitis Foundation International
  - Letter from Thelma King Thiel, Chairperson and Chief Executive Officer, supporting Hepatitis B immunization.

- Pamphlets and brochures on Hepatitis.
5. Highmark
    - Letter from Bruce R. Hironimus, Vice President of Government Affairs, addressing Hepatitis B immunization.
  6. American Academy of Pediatrics, Pennsylvania Chapter
    - Letter from Bradley J. Bradford, MD, President, supporting Hepatitis B immunization.
  7. Parents of Kids with Infectious Diseases
    - Letter from Trish Parnell supporting Hepatitis B immunization.
  8. Thomas Jefferson University, Jefferson Medical College
    - Letter from Hie-Won L. Hann, M.D, Director, Liver Disease Prevention Center, supporting Hepatitis B immunization.

MARK P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 98-1465. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council (Council) review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Senator F. Joseph Loeper, Majority Leader and Chairperson of the Senate Committee on Rules and Executive Nominations, to review Senate Bill 938, Printers Number 1952 (Lemmond), which would require health insurance policies to provide coverage for newborn hearing screening tests, including initial testing and any necessary follow-up testing.

Initial notification of request for information and documentation was published in the *Pennsylvania Bulletin* on July 11, 1998, with documentation due to the Council by August 21, 1998.

Following is a list of the documentation received. This information is available for public review and comment at the Council offices during regular business hours (8:30 a.m. to 5 p.m.) until September 25, 1998. Any additional comments on this information must be received by this time. Council offices are located at: 225 Market Street, Suite 400, Harrisburg, PA 17101. Send comments (six copies) to Flossie Wolf at this address.

#### *Submissions for Senate Bill 938*

1. The Insurance Federation of Pennsylvania
  - Letter addressing section 9 requirements and opposing Senate Bill 938.
  - Information on newborn hearing screening.
2. The Managed Care Association of Pennsylvania
  - Letter from Kimberly J. Kockler, Executive Director, addressing section 9 requirements and raising concerns about Senate Bill 938.
  - Information on newborn hearing screening.

3. Highmark
  - Letter from Bruce R. Hironimus, Vice President of Government Affairs, opposing Senate Bill 938.
  - Statement addressing section 9 requirements.
  - Information on newborn hearing screening.
4. American Academy of Pediatrics, Pennsylvania Chapter
  - Letter from Bradley J. Bradford, President, addressing newborn hearing screening and supporting screening for at-risk newborns.
5. Pennsylvania Speech-Language and Hearing Association
  - Letter from Richard M. Gmerek and Elvira O. Guida from the Law Offices of Maley, Williamson, Hayden & Gmerek, supporting Senate Bill 938.
  - Statement addressing section 9 requirements.
  - Information on newborn hearing screening.
6. National Center for Hearing Assessment and Management
  - Letter from Karl R. White, Ph.D., supporting Senate Bill 938 and addressing section 9 requirements.
  - Information on newborn hearing screening.
7. National Organization for Hearing Research
  - Letter from Geraldine Dietz Fox, President, supporting Senate Bill 938.
  - Information on newborn hearing screening.
8. Robert C. Cicco, M.D., President of the Pittsburgh Pediatric Society
  - Letter opposing Senate Bill 938.
9. Jack L. Paradise, M.D., Professor of Pediatrics, University of Pittsburgh School of Medicine, Children's Hospital of Pittsburgh
  - Letter opposing universal newborn hearing screening.
  - Information on newborn hearing screening.
10. Christina Seaborg, Director of Audiology, Penn State Geisinger Health Group, Wilkes-Barre
  - Letter supporting newborn hearing screening.
11. Diane L. Sabo, Ph.D., Clinical Director of Audiology, Children's Hospital of Pittsburgh.
  - Letter supporting universal newborn hearing screening.
  - Information on newborn hearing screening.
12. Eric S. Cahill, M.S. CFY-A, Program Coordinator, Universal Newborn Hearing Screening, Temple University School of Medicine
  - Letter supporting Senate Bill 938.
13. Louis R. Sieminski, Ph.D.
  - Letter supporting universal newborn hearing screening.
  - Information on newborn hearing screening.
14. State Interagency Coordinating Council ad Hoc Committee on Universal Hearing Screening.
  - Letter from Sheila Coyne, Co-Chair, supporting universal newborn hearing screening.
15. AFLAC—The American Family Life Assurance Company of Columbus

- Letter from Richard M. Gmerek and Elvira O. Guida of the Law Offices of Maley, Williamson, Hayden & Gmerek, addressing section 9 requirements and requesting exemptions for disability income policies.
16. Women & Infants Hospital of Rhode Island
- Information on the Rhode Island Hearing Assessment Program.
17. Independent Insurance Agents of Pennsylvania
- Letter from Vince Phillips, Vice President for Government Affairs, addressing legislative mandates.

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 98-1466. Filed for public inspection September 4, 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>
54-54	Pennsylvania Liquor Control Board Wine in Kegs; Sale by Limited Winery Licensees	8/20/98
15-405	Department of Revenue Net Gains or Income from Disposition of Property	8/25/98

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 98-1467. Filed for public inspection September 4, 1998, 9:00 a.m.]

## INSURANCE DEPARTMENT

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

Educators 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 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 (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 Department of the nature of the comment. All comments received will be shared with the applicant company, which will respond. The Department will review all information and comments received and will determine whether the application complies with the pertinent provision of the Mutual-to-Stock Conversion Act.

Written comments should be directed to Michael Graeff, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, or on the Internet using <http://www.mgraeff@ins.state.pa.us>.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-1468. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Notice to Medical Malpractice Insurance Carriers and Self-Insured Health Care Providers

Insurance companies that offer basic limits medical malpractice coverage are required to report medical malpractice claims information to the Medical Professional Liability Catastrophe Loss Fund (Fund) and to the Insurance Department for insureds who are subject to the provisions of The Health Care Services Malpractice Act (40 P. S. §§ 1301.701, et seq.) (act). Organizations and physicians that self-insure their medical malpractice exposures are also required to report this claims information. These reports are required under section 809 of the act, as amended by Act 135 of 1996.

The claims information must be reported to the Fund and to the Insurance Department by October 15 of each year. The following Calendar Year 1997 claims information is due to the Fund and to the Insurance Department by October 15, 1998:

- the aggregate amount of premium earned;
- the aggregate amount of losses paid;
- the aggregate amount of losses incurred;
- the aggregate amount of loss reserves outstanding;
- the aggregate amount of loss adjustment expenses paid;
- the aggregate amount of loss adjustment expenses incurred;
- the aggregate amount of loss adjustment expense reserves outstanding;
- a table showing separately by accident year and county the number of claims first reported, (or arising), in 1997;
- a table showing separately by accident year and disposition (that is, judgment of arbitration panel, judgment of court, settlement or other) the number of claims closed, (or disposed), in 1997;
- a separate table for each type of disposition identified above showing for claims closed (or disposed) in 1997 separately by accident year: the number of claims closed,

(or disposed), with payment; the total losses incurred for those claims closed with payment; the basic coverage premiums collected on the policies under which the claims were reported which closed with payment; and the amount of surcharge collected on the policies under which the claims were reported which closed with payment.

All reports must be submitted in both printed form and in electronic form as an Excel or Lotus spreadsheet. The forms for submission and a pre-formatted Excel spreadsheet have been mailed and should arrive by September 15, 1998.

Persons who have not received forms by this date, should contact Candice Backlarz, Actuarial Associate II, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 783-2114, e-mail cbacklar@ins.state.pa.us. Questions concerning the information contained in this notice may also be directed to Candice Backlarz.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 98-1469. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with his company's termination of the insured's automobile policies. All administrative hearings are held in the Insurance Department Offices in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Jeffrey L. Fishell; file no. 98-181-05022; Prudential Property and Casualty Insurance Co.; doc. no. P98-08-016; September 29, 1998, at 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and starting 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. 98-1470. Filed for public inspection September 4, 1998, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

Regulation of Group and Party Carriers; Doc. No. P-00981458

Commissioners Present: John M. Quain, Chairperson;  
Robert K. Bloom, Vice Chairperson; David W. Rolka;  
Nora Mead Brownell

Public Meeting held  
August 13, 1998

### Tentative Decision

By the Commission:

On June 9, 1998, the Transportation Equity Act for the 21st Century, P. L. 105-178 ("TEA Act"), was signed into law. The TEA Act, inter alia, modified 49 U.S.C. § 14501 by preempting state regulation "relating to the authority to provide intrastate or interstate *charter bus transportation*." Section 4016, TEA Act.<sup>1</sup> The preemption is applicable to only *charter* bus transportation, not *commuter* bus operations. Further, the Conference Report accompanying the TEA Act, Report 105-550, explicitly notes "that the [preemption] does not limit a state's ability to regulate taxicab service or limousine livery service." Conference Report, p. 496.<sup>2</sup> Finally, the TEA Act specifically authorizes continuing state oversight of safety and financial responsibility for charter bus carriers.

Historically, this Commission has regulated entry into the charter bus market in order to ensure continued viability. Pursuant to the statutory mandate found at 66 Pa.C.S. § 1103(a), the Commission developed a three part test to determine whether to grant a carrier authority. That test required: 1) that an applicant demonstrate that the proposed service was responsive to a public demand or need; 2) that an applicant demonstrate that it has the

<sup>1</sup>Section 4016 of the TEA Act provides:

SECTION 4016. AUTHORITY OVER CHARTER BUS TRANSPORTATION

Section 14501(a) (49 U.S.C.) is amended to read as follows:

(a) MOTOR CARRIERS OF PASSENGERS.—

(1) LIMITATION ON STATE LAW.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to

(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations.

(2) MATTERS NOT COVERED.—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.

<sup>2</sup>The Conference Report provides:

The conference adopts the Senate provision with modification. A clarifying provision is included to ensure that states may continue to regulate safety with respect to motor vehicles and to impose highway route controls or limitations based on the size or weight of the motor vehicle or with regard to minimum amounts of financial responsibility relating to insurance requirements. The conference also notes that the provision does not limit a state's ability to regulate taxicab service or limousine livery service.

technical and financial ability to provide the service safely and legally; and 3) that the entry of a new carrier into the market would not endanger operations of existing carriers in contravention of the public interest. See 52 Pa. Code § 41.14.

