

PENNSYLVANIA BULLETIN

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Number 13
Pages 1333—1540

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Environmental Quality Board
Administration of Sewage Facilities,
Planning Program and Standards for
Sewage Disposal Facilities (Act 149)

Part I

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Turnpike Commission

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

No. 256, March 1996

PENNSYLVANIA

BULLETIN

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Pennsylvania Bulletin

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

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

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

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

There are no restrictions on the republication of official documents appearing in 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.

SUBSCRIPTION INFORMATION: (717) 766-0211
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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.

List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1996.

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Volume 26
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Part II

This part contains the
Environmental Quality Board
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THE GOVERNOR

GOVERNOR'S OFFICE

Proclamation of Disaster Emergency

Whereas, a very large and disastrous fire has occurred in Philadelphia, Pennsylvania, on March 13, 1996, resulting in the destruction of a highway bridge which is a part of Interstate 95 and the closing of Interstate 95; and

Whereas, this fire has created serious and emergent disruption to commerce and transportation in Philadelphia by severing the established trade and travel patterns for transporting all manner of commercial products and by seriously interfering with the ability of residents to travel from their places of residence to their places of business or other sources of livelihood; and

Whereas, in addition to the economic aspects of this disaster, there is serious concern for the public safety and well-being of residents located in the immediate vicinity of the fire; and

Whereas, it is necessary to take immediate steps to provide for the reopening of Interstate 95 and to repair and reconstruct the bridge and structures associated with the highway; and

Whereas, sections 120(e) and 125 of Title 23, U. S. Code have made provision for catastrophes befalling states such as have occurred in this instance;

Therefore, I, Tom Ridge, Governor of the Commonwealth of Pennsylvania, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 *et seq.*), do hereby proclaim an emergency to exist on Interstate 95 in the City of Philadelphia in the location of the fire which occurred today. Immediate repair and reconstruction of Interstate 95 and any related structures and facilities is vital to the security, well-being and health of the citizens of the Commonwealth of Pennsylvania, and the Federal Highway Administrator is hereby requested to concur in the declaration of emergency. In addition, I authorize the Secretary of the Department of Transportation to use all available equipment, resources and personnel of the Department and to dispense with time-consuming bid and contract procedures and formalities, in whatever manner he deems necessary, to ensure that the damage to Interstate 95 and related facilities and structures is repaired as expeditiously as possible. I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources and personnel to respond immediately and effectively in repairing, reconstructing or replacing this highway and related facilities, or in undertaking any new construction.

GIVEN under my hand and Great Seal of the Commonwealth, this thirteenth day of March, in the year of our Lord, one thousand, nine-hundred and ninety-six, and of the Commonwealth, the two-hundred and twentieth.

Governor

[Pa.B. Doc. No. 96-473. Filed for public inspection March 29, 1996, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 17]

Proposed Amendment to the Official Note to Pa.R.A.P. 1701; Recommendation No. 30

The Appellate Court Rules Committee proposes to amend the Official Note to Rule 1701 of the Pennsylvania Rules of Appellate Procedure. The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent not later than May 30, 1996 to Dean R. Phillips, Esquire, Counsel, Appellate Court Rules Committee, Exton Office Court, 300-F North Pottstown Pike, Exton, PA 19341.

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

ROBERT L. BYER,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

IN GENERAL

Rule 1701. Effect of Appeal Generally.

* * * * *

Official note: The following statutory provisions relate to supersedeas generally:

* * * * *

[Rule 5102 of these rules saves the provisions of the last sentence of Section 423 of the Public Welfare Code (62 P. S. § 423), which provides that an appeal operates as a supersedeas in certain public assistance matters and Section 9 of the Pennsylvania Human Relations Act (43 P. S. § 959), which provides that an appeal from an order of the Commission operates as a supersedeas.]