Due to the TEA Act's preemption, we will no longer use this three part test to regulate entry into the charter bus industry. However, as more fully discussed below, we will continue to require certification of bus carriers through an application process aimed at compliance with Commission safety and insurance regulations.

The extent of the preemption created by the TEA Act is somewhat ambiguous due to its failure to define "charter bus transportation". Reference to Federal regulations provides some guidance. For instance, "charter transportation of passengers" is defined at 49 C.F.R. § 390.5 as:

"transportation, using a bus, of a group of persons who pursuant to a common purpose under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin."

Further, "bus" is defined at 49 C.F.R. § 393.5 as a vehicle designed to carry more than 15 passengers, including the driver.<sup>3</sup>

Currently, Commission regulations recognize three (3) categories of group and party (non-scheduled bus) service: charter service, tour or sightseeing service, and special excursion service. 52 Pa. Code § 29.322.<sup>4</sup> Under the Commission's regulations, these services must be provided in vehicles designed to carry ten (10) passengers or more, excluding the driver. 52 Pa. Code § 29.323.<sup>5</sup>

Of the three types of group and party service recognized by the Commission, it appears that the TEA Act's preemption, by definition, would be applicable only to "charter service". However, given the historical treatment of "tour/sightseeing service" and "special excursion service" as ancillary services to charter service, *C.I. Beiber, Inc. v. Pa. P.U.C.*, 281 A.2d 351 (Pa. Comwlth., 1971)<sup>6</sup>, we are inclined to extend the TEA Act's preemption to these services. This is especially the case given the pragmatic factors involved in enforcement of economic regulation for "tour/sightseeing" and "special excursion" services. These services are provided in vehicles that qualify as "charter service" vehicles. Without stopping each vehicle to determine what type of service it is currently providing (i.e., charter, tour/sightseeing, special excursion), the Commission would be unable to determine if that vehicle were subject to economic regulation for that particular trip. We

<sup>3</sup>We note that both of the definitions are found under the Federal Motor Carrier Safety Regulations and are, therefore, of questionable relevance when considering the extent of the TEA Act's preemption. Further, "bus" is defined broadly at 49 C.F.R. § 390.5 (again for purposes of Federal Motor Carrier Safety Regulations) without regard to seating capacity. We reject this broad definition in light of the TEA Act's Conference Report which limited the preemption to buses, not taxicabs or limousines.

<sup>4</sup>52 Pa. Code § 29.322 defines these services as:  
*Charter service.* This service shall be limited to the transportation of groups and parties of persons the charge for which is based upon the transportation of a group and not upon the number of persons carried and for which payment is made by a single individual or organization and not by the passengers as individuals.

*Tour or sightseeing service.* This service shall include tours and sightseeing trips on which the general public is invited: limited to trips which originate and terminate at the same point, on which advertised stops are made for sightseeing or recreational purposes, and for which each passenger pays the rate contained in the filed tariff. The charge for the trip may be for transportation alone or may include meals, hotel expenses and admission charges to points of interest.

*Special excursions.* This service shall be limited to advertised trips to a definite destination on which trips the general public is invited and for which transportation a passenger pays the rate contained in the filed tariff.

<sup>5</sup>52 Pa. Code § 29.323 provides:

A group and party service may be operated only in vehicles with seating capacities of ten passengers or greater, excluding the driver.

<sup>6</sup>In *Beiber*, the Court found that excursion and sightseeing services required no independent evidence of necessity.

believe the continuation of economic regulation for tour/sightseeing and special excursion services is undesirable and unachievable under these circumstances. Therefore, we will extend the TEA Act's preemption to these services as well as charter service.

As for the type of vehicle that qualifies as a "bus" for purpose of preemption, we are inclined to apply our current definition, i.e., vehicles with seating capacities of ten passengers or greater, excluding the driver. While we recognize that this definition is broader (i.e., includes more vehicles) than the Federal definition found at 49 C.F.R. § 393.5, (15 passengers) we believe continuing with our historical definition is the enlightened approach. It would be an unmanageable result if we were to limit preemption to those current group and party carriers operating in vehicles with seating capacities of 15 or greater. We do not believe that bifurcating current group and party carriers into two groups, one which will be subject to economic regulation and one which will not, is a viable option. Therefore, we will apply the preemption to vehicles with seating capacities of 10 or greater, excluding the driver.

Finally, we note that our oversight of the rates charged by charter carriers has been dramatically curtailed in recent years. We have previously adopted flexible ratemaking for both the group and party and limousine industries. See *Investigation of Flexible Ratemaking for Bus and Limousine Industries*, Docket No. I-00960063 (Order entered October 16, 1997). Section 4016 of the TEA Act has further clarified the authority of a state to regulate rates charged in charter bus transportation. Specifically, the TEA Act provides that "no State . . . shall enact or enforce any law . . . relating to . . . the implementation of any change in the rates . . . for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required." Based on this provision, we find that our current rate-filing requirement, which is simply a notice requirement, is no longer necessary and serves no useful public purpose. Therefore, we will modify our current rate procedure by deleting any rate filing requirements for group and party carriers.

#### Implementation

Given the TEA Act's reservation to states of continuing oversight in the areas of safety and insurance, we believe that in order to effectively regulate carriers in these areas a continuing registration requirement is necessary. The registration requirement for group and party carriers will be similar to that utilized for property carriers following deregulation. See *Regulation of Motor Common Carriers of Property*, Docket No. P-00940884, (Order entered December 20, 1994). It will be an expedited process designed to ensure compliance and familiarity with Commission safety and insurance requirements. The traditional requirement of demonstration of need for a proposed service is abolished. Further, given our inability to restrict entry, all carriers (charter, tour/sightseeing, special excursion), *new and existing*, will have authority to operate group and party service between points in Pennsylvania.

#### Procedure for New Entrants

Following entry of a final order in this matter, all applicants for authority to provide group and party service will follow the following procedure:

1. A new applicant will file an application on an appropriate form provided by the Commission.
2. The filing fee for new applicants will be reduced from \$350 to \$100.



3. Notice of the application will not be published in the *Pennsylvania Bulletin*.<sup>7</sup>

4. No protests to applications for group and party authority will be considered.<sup>8</sup>

5. If an applicant's safety fitness to provide service is at issue, the application will be referred to the Office of Administrative Law Judge for hearing and decision.

6. If an applicant's safety fitness to provide service is *not* at issue, a compliance order will be issued immediately. The compliance letter will direct applicant to file proper evidence of insurance. Temporary evidence of insurance may be filed in the form of (a) a declaration page of the insurance policy or (b) a copy of a valid binder of insurance. Temporary evidence of insurance shall be replaced by permanent evidence of insurance within 60 days. A carrier may begin operations upon filing acceptable evidence of insurance.

7. Once acceptable evidence of insurance has been filed, a certificate of public convenience will be issued authorizing the transportation of persons, in group and party service, between points in Pennsylvania.

8. No tariff filings are required for new or existing carriers.

9. Applicants which do not possess a satisfactory safety rating issued by the United States Department of Transportation or a state with safety regulations comparable to the Commonwealth's, shall complete a safety fitness review conducted by Commission staff. *See* 52 Pa. Code § 3.381(c)(2)(iii).

#### *Existing Group and Party Carriers*

All currently certificated carriers providing group and party services will have the following right:

To transport persons, in group and party service, between points in Pennsylvania.

#### *Assessments*

Given our continued regulation of group and party carriers in the areas of safety and insurance, the industry will remain subject to our assessment process. We direct our Fiscal Office to examine any required adjustments.

#### *Insurance*

Commission insurance regulations governing passenger carriers are found at 52 Pa. Code § 32.11. Generally, we have required group and party carriers to maintain insurance coverage of \$5 million to cover liability for bodily injury, death, or property damage. On occasion, we have permitted a carrier to carry less coverage if the carrier restricted the vehicles used to vehicles with seating capacities of less than 28 passengers. As a general rule, we will continue to require \$5 million coverage for a group and party carrier. If a carrier voluntarily limits the size of the vehicles it operates, it may request a reduction in the mandated coverage limits.

#### *Waiver of Regulations*

In light of our changed regulatory role over group and party carriers, we will waive all regulations with respect

<sup>7</sup>We are deleting the publication requirement established at 52 Pa. Code § 3.381(b) as well as the protest process provided for at 52 Pa. Code § 3.381(c). Currently, there is a rulemaking pending that deletes the publication/protest process for property carriers. *See Publication and Protests, Motor Carrier Property Applications*, Docket No. L-00980133 (Order entered March 3, 1998). While the rulemaking is not final, it is noncontroversial and has not met any resistance. We believe that the publication/protest concerns for group and party carriers are analogous to the concerns for property carriers, given the similar limitation on Commission regulation of these two groups. Therefore, we will expedite the application process for group and party carriers by eliminating the publication/protest process at this juncture.

<sup>8</sup>See Footnote 7.

to group and party carriers *to the extent* they are inconsistent with the new process. Those regulations include, but are not limited to, 52 Pa. Code §§ 3.381, 23.1—23.149. Regulations found at 52 Pa. Code Chapter 29 remain intact, but for 52 Pa. Code § 29.324; *Therefore, It Is Ordered That:*

1. This Tentative Decision should be entered and served for comment upon all group and party carriers and the Pennsylvania Bus Association.

2. A copy of this Tentative Decision shall be forwarded to the *Pennsylvania Bulletin* for publication.

3. An original and nine copies of any comments are to be filed within 30 days of the date of publication in the *Pennsylvania Bulletin*, with Secretary James McNulty, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments must note the caption and docket number of this proceeding.

4. The Commission's Fiscal Office is directed to examine any changes required in the Assessment process for group and party carriers. The Fiscal Office shall report its findings and recommendations to the Commission within 45 days of the date of entry of this Order.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1471. Filed for public inspection September 4, 1998, 9:00 a.m.]

### **Service of Notice of Motor Carrier Applications**

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. 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 September 28, 1998, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

#### **Application of the following for the approval of the transfer of stock as described under each application.**

**A-00110557, F. 5002. Five Star Limo Service, Inc., t/d/b/a Flamingo Limousine Service, Ltd.** (347 Taft Street, Bristol, Bucks County, PA 19007), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of all issued and outstanding stock from Delaware County Transportation Service, Inc., to Axis Contractors, Inc., t/d/b/a A. Presidential Transportation. *Attorney:* John J. Gallagher, Suite 1100, 1760 Market Street, Philadelphia, PA 19103.

#### **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-00114314, Folder 2. Max E. Falisec, t/d/b/a Falisec Transportation** (Route 286, R. D. 1, Box 644, Clymer, Indiana County, PA 15728)—additional right—persons in airport transfer service, from points in the

counties of Indiana and Clearfield, to the Pittsburgh International Airport located in Allegheny County, and the Westmoreland County Airport located in Westmoreland County. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

**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-00115253. McClelland & Associates, Inc., t/d/b/a Celebrate Pittsburgh** (607 Boden Street, Turtle Creek, Allegheny County, PA 15145-1411), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania.

**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 September 21, 1998.

- A-00111920 F.2 Brown's Service, Inc.  
1739 Golden Mile Highway,  
Monroeville, PA 15146
- A-00115242 Gary L. Pepple  
R. D. 2, Box 136 C, Clearville, PA  
15535
- A-00115250 John Thomas Garrity, t/a J. Garrity  
Trucking  
R. R. 2, Box 127, Canton, PA 17724
- A-00115252 Freeway Transport, Inc.  
812 Princeton Avenue, Philadelphia,  
PA 19111: Andre C. Dasent, 785  
Bourse Building, 21 South, 5th  
Street, Philadelphia, PA 19106
- A-00115251 Teresa A. Michaels, t/a P. H.  
Transporting Service  
R. D. 3, Box 472, Uniontown, PA  
15401
- A-00115241 Concepts International, Inc.  
4 Minshall Circle, Glen Mills, PA  
19342

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1472. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Telecommunications**

**A-310730. Bell Atlantic-Pennsylvania, Inc. and COMAV Telco, Inc.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and COMAV Telco, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and COMAV Telco, Inc., by its counsel, filed on July 24, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and COMAV Telco, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

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

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1473. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Telecommunications**

**A-310395F0002. Bell Atlantic-Pennsylvania, Inc. and International Telephone Group, Inc.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and International Telephone Group, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and International Telephone Group, Inc., by its counsel, filed on June 30, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of a Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and International Telephone Group, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

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

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1474. Filed for public inspection September 4, 1998, 9:00 a.m.]

**Telecommunications**

**A-310729. Bell Atlantic-Pennsylvania, Inc. and Megatel Corporation.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Megatel Corporation for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Megatel Corporation, by its counsel, filed on July 24, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of

the Bell Atlantic-Pennsylvania, Inc. and Megatel Corporation Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

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

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1475. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Telecommunications

**A-310727. Bell Atlantic-Pennsylvania, Inc. and MGC Communications, Inc.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and MGC Communications, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and MGC Communications, Inc., by its counsel, filed on June 26, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and MGC Communications, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

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

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1476. Filed for public inspection September 4, 1998, 9:00 a.m.]

### Water Service Without Hearing

**A-212600F0006, A-212750F0006, A-212300 and A-212370F0048. Consumers Pennsylvania Water Company—Roaring Creek Division, Consumers Pennsylvania Water Company—Shenango Valley Division, Consumers Pennsylvania Water Company—Susquehanna Division and Philadelphia Suburban Corporation.** Joint application of Consumers Pennsylvania Water Company—Roaring Creek Division, Consumers Pennsylvania Water Company—Shenango Valley Division, Consumers Pennsylvania Water Company—Susquehanna Division and Philadelphia Suburban Corporation, for approval of a certificate of public convenience evidencing approval of the transfer, by merger, of a controlling interest in the above-three noted operating water utilities of Consumers Pennsylvania Water Company to Philadelphia Suburban Corporation.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before September 21, 1998, under 52 Pa. Code (relating to public utilities).

*Applicant:* Patricia Armstrong, Esq., D. Mark Thomas, Esq., Thomas, Thomas, Armstrong and Niesen, Attorneys for: Consumers PA Water Company—Roaring Creek Div., Consumers PA Water Company—Shenango Div., Consumers PA Water Company—Susquehanna Div., 212 Locust Street, Harrisburg, PA 17108-9500 and Thomas P. Gadsden, Esq., Anthony C. DeCusatis, Esq., Morgan, Lewis and Bockius, LLP, Attorneys for Philadelphia Suburban Corp., 2000 One Logan Square, Philadelphia, PA 19103-6993.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-1477. Filed for public inspection September 4, 1998, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

October 14, 1998	Joseph A. Francese (Years of Credited Service)	1 p.m.
	David H. Spahr (Purchase of Service)	2:30 p.m.
October 28, 1998	Herbert T. Kirsop, Jr. (Payment of Death Benefit)	1 p.m.
	Jeannette M. Myers (Multiple Service)	2:30 p.m.

Persons with a disability who wish to attend the above-listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Arthur J. Granito, Assistant Executive Director, at (717) 783-5613 to discuss how the Public School Employees' Retirement System may best accommodate their needs.

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 22 Pa. Code § 201.1, (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Admin-

istrative Practice and Procedure) unless specific exemption is granted.

JAMES A. PERRY,  
*Secretary*

[Pa.B. Doc. No. 98-1478. Filed for public inspection September 4, 1998, 9:00 a.m.]

## TURNPIKE COMMISSION

### Retention of an Engineering Firm

#### Total Roadway Reconstruction Westmoreland County

#### Reference No. 1-111

The Turnpike Commission (Commission) will retain an engineering firm for the design for the total reconstruction project between approximate mileposts 85.00 and 94.00 in Westmoreland County. The selected firm will be responsible for the pre-final and final design of this project.

The engineering services required would include supplemental field surveys, cross sections, evaluation of utility conflicts and potential relocations, development of erosion and sedimentation control plans and specifications, preparation of hydraulic reports for waterway approvals, preliminary and final traffic control plans, structural foundation reports, preparation of type, size and location and final bridge plans, preparation of preliminary and final right-of-way plans, geotechnical investigations, preparation of preliminary and final construction plans and specifications in order for the Commission to bid the total reconstruction of the roadway generally between Milepost 85.00 and 94.00, including the Donegal Interchange ramps at Milepost 90.69. The intent is to rebuild the roadway and widen the existing 10-foot median to a width between 18-34 feet based on preliminary evaluations. It is anticipated that a number of the mainline and overhead structures will require widening or replacement. The actual number of affected structures will depend on the selected median width. We will consider either rubbilizing the existing concrete roadway and overlay with bituminous material, or removing the existing pavement and replace with full-depth bituminous. An entirely new drainage system will be installed.

In addition, low-level photography will be available in this area to an accuracy of  $\pm .05$  feet. Hard copies of the mapping and a disk will be provided to the consultant for their use. A digital terrain model in AUTOCAD format will also be provided. The consultant will be required to perform supplemental surveys and reestablish the existing centerline of the Turnpike. Also, cross sections will be cut and plotted from the available information. The design for this project will be performed in metric units.

Direct inquiries to Michael D. Shaak, P.E., at (717) 939-9551, Ext. 5380; or by e-mail at mshaak@paturnpike.com.

#### General Requirements and Information for Reference No. 1-111

Firms interested in performing the above services are invited to submit Expanded Letters of Interest to Barry L. Troup, P.E., Assistant Chief Engineer for Design, at the Turnpike Commission Administration Building located on Eisenhower Boulevard at the Harrisburg-East Inter-

change, Highspire, PA 17034 (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The expanded letters of interest must include in the heading the project reference number indicated in the advertisement. A Standard Form 254, "Architect-Engineer and Related Services Questionnaire," not more than 1 year old as of the date of this advertisement, and Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project," must accompany each expanded letter of interest. Explanation that the firm has successfully completed similar type projects, of the same magnitude, is required. If the firm has multiple offices, the location of the office performing the work must be identified.

Firms with out-of-State headquarters or corporation not incorporated in Pennsylvania must include with each expanded letter of interest a copy of their registration to do business in this Commonwealth as provided by the Department of State.

The Commission currently limits its participation in the remuneration of principals or consultant employees performing work on projects to \$72,800 per annum or \$35 per hour or their actual audited remuneration, whichever is less. The Commission currently limits its participation in the consultant's indirect payroll costs (overhead) on design projects to 130% or the consultant's actual audited overhead rate, whichever is less.

The Consultant in their submission should identify the following factors:

(A) Specialized experience and technical competence of firm. The firm must clearly demonstrate their capabilities of completing this project by identifying similar projects that have been completed, the magnitude of the project and the client.

(B) Past record of performance with respect to cost control, work quality and ability to meet schedules. The specific experience of individuals who constitute the firms shall be considered.

(C) Expanded letters of interest must include an indication of the prime consultant's and subconsultant's current workload for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

(D) Location of consultant's office where the work will be performed.

(E) Listing of subconsultant intended. Any deviation from the subconsultant listed in the expanded letter of interest will require written approval from the Commission.

(F) Special requirements of the project.

(G) An organization chart for the Project, identifying key personnel. Only resumes of key personnel should be included.

(H) Other factors, if any, specific to the project.

The Commission is committed to the inclusion of disadvantaged, minority and woman firms in contracting opportunities. The minimum participation level for DBE/MBE/WBEs in this contract will be 10%. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in this contract, in their Expanded Letter of Interest. If the selected firm does not meet the minimum requirement for DBE/MBE/WBE participation, they will be required to demonstrate good faith efforts to achieve the required level. Proposed DBE/MBE/WBE firms must be certified by the Pennsylvania Department

of Transportation at the time of the submission of the Expanded Letter of Interest. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Office of Equal Opportunity Development, Turnpike Commission at the above address, or by calling (717) 939-9551 Ext. 4241.

Each firm should demonstrate in their expanded letter of interest their ability to perform the specific requirements indicated for this project by including a maximum three page report on this project.