Subdivision (b)(3) is intended to handle the troublesome question of the effect of application for reconsideration on the appeal process. The rule (1) permits the trial court or other government unit to grant reconsideration if action is taken during the applicable appeal period, which is not intended to include the appeal period for cross appeals, or, during any shorter applicable reconsideration period under the practice below, and (2) eliminates the possibility that the power to grant reconsideration could be foreclosed by the taking of a "snap" appeal. The better procedure under this rule will be for a party seeking reconsideration to file an application for reconsideration below and a notice of appeal, etc. If the application lacks

merit the trial court or other government unit may deny the application by the entry of an order to that effect or by inaction. The prior appeal paper will remain in effect, and appeal will have been taken without the necessity to watch the calendar for the running of the appeal period. If the trial court or other government unit fails to enter an order "expressly granting reconsideration" (an order that "all proceedings shall stay" will not suffice) within the time prescribed by these rules for seeking review, Subdivision (a) becomes applicable and the power of the trial court or other government unit to act on the application for reconsideration is lost.

Subdivision (b)(3) provides that: "(W)here a timely order of reconsideration is entered under this paragraph, the time for filing a notice of appeal or petition for review begins to run anew after entry of the decision on reconsideration." Pursuant to Pa.R.C.P. 1930.2, effective July 1, 1994, where reconsideration from a domestic relations order has been timely granted, a reconsidered decision or an order directing additional testimony must be entered within 120 days of the entry of the order granting reconsideration or the motion shall be deemed denied. See Pa.R.C.P. 1930.2(c), (d) and (e). The date from which the appeal period will be measured following a reconsidered decision in a domestic relations matter is governed by Pa.R.C.P. 1930.2(d) and (e).

Under the 1996 amendments to the Rules of Criminal Procedure governing post-sentence practice, see Pa.Rs.Crim.P. 1410 and 1411, reconsideration of a decision on a defendant's post-sentence motion or on a Commonwealth motion to modify sentence must take place within the time limits set by those rules, and the judge may not vacate sentence or "grant reconsideration" pursuant to subdivision (b)(3) in order to extend the time limits for disposition of those motions. The amendments to Pa.R.Crim.P. 1410 and new Pa.Crim.P. 1411 resolve questions raised about the interplay between this subdivision and post-trial criminal practice. See, e.g., *Commonwealth v. Corson*, 444 A.2d 170 (Pa. Super, 1982).

[Subdivision (b)(4) is based on the act of March 26, 1827 (P. L. 131, No. 61) (9 Sm.L. 308, Ch. 5936) (28 P. S. §§ 2 and 3), which is suspended absolutely by these rules.

Subdivision (c) is based on the last sentence of act of May 19, 1897 (P. L. 67, No. 53), § 176 (12 P. S. § 1154), which is suspended absolutely by these rules, and makes no change in substance.

See Pa.R.Crim.P. 1410 regarding motion to modify sentence and comment thereto containing an alert that the sentencing court is likely to have only thirty days from the imposition of sentence within which to act to modify the sentence.]

Explanatory Comment

New paragraph seven of the proposed note regarding 1701(b)(3) addresses the unique practice on reconsideration for matters pursuant to Pa.R.C.P. 1930.2.

New paragraph eight of the proposed note addresses the proposed 1996 amendment to Pa.R. Crim.P. 1410 (Post Sentence Procedures; Appeal) and proposed new

Pa.R. Crim.P. 1411 (Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals) and explains that the trial judge may not vacate sentence or grant reconsideration pursuant subparagraph (b)(3) in order to extend that absolute time limits in present Rule 1410 and the proposed absolute time limits in Rule 1411.

Paragraph six of the old note referring to section 423 of the Public Welfare Code, 62 P.S. § 423 is deleted as obsolete.

Paragraphs eight and nine of the old note are deleted as obsolete. The statutes cited were repealed by the Judiciary Repealer Act, 42 P.S. § 20002(a)[107], [820].

Paragraph ten of the old note is deleted. This is a moot reference to the former Pa.R.Crim.P. 1410 (motion to modify sentences) rescinded March 22, 1993, effective as to cases in which determination of guilt occurs on or after January 1, 1994.