The expanded letter of interest and required forms must be received by 12 p.m. (noon), Friday, September 25, 1998. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable expanded letters of interest received in response to this solicitation, one

firm will be selected for this project. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Selection Committee. Technical Proposals or Requests for Proposals will not be requested prior to selection.

The Commission reserves the right to reject all expanded letters of interest, to cancel solicitation requested under this notice, and/or to re-advertise solicitation for these services.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 98-1479. Filed for public inspection September 4, 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

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### 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**

**1096118** Clothing and individual equipment—Broadcloth: 50% polyester/50% cotton, width 60/61"; thread count 96 x 56 warp and fill; minimum weight 3.0 oz. per sq. yd.; average residual shrinkage 1—2%; solid light pastel colors; gray and blue; 5,000 yards each color.

**Department:** Corrections  
**Location:** Dallas, Luzerne County, PA 18612  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1192118** Containers, packaging and packing supplies—Cartons material: "girder board" for 6/10 canned goods; 60,000 each.

**Department:** Corrections  
**Location:** Bellefonte, Centre County, PA 16823  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1073118** Rope, cable, chain and wire—Wire, concertina 24"/30" double coil—31 loops, 3 clips/16" coil spacing 20' coverage per roll; 500 rolls.

**Department:** Corrections  
**Location:** Bellefonte, Centre County, PA 16823  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**8249630** Motor vehicles, trailers and cycles—1999 model van, cargo (065700), full size, heavy duty, diesel, various colors and amounts.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA 17120  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1072118** Road materials—Sodium orthosilicate, technical, Type II hydrated, Class I, granular; 24,750 lbs.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA 17001-0837  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1154138** HVAC equipment—Seco-Therma Systems Perfect-Temp cart, Model No. PT-16—no substitute; various amounts.

**Department:** Military and Veterans Affairs  
**Location:** Soldier's and Sailors Home, Erie, Erie County, PA 16512-6239  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1143218** Medical, dental and vet equipment and supplies—Powerchair, Jazzy 1100 with standard on board battery charger as follows w/appropriate accessories: various amounts.

**Department:** Public Welfare  
**Location:** Hamburg, Berks County, PA 19526  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1184228** Motor vehicles, trailers and cycles—1999 model cab and chassis with heavy duty platform body; 2 each.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA 17105  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**8249640** Motor vehicles, trailers and cycles—1999 model van, cargo; various amounts.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA 17120  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

**1200118** Containers, packaging and packing supplies—Trash liners: 100/case must meet the following specifications: (\*no exceptions) clear 22" x 16" x 60" minimum thickness 1.6 mil. (minus 0% plus 10%); various amounts.

**Department:** Corrections  
**Location:** Albion, Erie County, PA  
**Duration:** FY 1998-99  
**Contact:** Vendor Services: fax request to (717) 783-6241 or call (717) 787-2199

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# SERVICES

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## Agricultural Services—02

**SP 337066** Services required to plant 35,100 trees on 403 acres at 7 different sites on the Susquehannock State Forest. Additionally 7,600 tree shelters must be installed. Tree seedlings and tree shelters will be provided by the Bureau of Forestry.

**Department:** Conservation and Natural Resources  
**Location:** Forest District 15, Susquehannock State Forest, Coudersport, PA  
**Duration:** Commence upon execution and terminate June 30, 1999  
**Contact:** Tom Wallace, (814) 274-3600

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## Audio/Video—04

**4635** The contractor shall provide parts and labor for the low-band radio system at State Correctional Institution Greene in compliance with the FCC regulations.

**Department:** Corrections  
**Location:** State Correctional Institution Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Carol A. Teegarden, (724) 852-5515

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**182955** TV, VCR, electronic equipment repair service for Warren State Hospital. Complete terms and conditions may be obtained by contacting the hospital. Award to be made on a 3-year aggregate basis.

**Department:** Public Welfare  
**Location:** Warren State Hospital, 33 Main Drive, North Warren, Warren County, PA 16365-5099  
**Duration:** January 1, 1999—December 31, 2001  
**Contact:** JD Sample, (814) 726-4448

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## Barber/Cosmetology—05

**SP 391543** Beautician services: Provide the services of beautician to male and female consumers of Wernersville State Hospital. Work will involve arranging, coloring, dressing, curling, waving, permanent waving, cleansing and cutting of hair and the massaging, cleansing, stimulation of the scalp, face and arms by the use of mechanical or electrical apparatus or appliances or cosmetics, preparations and manicuring nails in a beauty shop or on ward areas for consumers unable to come to the beauty shop.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Route 422, Wernersville, Berks County, PA 19565  
**Duration:** October 1, 1998 through June 30, 1999  
**Contact:** Karl Koenig, Purchasing Agent, (610) 670-4127

## Computer Related Services—08

**1998-1** Pennsylvania nonprofit organizations, which have previously conducted successful mathematics and/or science professional development activities, and Pennsylvania institutions of higher education are invited to submit applications to conduct intensive, high quality professional development programs to improve mathematics and science teaching and learning in this Commonwealth. Funding is from Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P. L. 103-382).

**Department:** Education  
**Location:** 333 Market Street, Harrisburg, PA 17126-0333  
**Duration:** Through August 15, 2000  
**Contact:** Linda J. Benedetto, (717) 772-3623; TDD (717) 783-8445

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**OB/CO-98-5030-101** Provide 1 year of maintenance/technical support for 1,033 Onnet software licenses to include, but not be limited to, free software upgrades and unlimited toll-free telephone support.

**Department:** Office of the Budget  
**Location:** Comptroller Operations, 706 Health and Welfare Building, Harrisburg, PA 17120  
**Duration:** 12 months (October 1, 1998—September 30, 1999)  
**Contact:** Karla Leshner, (717) 772-0090

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## Construction—09

**024-0001** This contract will provide manpower, equipment and incidental guiderail material for installation of approximately 20,000 linear feet of strong post guiderail and 200 linear feet of weak post guiderail at various locations throughout Cameron County. All guiderail material will be supplied by the Department of Transportation except for the bolts, nuts, washers, rotating brackets, bridge connection plates, anchor bolts, concrete for the end treatments and end anchorages. It will be the contractor's responsibility to pick up the material and deliver it to the work sites. A mandatory prebid meeting (1 day) will be held to include review of the guiderail locations, and a site will be determined where the guiderail will be stored. The Department shall be responsible for removal of all existing guiderail and for any grading of shoulder stabilization prior to the placement of the guiderail by the contractor. All requests for bid packages must be received by fax at (814) 274-9764 or by phone at (814) 274-9181.

**Department:** Transportation  
**Location:** District 0240 Various locations within Cameron County, PA  
**Duration:** One year contract  
**Contact:** Gary L. Gunzburger, (814) 274-9181

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**2-1-0002** This contract will provide manpower, equipment and incidental guiderail material for installation of approximately 40,000 linear feet of strong post and 5,000 linear feet of weak post guiderail at various locations throughout Centre County. All guiderail material will be supplied by the Department of Transportation except for the bolts, nuts, washers, rotating brackets, bridge connection plates, anchor bolts, concrete for the end treatments and end anchorages. It will be the contractor's responsibility to pick up the material and deliver it to the work sites. A mandatory prebid meeting (only 1 day) will be held to include review of the guiderail locations, and a site will be determined where the guiderail will be stored. The Department shall be responsible for removal of all existing guiderail and for any grading of shoulder stabilization prior to the placement of the guiderail by the contractor. All requests for bid packages must be received by fax at (814) 355-5930 or by phone at (814) 355-4731.

**Department:** Transportation  
**Location:** District 2010 Various locations within Centre County, PA  
**Duration:** One year contract  
**Contact:** Tina Smith, (814) 355-4731



**183083** Blacktop service for Warren State Hospital. Complete terms and conditions may be obtained by contacting the hospital. Award to be made on an aggregate basis.

**Department:** Public Welfare  
**Location:** Warren State Hospital, 33 Main Drive, North Warren, Warren County, PA 16365-5099  
**Duration:** October 01, 1998—November 30, 1998  
**Contact:** BD Muntz, (814) 726-4496

**Contract No. FDC-012-139** Converting eight existing abandoned railroad structures into pedestrian hiking/bicycle trail bridges by constructing wooden walkways and handrailing. Miscellaneous structural steel is required (angles, tiedown plates and gusset plates). All work is located in the Pine Creek Valley between the villages of Waterville and Slate Run.

**Department:** Conservation and Natural Resources  
**Location:** Brown, Cummings and McHenry Townships, Lycoming County, PA  
**Duration:** Complete all work by August 31, 1999  
**Contact:** Construction Management Section, (717) 787-5055

**DGS 982-75 Phase 1** Project title: Renovation/Restoration of Masonic Temple—Masonry Repair and Restoration. Brief description: Work consists of general construction requiring exterior masonry repair and restoration of existing steel casement windows, French doors and related transoms. General construction. Plans deposit: \$50 per set. Payable to: Palumbo and Baker, Inc./Kessler Associates, Inc. (JV). 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: Palumbo and Baker, Inc./Kessler Associates, Inc. (JV), 318 Penn Avenue, Scranton, PA 18503, (717) 961-2385. Bid date: Wednesday, September 23, 1998, at 1 p.m. A prebid conference has been scheduled for Monday, September 14, 1998, at 10 a.m. in the Second Floor Conference Room, Scranton Cultural Center, 400 block of Washington Avenue, Scranton, PA. Contact: Martin Yatsko, (717) 961-2385. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Scranton Cultural Center, Scranton, Lackawanna County, PA  
**Duration:** 150 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS 406-45** Project title: Asbestos Abatement and Water Damage Repairs, Concrete Restoration and Waterproofing. Brief description: Removal and decontamination of all asbestos and asbestos contaminated water damaged surfaces (ceilings, floors, walls); miscellaneous athletic equipment, floor coverings and partitions, plumbing and electrical fixtures including lights and heaters, cleaning and sanitizing ducts and grilles, replacing wet pipe insulation. Repair concrete seating area, new aluminum benches and new aluminum guard rails (each side). General, electrical and asbestos abatement 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) 787-3923. Bid date: Wednesday, September 30, 1998, at 11 a.m. A prebid conference has been scheduled for Thursday, September 17, 1998, at 10 a.m. in the Facilities Conference Room of Earley Hall, Edinboro University of PA, Edinboro, PA. Contact: William Coleman: (814) 732-2826. All contractors who have secured contract documents are invited and urged to attend this prebid conference. A walk through will be held immediately after the prebid conference. It is necessary to obtain a parking permit from the Campus Police Station. No one will be permitted to enter the facility without proper attire.