[Pa.B. Doc. No. 96-474. Filed for public inspection March 29, 1996, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CH. 1400]

Proposed New Pa.R.Crim.P. 1411; Proposed Amendments to Pa.R.Crim.P. 1410

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt PA.R.Crim.P. 1411 (Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals) and amend Rule 1410 (Post-Sentence Motion; Appeal). The proposed amendments provide procedures for Commonwealth sentencing challenges and also make it clear that judges may not vacate sentence in order to extend the time for consideration of a post-sentence motion or a Commonwealth motion to modify sentence. A correlative revision to the Note to Pa.R.A.P. 1701 appears in the Appellate Court Rules Committee Recommendation 30, published simultaneously with this proposal.

The following explanatory Report highlights the issues considered in formulating this proposal. As such, the Report should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of our explanatory *Reports*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel Anne T. Panfil, Chief Staff Counsel, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901, no later than May 30, 1996.

By the Criminal Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 1400. SENTENCING

Rule 1410. Post-Sentence Procedures; Appeal.

A. *Timing.*

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(3) If the defendant does not file a post-sentence motion, **the defendant's** notice of appeal shall be filed within 30 days of imposition of sentence, **except as provided in paragraph A(4).**

(4) If the Commonwealth files a motion to modify sentence pursuant to Rule 1411, the defendant's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion.

B. *Optional Post-Sentence Motion.*

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(3) *Time Limits for Decision on Motion.*

The judge shall not vacate sentence pending decision on the post-sentence motion, but shall decide the motion as provided in this paragraph.

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Official Note: Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993, and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; **amended** _____, **effective** _____.

Comment

This rule is derived from previous Rules 321, 1123, and 1410. *See also* Rules 1122, 1124, and 1125.

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Timing

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When a defendant files a timely post-sentence motion, the 30-day period for the defendant's direct appeal on all matters in that case—including all issues related to any informations and any charges consolidated against the defendant for trial—is triggered by the trial judge's decision on the post-sentence motion or the denial of the motion by operation of law. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by a defendant while his or her post-sentence motion is pending. *See* subsection A(2). If no timely post-sentence motion is filed, the **defendant's** appeal period runs from the date sentence is imposed. *See* subsection A(3). **Under subsection A(4), however, when the defendant has not filed a post-sentence motion but the Commonwealth files a motion to modify sentence under Rule 1411, it is the entry of the order disposing of the Commonwealth's motion that commences the 30-day period during which the defendant's notice of appeal must be filed. See Rule 1411(B)(2)(b).**

All references to appeals in this rule relate to the defendant's right to appeal. The rule does not address or alter the Commonwealth's right to appeal. **For Commonwealth challenges to sentences, see Rule 1411.**

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Disposition

Under subsection B(3), once the defendant makes a timely written post-sentence motion, the judge retains jurisdiction for the duration of the disposition period. **[It is not necessary for the judge to vacate the sentence imposed.]** The judge may not vacate the order imposing sentence pending decision on the post-sentence motion. This is so whether or not the Commonwealth files a motion to modify sentence. See Rule 1411(B)(2)(a).

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If the trial judge **[grants reconsideration on the post-sentence motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701, the]** decides the motion within the limits of this rule, the judge may reconsider that decision, but the judge may not vacate the sentence pending reconsideration, Rule 1410B(3). The reconsideration period may not be used to extend the timing requirements set forth in section B(3) for decision on the post-sentence motion: the time limits imposed by subsections B(3)(a) and B(3)(b) continue to run from the date the post-sentence motion was originally filed. The trial judge's reconsideration must therefore be resolved within the 120-day decision period of subsection B(3)(a) or the 30-day extension period of subsection B(3)(b), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-sentence motion, including any issues raised for reconsideration, will be denied pursuant to subsection B(3)(c).

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Miscellaneous

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Issues **[raised]** properly preserved at the sentencing proceeding need not, but may **[,]** be raised again in a motion to modify sentence in order to preserve them for appeal. In deciding whether to move to modify sentence, counsel **[should]** must carefully consider whether the record created at the sentencing proceeding is adequate for appellate review of the issues, **or the issues may be waived.** See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995). See also Rule 1405.C(4). As a general rule, the motion to modify sentence under subsection B(1)(a)(v) gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence **[however,]** under subsection B(1)(a)(v) or Rule 1411 (Commonwealth Challenges to Sentence; Sentencing Appeals), a party wishing to challenge the decision on the motion

does not have to file an additional motion to modify sentence in order to preserve **[the issue(s)]** an issue for appeal, as long as the issue was properly preserved at the time sentence was modified or reimposed.