**Department:** General Services  
**Location:** Edinboro University, Edinboro, Erie County, PA  
**Duration:** 90 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-447** Project title: Restroom and Snack Bar Renovations. Brief description: Renovate existing men's toilet and install new women's toilet to meet ADA requirements. Renovate existing snack bar, including plumbing and electrical. General, plumbing and 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) 787-3923. Bid date: Wednesday, September 16, 1998, at 2 p.m.

**Department:** General Services  
**Location:** PennDOT District Office, Lycoming County, PA  
**Duration:** 150 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

## Drafting and Design Services—12

**RFP 06-98** Architectural services. Bloomsburg University of the State System of Higher Education, will select a firm for the purpose of professional design services, through all phases of construction for a new apartment complex on the upper campus of the University. Interested professionals should call Joe Quinn at (717) 389-4311 prior to September 16, 1998, to obtain a request for proposal for this project. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously worked for the System. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education. The proposal packages will be released in mid September, and all required information including prebid dates; bid response dates and information related to the responses will be included in that package.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA 17815  
**Duration:** 2 1/2 years  
**Contact:** Joseph C. Quinn, (717) 389-4311

## Engineering Services—14

**08430AG2242** To provide final design and services during construction (consultation during construction and shop drawing review) for the reconstruction of S. R. 0022, Section B02 located in the Municipality of Murrysville and Salem Township, Westmoreland County, Engineering District 12-0.

**Department:** Transportation  
**Location:** Engineering District 12-0  
**Duration:** Thirty-six (36) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

## Fuel Related Services—20

**M-2246** Storage Tank Removal. Underground storage tanks to be removed and closure work. Tanks: One—12,000 gallon; Two—3,000 gallon and One—5,000 gallon. Bid specifications available from agency purchasing department.

**Department:** Corrections  
**Location:** State Correctional Institution at Rockview, Box A, Route 26, Bellefonte, Centre County, PA 16823  
**Duration:** September 1, 1998 through June 30, 1999  
**Contact:** Cheryl Snook, Purchasing Agent II, (814) 355-4874, Ext. 206

**Contract No. FDC-400-441R** Removal and disposal of existing underground fuel systems at various sites (gasoline: One—500 gallon; Two—550 gallon and Ten—1,000 gallon tanks; diesel: One—550 gallon, One—1,000 gallon, and One—2,000 gallon tanks); provide and install new aboveground tanks at five sites; backfilling; testing; contaminated soil disposal and bituminous paving. Work is at the following State Parks: Delaware Canal, Ralph Stover, Evansburg, Ridley Creek and Beltzville and the Nolde and Jacobsburg Environmental Education Centers.

**Department:** Conservation and Natural Resources  
**Location:** Berks, Bucks, Carbon, Delaware, Montgomery and Northampton Counties, PA  
**Duration:** 180 days  
**Contact:** Construction Management Section, (717) 787-5055

**Hazardous Material Services—21**

**392465** Air quality analysis testing (Phase Contrast Microscopy Analysis (PMC)). To provide air quality asbestos analysis testing from cassette cartridge. The hospital will send cassette cartridge to vendor, vendor will analyze asbestos fiber count from cartridge and send information or fax information within 72 hours upon receiving cartridge.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** July 1, 1999 through June 30, 2002, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**HVAC—22**

**4513** Contractor shall provide all parts and labor to repair equipment and appliances located in the Culinary Department at the State Correctional Institution Greene.

**Department:** Corrections  
**Location:** State Correctional Institution Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370-8089  
**Duration:** July 1, 1999—June 30, 2001  
**Contact:** Carol A. Teegarden, (724) 852-5515

**K99007** Edinboro University of Pennsylvania is seeking bids for HVAC renovation in the Baron-Forness Library and Mc Nerney Hall, Edinboro University main campus. Bids are due by 2 p.m. on October 7, 1998, in the Purchasing Office, 219 Mc Nerney Hall, Edinboro, PA 16444. A prebid meeting will be held on September 9, 1998, at 10 a.m. in the University Center, Room 306. Plans and documents are available for \$35 (nonrefundable) from Tom Anderson, Purchasing Office at (814) 732-2704. MBE/WBE firms are urged to respond.

**Department:** State System of Higher Education  
**Location:** Edinboro University of Pennsylvania, Main Campus, Edinboro, PA 120 calendar days from Notice to Proceed  
**Contact:** Tom Anderson, Contract Specialist, (814) 732-2704

**CRE-0229** Contractor shall fabricate and install ductwork for the shower areas of blocks located at the State Correctional Institution at Cresson. Bid specifications on file in agency purchasing department.

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

**Project No. 503** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 4 hours of receiving a call either directly or by way of a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90-day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 3205 Lancaster Avenue, Philadelphia, Philadelphia County, PA  
**Duration:** October 1, 1998—June 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Lodging/Meeting—27**

**27** Provide meeting facilities (three, 1-week sessions) for the Department of Environmental Protection, Bureau of Personnel, Technical Academy.

**Department:** Environmental Protection  
**Location:** Within a 25-mile radius of the Downtown Capitol Complex, Harrisburg, PA  
**Duration:** Through June 30, 1999, with option to renew  
**Contact:** Ally Hubler, (717) 787-2471

**10-98-08** The Pennsylvania State Police is seeking a facility to conduct promotion testing in the Harrisburg area during the week of November 1 through 6, 1998, the requirements are single lodging rooms for 20 people, conference rooms and interview rooms, and hot and cold beverages. Also during the week of November 29 through December 4, 1998, the requirements are 10 single lodging rooms, meeting rooms and hot and cold beverages.

**Department:** State Police  
**Location:** Harrisburg, PA Area  
**Duration:** November 1 through 6, 1998 and November 29 through December 4, 1998  
**Contact:** Marge Chapman, P&S Division, (717) 783-5485

**Medical Services—29**

**SP 391551** Dental hygienist—To assist in the operation of the dental clinic at Wernersville State Hospital. Individual would help prepare consumers for the dentist and setup required instruments, take and develop x-rays, sterilize and care for instruments, equipment, supplies, medications and dental operating rooms, and assist the dentist when required. Individual must possess and maintain a current license/registration in this discipline within the Commonwealth of PA. Specific details are available upon request.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Route 422, P. O. Box 300, Wernersville, Berks County, PA 19565  
**Duration:** November 1, 1998 through October 31, 1999  
**Contact:** Karl Koenig, Purchasing Agent, (610) 670-4127

**SP 391547** Neurologist—To provide consultation services for the consumers of Wernersville State Hospital and also provide instruction sessions for the staff. Service shall be provided at an estimated requirement of 4 hours per month at a time mutually agreed upon. The individual who will provide the service must maintain a current PA medical license and be board eligible/certified in neurology.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Route 422, P. O. Box 300, Wernersville, Berks County, PA 19565  
**Duration:** November 1, 1998 through June 30, 2001  
**Contact:** Karl Koenig, Purchasing Agent, (610) 670-4127

**Property Maintenance—33**

**010** Construction project—Construction of cabinetry and counters for the Fort Pitt gift shop. Work will include: 1. The construction of a wood and glass reception counter with glass display case and recessed counter top for cash register. Finish to be an applied lacquer paint. 2. The construction of three floor-to-ceiling book shelves with removable flat shelving and an applied lacquer finish. 3. The construction of a single wall length two shelf book case with removable flat shelving and an applied lacquer finish. All work to be completed to professional cabinetry standards.

**Department:** Historical and Museum Commission  
**Location:** Fort Pitt Museum, Point State Park, 101 Commonwealth Place, Pittsburgh, PA 15222  
**Duration:** Contract for 3 months: October 1, 1998—January 1, 1999  
**Contact:** John Connolly, Maintenance Supervisor, (412) 281-9285

**E-1312** Assorted tree trimming/cutting as designated. To receive specifications, submit fax to Beverly O. Epting, Hamburg Center, Hamburg, PA 19526, fax (610) 562-6025.

**Department:** Public Welfare  
**Location:** Embreeville Center, Coatesville, PA 19320  
**Duration:** October 1, 1998—September 30, 1999  
**Contact:** Beverly O. Epting, Purchasing Agent, (610) 562-6031

**340170** Provide all supervision, labor and materials to grind, seal and restore terrazzo floors to original finish and lustre. Approximately 3,566 square feet in the Little Store at Mayview State Hospital.

**Department:** Public Welfare  
**Location:** Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599  
**Duration:** July 1, 1998—June 30, 1999  
**Contact:** F. Molisee, Purchasing Agent II, (412) 257-6215

**260242** Provide all supervision, labor and materials to grind, seal and restore terrazzo floors to original finish and lustre. Approximately 2,655 square feet of floor and 343 linear feet of cove base in Bengs Building main lobby.

**Department:** Public Welfare  
**Location:** Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599  
**Duration:** July 1, 1998—June 30, 1999  
**Contact:** F. Molisee, Purchasing Agent II, (412) 257-6215

**IN-777.1** Roof Replacement No. 2 Various Buildings. Work included under this project consists of roof replacement No. 2, various buildings consisting of removing existing E.P.D.M. roofing, gravel ballast, stainless steel coping, security lights, roof drains, ventilators, and the like to furnish and install new E.P.D.M. roofing, insulation, drains, curb caps, joint sealants, wood nailers, bronze colored fascia, and the like. Notice to contractors may be requested from IUP. Phone: (724) 357-2289. Fax: (724) 357-6480. Internet: <http://www.iup.edu/engcons>.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Indiana, PA 15705-1087  
**Duration:** Six (6) months  
**Contact:** Ronald E. Wolf, Procurement Specialist, (724) 357-4851

**SP402108** Remove all caulking and sealant in the floor and wall joints of the swimming pool. Apply new polyurethane joint sealant and backer rod to all pool joints.