Commonwealth challenges to sentences are governed by Rule 1411. If the defendant files a post-sentence motion, the time limits for decision on the defendant's motion govern the time limits for disposition of the Commonwealth motion to modify sentence, regardless of which motion is filed first. See the Comment to Rule 1411(B)(2)(a). If the defendant elects to file an appeal and the Commonwealth files a motion to modify sentence, decision on the Commonwealth's motion triggers the defendant's 30-day appeal period. See Rule 1410A(4).

Given that the Commonwealth has 10 days to file a motion to modify sentence under Rule 1411(B)(1), it is possible that the defendant might elect to file a notice of appeal under paragraph Rule 1410A(3) followed by the Commonwealth's filing a timely motion to modify sentence. When this occurs, the defendant's notice of appeal is rendered premature, because the entry of the order disposing of the Commonwealth's motion to modify sentence then becomes the triggering device for the defendant's notice of appeal. In this situation, counsel for the defendant should be aware that Pa.R.A.P. 905(a) addresses this problem. In response to an extensive history of appeals which were quashed because of the premature filing of the notice of appeal, the last sentence of Pa.R.A.P. 905(a) was drafted to create a legal fiction which treats a premature notice of appeal as filed after the entry of the appealable order. For a discussion of this provision, see *Darlington, McKeon, Schuckers, and Brown, Pennsylvania Appellate Practice, 2d., § 905.3.*

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Rule 1411. Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals.

(A) *Commonwealth Challenges to Sentence*

(1) The Commonwealth may challenge a sentence by filing a motion to modify sentence, by filing an appeal, or by filing a motion to modify sentence followed by an appeal.

(2) Sentencing issues raised by the Commonwealth at the sentencing proceeding shall be deemed preserved for appeal whether or not the Commonwealth elects to file a motion to modify sentence on those issues.

(B) *Timing*

(1) *Motion for Modification of Sentence.* A Commonwealth motion for modification of sentence shall be filed no later than 10 days after imposition of sentence.

(2) *Appeal of Sentence.*

(a) *Appeal Directly from Order Imposing Sentence.*

(i) If the defendant has filed a post-sentence motion, and the Commonwealth elects to challenge the sentence by filing an appeal directly from the order imposing sentence, notice of the Commonwealth's appeal shall be filed within 30 days of the entry of the order disposing of the defendant's post-sentence motion pursuant to Rule 1410B(3).

(ii) If the defendant has not filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the order imposing sentence.

(b) *Appeal following Disposition of Commonwealth Motion to Modify Sentence.*

(i) If the defendant has filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the orders disposing of the Commonwealth's and the defendant's motions pursuant to subparagraph (C)(1).

(ii) If the defendant has not filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion pursuant to subparagraph (C)(2).

(C) *Trial Court Action; Disposition*

If the attorney for the Commonwealth files a timely motion for modification of sentence pursuant to paragraph (A)(1), the judge shall dispose of the motion as provided in this paragraph.

(1) If the defendant has filed a post-sentence motion, the judge shall not vacate sentence but shall decide the Commonwealth's motion and the defendant's post-sentence motion simultaneously. The Rule 1410B(3) time limits for deciding the defendant's post-sentence motion, including the automatic denial provisions, shall apply to the disposition of the Commonwealth's motion. The starting date for disposition of both motions shall be the date on which the defendant filed the post-sentence motion.

(2) If the defendant has not filed a post-sentence motion, the judge shall not vacate sentence but shall decide the Commonwealth's motion within 120 days of the filing of the motion. If the judge fails to decide the Commonwealth's motion within 120 days, the motion shall be deemed denied by operation of law.