**Department:** Conservation and Natural Resources  
**Location:** Codorus State Park, 1066 Blooming Grove Road, Hanover, PA 17331-9545  
**Duration:** 30 days after Notice to Proceed  
**Contact:** Gene Grifo, (717) 637-2816

**SP402109** Sandblast the entire swimming pool to remove all existing paint on the pool floor and walls.

**Department:** Conservation and Natural Resources  
**Location:** Codorus State Park, 1066 Blooming Grove Road, Hanover, PA 17331-9545  
**Duration:** 30 days after Notice to Proceed  
**Contact:** Gene Grifo, (717) 637-2816

**FM-67** Furnish all labor, materials and equipment for removal of snow, salting and cinderling from driveway and parking areas at the PA State Police, Warren Station, Scott Run Road, Warren, PA 16365. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Facility Management Division, Warren Station, Scott Run Road, Warren, PA 16365  
**Duration:** November 01, 1998 to June 30, 2000  
**Contact:** Deshawn Lewis or Joan Berkoski, (717) 783-5484

**SPC-403703** Dismantle automated conveyor system and pallet racking from PLCB distribution center in Philadelphia, PA. Conveyor system and racking to be stored in the warehouse facility.

**Department:** Liquor Control Board  
**Location:** 8201 Enterprise Avenue, Philadelphia, PA  
**Duration:** Approximately 3 weeks  
**Contact:** Nelson A. McCormick II, (717) 787-9851

**Real Estate Services—35**

**0-11** Independent Fee Appraisers are to be solicited to prepare Real Estate Appraisals for right-of-way damages in Chester County for 0100-023. Department policy requires that only fee bids from Commonwealth Prequalified Appraisers be considered.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** FY 98  
**Contact:** Bruce A. Hattersley, (610) 768-3013

**81A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Treasury Department with 9,766 useable square feet of new or existing office space, parking for 60 vehicles, property offered must be within a 4 mile radius of the Finance Building, Harrisburg, Dauphin County, PA. In areas where street or public parking is not available, an additional 30 parking spaces are required. Proposals due: September 28, 1998. Solicitation No.: 92721.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1998-99  
**Contact:** Jennings Ward, (717) 787-4394, Ext. 3106

**Sanitation—36**

**SP 320595** Sealed bids will be received at the Department of Conservation and Natural Resources, Park Region No. 2, P. O. Box 387, 195 Park Road, Prospect, PA 16052-0387, and then publicly opened and read. A bid opening date has not yet been set. For collection and disposal of solid waste at Ohiopyle State Park. A bid proposal containing all pertinent information must be obtained from the office of the Park Manager.

**Department:** Conservation and Natural Resources  
**Location:** Ohiopyle State Park, P. O. Box 105, Dinnerbell Road, Ohiopyle, PA 15470-0105  
**Duration:** January 1, 1999 to December 31, 2001  
**Contact:** Ohiopyle State Park, (724) 329-8591

**SP 400653** Provide trash removal to Fort Washington State Park, Whitmarsh Township, Montgomery County. Bid specifications may be received by calling the park office at (215) 646-2942. Scheduled bid opening—September 25, 1998 at 3 p.m. prevailing time.

**Department:** Conservation and Natural Resources  
**Location:** Ft. Washington State Park, 500 South Bethlehem Pike, Ft. Washington, PA 19034  
**Duration:** Three year contract, beginning January 1, 1999 and ending December 31, 2001  
**Contact:** Lori Nygard, Park Manager, (215) 646-2942

**Miscellaneous—39**

**392468** Provide necessary repairs to four hospital pool tables. Upon examination of the pool table, which shall include checking for: worn felt playing surface, damaged cushions, levelness and general structural soundness (legs, pockets, ball return and side panels). Replacement of felt must be Brunswick "Pro-Line" or equal. Also, repair of cue sticks. All repairs will be done in a professional and timely manner.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** July 1, 1999 through June 30, 2002, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**392469** Provide piano maintenance: To provide maintenance service for eight pianos throughout the hospital complex. The maintenance service includes: the tuning of eight pianos and make repairs if necessary. The service shall be done annually in the month of October for the shut-in months (November through March) use.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** July 1, 1999 through June 30, 2002, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**081-98-7000-40** Contractor to conduct a task analysis/training needs analysis and design/develop new, expanded basic and waiver training programs for deputy sheriffs under Act 1984-2 as amended by Act 1998-10. Project tasks will include the production of revised curricula with summary outlines, verification of training hours dedicated to each subject, production of various instructional support materials and examinations correlated to the curriculum. Projected RFP release date is September 16, 1998. Initial contract may be renewed for a second contract period. The PCCD is an equal opportunity employer.

**Department:** Executive Office  
**Location:** PA Commission on Crime and Delinquency, at sites provided by Contractor  
**Duration:** Multi-Year Contract: 2 years/renewable, 2 years  
**Contact:** Stephen Spangenberg, (717) 405-3693, Ext. 3040

[Pa.B. Doc. No. 98-1480. Filed for public inspection September 4, 1998, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> 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	Requisition or Contract #	Awarded On	To	In the Amount Of
0023-03	08/28/98	Sowers Printing Co.	116,640.00	1105048-01	08/25/98	Reynolds & Reynolds	99,877.94
0040-09	08/28/98	Digital Ink	104,600.00	1110128-01	08/25/98	Standard Register Co.	29,587.50
0049-04	09/01/98	Digital Ink	66,763.00	1683157-01	08/25/98	Reed Associates, Inc.	10,290.00
2540-01	08/17/98	Acco Chain and Lifting Products Div.	15,000.00	1877137-01	08/25/98	Barjan Manufacturing Ltd.	36,120.00
2540-01	08/17/98	A I D Parts Co.	15,000.00	8139330-01	08/25/98	Lezzer Lumber Co.	17,177.66
2540-01	08/17/98	Laclede Chain Manufacturing Co.	15,000.00	8183100-01	08/25/98	Pittsburgh Plumbing and Heating Supply	7,969.50
2540-01	08/17/98	Peerless Chain Co.	15,000.00	8193040-01	08/25/98	American Stone-Mix, Inc.	26,900.48
2540-01	08/17/98	Mack Sales and Service, Inc.	15,000.00	8249010-01	08/25/98	Five Star International LLC	4,557,935.12
2540-01	08/17/98	Pep Boys	15,000.00	8249020-01	08/25/98	Mack Trucks, Inc.	4,594,211.00
2540-01	08/17/98	Wallingfords, Inc.	15,000.00	8249030-01	08/25/98	Mack Sales and Service, Inc.	315,344.00
5625-01	09/01/98	Trevdan, Inc.	84,814.00	8249030-02	08/25/98	Evaco Enterprises, Inc.	28,114.00
5625-01	09/01/98	Whiteco Supply Co.	55,108.00	8249100-01	08/25/98	Regester Chevrolet, Inc.	1,555,602.00
6330-01	08/28/98	Standard Fusee Corp.	415,800.00	8249100-02	08/25/98	Manheim Chrysler Plymouth	518,420.00
6530-01	08/28/98	Jordan-Reses Home Health Care	20,000.00	8249130-01	08/25/98	Seely Equipment and Supply Co.	7,565.00
6530-01	08/28/98	Red Line Medical Supply	5,000.00	8249260-01	08/25/98	Stephenson Equipment, Inc.	89,720.00
1013158-01	08/25/98	Miller Electric Ltd. of PA	22,980.00	8249270-01	08/25/98	Plasterer Equipment Co.	36,456.00
1043158-01	08/25/98	Adolph Sufrin, Inc.	95,451.95	8249280-01	08/25/98	Elliott & Frantz, Inc.	551,604.00
1043158-02	08/25/98	National School Supply	102,408.19	8249290-01	08/25/98	Highway Equipment and Supply Co.	175,645.00
1043158-03	08/25/98	House of Doolittle	52,947.36	8249310-01	08/25/98	Furnival Machinery Co.	697,258.50
1043158-04	08/25/98	Kurtz Bros.	7,159.68	8249350-01	08/25/98	Plasterer Equipment Co., Inc.	721,462.60
1080128-01	08/25/98	NCR Corp.	25,485.00	8249350-02	08/25/98	Groff Tractor and Equipment, Inc.	79,461.70
1089168-01	08/25/98	Dupli Envelope and Graphics Corp.	2,175.00				
1090208-01	08/25/98	Dupli Envelope and Graphics Corp.	3,980.00				
1097208-01	08/25/98	Guth Laboratories, Inc.	29,700.00				

STATE CONTRACTS INFORMATION

4599

Requisition or Contract #	Awarded On	To	In the Amount Of
8249410-01	08/25/98	Custom Trailer, Inc.	91,539.00
8249420-01	08/25/98	Concord Road Equipment Mfg., Inc.	41,940.00
8249450-01	08/25/98	Shaul Equip- ment and Supply Co.	153,623.78
8249490-01	08/25/98	F & S Supply Co., Inc.	61,108.75
8249510-01	08/25/98	F & S Supply Co., Inc.	54,387.00

Requisition or Contract #	Awarded On	To	In the Amount Of
8249530-01	08/25/98	Keystone Truck Equipment, Inc.	56,489.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 98-1481. Filed for public inspection September 4, 1998, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 121]

### Special Funds Assessments

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), proposes to provide clarifications and detailed guidance for the uniform application of section 2218 of the act of November 26, 1997 (P. L. 530, No. 57) (Act 57), as it affects the Pennsylvania Workers' Compensation Act (act) (77 P. S. §§ 1—2626). The Department proposes to amend §§ 121.1, 121.22 and 121.23 (relating to definitions; subsequent injury fund; and the supersedeas fund) insofar as they address assessments for the Subsequent Injury and Supersedeas Funds. In addition, the Department proposes to add sections to Chapter 121 (relating to general provisions) to implement section 2218 of Act 57 (77 P. S. § 578) and to refine existing procedures for assessment collection and calculation. These amendments are contemplated and designed to both implement the provisions of section 2218 of Act 57 and clarify existing procedures relating to the calculation and collection of assessments for the Subsequent Injury Fund, Supersedeas Fund and Workmen's Compensation Administration Fund (special funds), as well as the assessment authorized under section 1303 of the act (77 P. S. § 1041.3) for the purpose of funding the operation of the Office of Small Business Advocate.

#### *Statutory Authority*

These amendments are proposed under the authority of section 2218 of Act 57, which provides: "[T]he assessments for the maintenance of the Subsequent Injury Fund, the Workmen's Compensation Supersedeas Fund and the Workmen's Compensation Administration Fund under sections 306.2, 443 and 446 of the act . . . shall no longer be imposed on insurers but shall be imposed, collected and remitted through insurers in accordance with regulations promulgated by the Department of Labor and Industry." These amendments are proposed under the additional authority of 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 explanation and enforcement of the act and which are reasonably calculated to provide interested parties with their rights and obligations under the act.

#### *Background*

On November 26, 1997, Governor Tom Ridge signed into law Act 57, which amended sections 306.2, 443 and 446 of the act (77 P. S. §§ 517, 999 and 1000.2). The amendment is designed to allow the imposition, collection and remittance of assessments "through" insurers on behalf of employers, rather than the imposition of assessments "on" insurers. In an effort to streamline the assessment and collection procedures, this proposed rulemaking fulfills the Legislative directive which states that this change shall be effected "in accordance with regulations promulgated by the Department of Labor and Industry." This proposed rulemaking further clarifies and amends existing sections of Chapter 121, and adds new sections to implement section 2218 of Act 57.

#### *Purpose*

The purpose of these proposed amendments is to effectuate the provisions of section 2218 of Act 57 and to clarify and enforce the provisions of the act which provide for assessments for the special funds and the Office of Small Business Advocate. In addition, these proposed amendments clarify procedures relating to operations of the special funds.

#### *Affected Persons*

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

#### *Fiscal Impact*

There is no significant fiscal impact associated with this proposed rulemaking. These amendments require no new forms nor do they result in any significant costs to the Commonwealth. Similarly, these proposed amendments have been written to prevent any significant costs to the regulated community associated with their implementation.

#### *Summary of Proposed Rulemaking: Chapter 121*

These proposed amendments provide detailed guidance for the imposition, collection and remittance of assessments for the special funds through insurers in accordance with section 2218 of Act 57. In addition, the Department proposes amendments intended to clarify that self-insured employers and runoff self-insurers remain liable for assessments for the special funds.

The Department, through this proposed rulemaking, proposes amending § 121.1 to include definitions for the following terms: "act"; "approved rating organization"; "Bureau"; "Department"; "earned premium"; "insurance carrier"; "insured employer"; "insurer"; "runoff self-insurer"; "self-insured employer"; and "special funds." The amendment to this section are intended to define terms used throughout this chapter and to clarify assessment procedures by defining terms to correspond to Chapter 125 (relating to workers' compensation self-insurance).

The Department has proposed an amendment to § 121.22. This amendment is intended to provide a means of calculating and collecting assessment amounts under Act 57. These assessments will be collected from insured employers, through insurance carriers, according to the procedures defined by the approved rating organization and approved by the Insurance Commissioner (Commissioner). Insurance carriers shall be responsible for collecting these assessments and timely remitting them to the Department in accordance with the formula in this section.

The Department additionally has proposed an amendment to § 121.23. These amendments are intended to provide a means of calculating and collecting assessment amounts under Act 57. The amendment specifies that, for calculation of supersedeas fund assessment amounts, the total amount reimbursed from the fund in the preceding calendar year includes both: 1) amounts expended from the fund; and 2) amounts accrued as payable from the fund during the preceding year. In addition, the amendment provides that Applications for Supersedeas Fund Reimbursement will be reviewed administratively and will be assigned to a Workers' Compensation Judge only when the payment or amount of reimbursement cannot be



agreed upon, thus conserving judicial resources for contested applications. This assessment will be collected from insured employers, through insurance carriers, according to the procedures defined by the approved rating organization and approved by the Commissioner. Insurance carriers shall be responsible for collecting these assessments and timely remitting them to the Department in accordance with the formula in this section.

The Department, through this proposed rulemaking, proposes to amend Chapter 121 by adding §§ 121.31—121.34.

The Department proposes the addition of § 121.31 (relating to Workmen's Compensation Administration Fund). This proposed regulation provides the calculation necessary for determining the appropriate assessment amount for the Workmen's Compensation Administration Fund. This assessment will be collected from insured employers, through insurance carriers, according to the procedures defined by the approved rating organization and approved by the Commissioner. Insurance carriers shall be responsible for collecting these assessments and timely remitting them to the Department in accordance with the formula in this section.

The Department further proposes that Chapter 121 be amended by adding § 121.32 (relating to Office of Small Business Advocate). This amendment provides for calculation of the appropriate assessment amount for the Office of Small Business Advocate. Self-insured employers and runoff self-insurers are not subject to this assessment, which is an assessment solely on insurance carriers. Currently the Department collects this assessment under the authority of a preexisting memorandum of understanding between the Department and the Insurance Department. The memorandum of understanding requires that the Department "continue to make the assessments required by section 1303 of the Workers' Compensation Act, on behalf of the Insurance Department, against workers' compensation insurers for the operations of the Office of Small Business Advocate related to filings made by rating organizations." To this extent, these amendments are necessary to allow the Department to meet its obligations under the memorandum of understanding. The assessment for the Office of Small Business Advocate will be collected from insurance carriers according to the ratio which each insurance carrier's payments of compensation bears to the total amount of compensation paid by all insurance carriers in the preceding calendar year, multiplied by the approved budget of the Office of Small Business Advocate for the current fiscal year.

Section 121.33 (relating to collection of special funds assessments) of the proposed rulemaking is designed to establish a procedure for collecting assessments in accordance with section 2218 of Act 57. The proposed section establishes that insurers, on behalf of their insured employers, are responsible to the Department for the imposition, collection and remittance of certain assessments. This confirms the language of Act 57, which states: "The assessments for the maintenance of the Subsequent Injury Fund, the Workmen's Compensation Supersedeas Fund and the Workmen's Compensation Administration Fund under sections 306.2, 443 and 446 of the act . . . shall no longer be imposed on insurers but shall be imposed, collected and remitted through insurers."

Section 121.34 (relating to objections to assessments) of the proposed rulemaking proposes the adoption of procedures for insurers' objections to assessments. This proposed section provides that objections by insurers must be

made within 15 days of receipt of the "Notice of Assessment Amount to be Collected" issued under § 121.33. Objections must be in writing and specifically state the facts necessary to determine the validity of the challenge. Upon receipt of objections conforming to these proposed regulations, the Department will hold a hearing in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). After the hearing, the Department will transmit its findings on the objections to the objecting party. With respect to insured employers, this proposed rulemaking states that insured employers retain all rights conferred by section 717 of the act (77 P. S. § 1035.17).

The Department, through this proposed rulemaking, also proposes the addition of § 121.35 (relating to annual reports of compensation paid). This section clarifies that reports of compensation paid shall include amounts paid by an insurer for which policyholders have agreed to reimburse the insurer under deductible policies issued under section 448 of the act (77 P. S. § 1000.4). This section is meant to clarify that compensation includes all compensation paid whether paid under deductible or nondeductible policies and regardless of whether amounts are reimbursed by insured employers under deductible policies.

#### *Effective Date*

These proposed amendments will be effective on publication and shall apply to all assessments issued on or after July 1, 1998.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 26, 1998, the Department submitted copies of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Labor Relations Committee and the Senate Labor and Industry Committee (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, Regulatory Review and Promulgation. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion of the proposed amendments. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of objections raised prior to final publication of the final-form regulations.

#### *Public Comment and Contact Person*

For further information regarding this proposed rulemaking, interested parties may contact Richard A. Himler, Director, Bureau of Workers' Compensation, P. O. Box 15121, Harrisburg, PA 17105-5121. Interested persons are invited to submit written comments to Richard A. Himler, Director, at this address, within 30 days following publication in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

JOHNNY J. BUTLER,  
*Secretary*

**Fiscal Note:** 12-53. No fiscal impact; (8) recommends adoption.

Annex A  
**TITLE 34. LABOR AND INDUSTRY**  
**PART VIII. BUREAU OF WORKERS'**  
**COMPENSATION**  
**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. General.**

(a) [The provisions of this] This chapter [are] has been promulgated in response to the legislative mandate in the [Workers' Compensation Act (77 P. S. §§ 1—1041.4)] act and designed to further the lawful, efficient[, ] and speedy administration of the act. The term employer as used in [the provisions of] this chapter [shall mean] means, where applicable, the insurer thereof and a self-insured employer.

(b) *Definitions.*

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

*Act*—The Workers' Compensation Act (77 P. S. §§ 1—2626).

*Approved rating organization*—One or more organizations situated within this Commonwealth, subject to supervision and to examination by the Insurance Commissioner and approved by the Insurance Commissioner as adequately equipped to perform the functions specified in Chapter 7B of the act (77 P. S. §§ 1035.1—1035.22), on an equitable and impartial basis.

*Bureau*—The Bureau of Workers' Compensation.

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

*Earned premium*—A "direct premium earned" as required to be reported to the Insurance Department on Special Schedule "W," under section 655 of the Insurance Company Law of 1921 (40 P. S. § 815).

*Insurance carrier*—An entity subject to the Insurance Company Law of 1921, including the State Workers' Insurance Fund. The term does not include self-insured employers or runoff self-insurers, with which an employer has insured its liability under section 305 of the act (77 P. S. § 501).

*Insured employer*—An employer which has chosen to insure its workers' compensation liabilities through a workers' compensation insurance carrier licensed to do so in this Commonwealth. The term "employer" when used in this context does not include the insurer thereof.

*Insurer*—A workers' compensation insurance carrier which is licensed to insure workers' compensation liabilities in this Commonwealth and acts in this capacity on the behalf of insured employers. The term includes a self-insured employer and a runoff self-insurer.

*Runoff self-insurer*—An employer that had been a self-insurer but no longer maintains a current permit to self-insure under section 305 of the act.

*Self-insured employer*—An employer which has been granted the privilege to self-insure its liability under the act. The term includes a parent company or affiliate which has assumed a subsidiary's or an

affiliate's liability upon the termination of the parent-subsidiary or affiliate relationship, and a runoff self-insurer.

*Special funds*—Funds maintained under sections 306.2, 443 and 446 of the act (77 P. S. §§ 517, 999 and 1000.2).

**§ 121.22. Subsequent injury fund.**

(a) Compensation for a subsequent injury, as defined in section 306.1 of the [Workers' Compensation Act] act (77 P. S. § 516) shall be paid as follows:

(1) The [insurer] employer shall be responsible for payments due for specific loss under section 306(c) of the [Workers Compensation Act] act (77 P. S. § 513).

(2) Upon expiration of the specific loss period, the Department [of Labor and Industry] will be responsible for additional compensation due for the duration of total disability. [The sum of \$100,000 shall be appropriated to the Department for that purpose. This] The fund established under section 306.2 of the act (77 P. S. § 517), from which these payments are to be made, shall be maintained as follows:

(i) Self-insured employers shall pay assessments in amounts determined by the following:

<p><i>Amount of Compensation Paid by [an Insurer] a Self-insured Employer during the Preceding Calendar Year</i></p>	×	<p>[The Amount Expended] The Amount Expended from the Subsequent Injury Fund during the Preceding Calendar Year</p>
<p><i>Total Amount of Compensation Paid by All Insurers during the Preceding Calendar Year</i></p>		

(ii) The amount expended from the Subsequent Injury Fund during the preceding calendar year, minus the total amount owed by all self-insured employers, as accumulated under the preceding paragraph, shall equal the "Aggregate Amount to be Collected by Insurance Carriers."

(b) [Each insurer will be assessed an amount determined by the formula, except that in the first year assessments will be made at a rate of 200%. Reassessments will be made annually for the continued maintenance of this fund.] Insurance carriers shall collect from insured employers and remit to the Department assessment amounts as follows:

<p><i>Amount of Earned Premium as Reported to the Insurance Department, by an Insurance Carrier, for the Preceding Calendar Year</i></p>	×	<p><i>Aggregate Amount to be Collected by Insurance Carriers</i></p>
<p><i>Total Amount of Earned Premium Reported to the Insurance Department by all Insurance Carriers for the Preceding Calendar Year</i></p>		

(c) Insured employers shall remit assessment amounts through their insurance carriers, according to procedures defined by the approved rating organization and approved by the Insurance Commissioner.

(d) Self-insured employers and runoff self-insurers shall be directly responsible to the Department for payment of assessments.

(e) The claimant shall file a petition for additional compensation as provided in section 315 of the [ **Workers' Compensation Act** ] act (77 P. S. § 602) or the claim will be forever barred.

**§ 121.23. The supersedeas fund.**

(a) [ **Under** ] Annual assessments under section 443 of the [ **Workers' Compensation Act** ] act (77 P. S. § 999) [ **each insurer** ] shall be [ **annually assessed an amount as** ] in amounts determined by the following [ **formula** ]:

(1) Self-insured employers shall pay assessments in amounts determined by the following:

$$\frac{\text{Amount of Compensation Paid by [ an Insurer ] a Self-insured Employer during the Preceding Calendar Year}}{\text{Total Amount of Compensation Paid by All insurers during the Preceding Calendar Year}} \times \text{The Amount of Supersedeas Payments Made or Accrued as Payable during the Preceding Calendar Year}$$

(2) The amount of supersedeas payments made or accrued as payable during the preceding year, minus the total amount owed by all self-insured employers, as accumulated under the preceding paragraph, shall equal the "Aggregate Amount to be Collected by Insurance Carriers."

(3) Insurance carriers shall collect from insured employers and remit to the Department assessment amounts as follows:

$$\frac{\text{Amount of Earned Premium as Reported to the Insurance Department, by an Insurance Carrier, for the Preceding Calendar Year}}{\text{Total Amount of Earned Premium Reported to the Insurance Department by all Insurance Carriers for the Preceding Calendar Year}} \times \text{Aggregate Amount to be Collected by Insurance Carriers}$$

(b) Insured employers shall remit assessment amounts through their insurance carriers, according to procedures defined by the approved rating organization and approved by the Insurance Commissioner.

(c) Self-insured employers and runoff self-insurers shall be directly responsible to the Department for payment of assessments.

(d) Applications for reimbursement shall be filed directly with the Bureau [ **of Occupational Injury and Disease Compensation, Department of Labor and Industry, Harrisburg, Pennsylvania 17120** ], on Form [ **OIDC-662** ] LIBC-662, [ **Request** ] "Application for Supersedeas Fund Reimbursement." [ **All applications shall be promptly assigned to a referee of the Department who shall make a determination as to eligibility for reimbursement, after affording parties in interest, and the Commonwealth, the opportunity for a hearing.** ] Applications will be processed administratively. When the payment or amount of reimbursement cannot be agreed upon, the matter will be assigned to a workers' compensation judge for a formal hearing and adjudication.

**§ 121.31. Workmen's Compensation Administration Fund.**

(a) Annual assessments on self-insured employers, under section 446(b) of the act (77 P. S. § 1000.2(b)), shall be in amounts determined by the following:

$$\frac{\text{Amount of Compensation Paid by a Self-insured Employer during the Preceding Calendar Year}}{\text{Total Amount of Compensation Paid by All Insurers during the Preceding Calendar Year}} \times \text{The Approved Budget of the Workmen's Compensation Administration Fund for the Current Fiscal Year}$$

(b) The approved budget of the Workmen's Compensation Administration Fund for the current fiscal year, minus the total amount owed by all self-insured employers, as accumulated under the preceding subsection, shall equal the "Aggregate Amount to be Collected by Insurance Carriers."

(c) Insurance carriers shall collect from insured employers and remit to the Department assessments as follows:

$$\frac{\text{Amount of Earned Premium as Reported to the Insurance Department, by an Insurance Carrier, for the Preceding Calendar Year}}{\text{Total Amount of Earned Premium Reported to the Insurance Department by all Insurance Carriers for the Preceding Calendar Year}} \times \text{Aggregate Amount to be Collected by Insurance Carriers}$$

(d) Insured employers shall remit assessment amounts through their insurance carriers, according to procedures defined by the approved rating organization and approved by the Insurance Commissioner.

(e) Self-insured employers and runoff self-insurers shall be directly responsible to the Department for payment of assessments.

**§ 121.32. Office of Small Business Advocate.**

(a) The Department may collect annual assessments imposed on insurance carriers, but not on self-insured employers or runoff self-insurers, for the purpose of funding the Office of Small Business Advocate in accordance with section 1303 of the act (77 P. S. § 1041.3). Insurance carriers shall be directly liable to the Department for prompt payment of assessments for the Office of Small Business Advocate, as provided in the act and this chapter.

(b) Annual assessments under section 1303 of the act shall be in amounts as determined by the following formula:

$$\frac{\text{Amount of Compensation Paid by an Insurance Carrier, but not a Self-insured Employer or Runoff Self-insurer, during the Preceding Calendar Year}}{\text{Total Amount of Compensation Paid by All Insurance Carriers, but not Self-insured Employers or Runoff Self-insurers, during the Preceding Calendar Year}} \times \text{The Approved Budget of the Office of Small Business Advocate for the Current Fiscal Year}$$

**§ 121.33. Collection of special funds assessments.**

(a) The Department will collect assessments for the special funds by calculating the total amount which:

(1) Each self-insured employer is liable for paying to the Department.

(2) Each insurance carrier is responsible for collecting from insured employers and remitting to the Department.

(b) Assessments for the special funds shall be imposed, collected and remitted as follows:

(1) The Department will transmit to each insurance carrier and self-insured employer a "Notice of Assessment Amount to be Collected," which shall specify the amount calculated under subsection (a) and the date on which the amount is due.

(2) Each self-insured employer shall timely remit to the Department the amount calculated under subsection (a)(1).

(3) Each insurance carrier shall collect payment for assessments from insured employers according to the procedures defined by the approved rating organization and approved by the Insurance Commissioner and timely remit payment to the Department.

(4) The failure of an insurance carrier to receive payment from an insured employer does not limit an insurance carrier's responsibility to collect and timely remit to the Department the total amount calculated under subsection (a)(2).

**§ 121.34. Objections to assessments.**

(a) A party receiving a "Notice of Assessment Amount to be Collected" from the Department may, within 15 days of receipt, object to the assessment reflected in the notice on the basis that it is excessive, erroneous, unlawful or invalid. Objection to assessment does not relieve an insurer of its obligation to promptly remit assessment amounts imposed under section 306.2, 443, 446 or 1303 of the act (77 P. S. §§ 517, 999, 1000.2 and 1041.3). Insured employers retain all rights provided under section 717 of the act (77 P. S. § 1035.17), regarding requests for review and appeals to the Insurance Commissioner.

(b) Objections shall be set forth in numbered paragraphs, specifically state the facts necessary to determine the validity of the challenged assessment or assessment amount and be accompanied by a supporting memorandum documenting the legal grounds for the objection or objections.

(c) Any objection to an assessment or assessment amount shall be accompanied by a Proof of Service as specified in 1 Pa. Code § 33.35 (relating to proof of service) and a notice of appearance as specified in 1 Pa. Code § 31.24 (relating to notice of appearance), and shall be served on all interested parties as specified in 1 Pa. Code § 33.32 (relating to service by a participant).

(d) Any objection not conforming to this section or the act will be rejected by the Department. The Department will notify the objecting party of the specific reasons for rejection. The objecting party shall have 30 days to cure any deficiency.

(e) Upon receipt of an objection which conforms to this section and the act, the Department will hold a hearing in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure). After the hearing, the Department will record its findings on the objections and will transmit to the objector, by registered or certified mail, notice of the amount, if any, charged against it in accordance with the findings. That amount shall be paid by the objector within 10 days after receipt of the findings unless within that time the objector initiates an action in the appropriate court to restrain the collection or payment of the assessment.

**§ 121.35. Annual reports of compensation paid.**

Every annual report of compensation paid made by an insurer under sections 445 and 446(e) of the act (77 P. S. §§ 1000.1 and 1000.2(e)) shall include amounts paid by an insurer for which policyholders have agreed to reimburse the insurer under deductible policies issued under section 448 of the act (77 P. S. § 1000.4).

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