(D) *Entry of Order by Clerk of Courts*

(1) When the Commonwealth's motion for modification of sentence is denied by operation of law, the clerk of courts shall forthwith:

(a) enter an order on behalf of the court denying the Commonwealth's motion for modification of sentence by operation of law, and

(b) furnish a copy of the order, by mail or personal delivery, to the attorney for the Commonwealth, the defendant, and defense counsel.

(2) An order entered by the clerk of courts pursuant to this paragraph shall not be subject to reconsideration.

Official Note: Adopted _____, effective _____.

Comment

New Rule 1411 was promulgated to clarify the procedures for Commonwealth challenges to sentences in light of the new post-sentence procedures adopted in 1993. See Pa.R.Crim.P. 1410. This rule does not address any other type of Commonwealth challenge or Commonwealth appeals generally.

Historically, the Commonwealth has been required to raise a discretionary sentencing issue at the sentencing hearing or in a post-trial motion to modify sentence in order to preserve the issue for appellate review. *Commonwealth v. Eyster*, 585 A.2d 1027 (Pa. Super. 1991) (en banc), *appeal denied* 602 A.2d 857 (Pa. 1992). Challenges to the legality of a sentence, however, are not waived if Commonwealth fails to timely file a motion for modification. See *Commonwealth v. Smith*, 598 A.2d 268 (Pa. 1991).

Under new Rule 1411, the Commonwealth's motion for modification of sentence is optional, as long as any discretionary sentencing issue is properly preserved at the time sentence was imposed. Before forgoing trial court review and proceeding with a direct appeal, the attorney for the Commonwealth must therefore be sure that the record created at the sentencing proceeding is adequate for appellate review of the issue, or the issue may be waived. See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995), at n.1.

As a general rule, a motion for modification of sentence gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, *sua sponte*, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under this rule or Rule 1410B(1)(a)(v), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an issue for appeal, as long as the issue was properly preserved at the time the sentence was modified or reimposed.

Trial Court Action

Paragraph (C) sets forth the procedures for trial court action on the Commonwealth's motion for modification. Key to the timing of the judge's decision on the Commonwealth's motion is whether the defendant files a post-sentence motion.

Rule 1410 Motion Filed

Under paragraph (C)(1), if the defendant has filed a post-sentence motion, the judge is not permitted to vacate sentence and must decide the defendant's post-sentence motion and the Commonwealth's motion simultaneously. The date on which the defendant's post-sentence motion is filed, see Rule 1410A(1), triggers the time limits within which the judge must also dispose of the Commonwealth's motion, regardless of which motion is filed first. If the judge fails to decide the Commonwealth's motion within these time limits, the motion is deemed denied by operation of law. See Pa.R.Crim.P. 1410B(3).

Rule 1410 Motion Not Filed

When the defendant has not filed a post-sentence motion, the disposition of the Commonwealth's motion is governed by paragraph (C)(2). The judge may not vacate sentence, but has 120 days to decide the Commonwealth's motion or the motion is deemed denied by operation of law. If the judge decides the motion within the 120-day limit and then agrees to reconsider, the reconsideration must be resolved within the original 120-day time limit. The judge may not vacate sentence in order to reconsider the motion or otherwise use the reconsideration period to extend the 120-day time limit. It follows that even if the defendant has filed a notice of appeal, the procedural exceptions provided in Pa.R.A.P. 1701(b)(3) do not apply to challenges to sentences. See also the Rule 1410 *Comment* under "Disposition."

Entry of Order by Clerk of Courts

Under paragraph (D)(1), when a Commonwealth motion to modify sentence has been denied by operation of law,

the clerk of courts must enter an order on behalf of the court and furnish copies to the attorney for the Commonwealth, the defendant, and defense counsel. The clerk of courts' order is ministerial and not subject to reconsideration. See subparagraph (D)(2). The clerk of courts must also comply with the notice and docketing requirements of Rule 9024.

Appeal of Sentence

Paragraph (B)(2) contains the timing requirements for Commonwealth notices of appeal.

No Commonwealth Motion to Modify Sentence Filed

Paragraph (B)(2)(a) covers the time for filing a notice of appeal when the Commonwealth has elected *not* to file a motion to modify sentence with the trial judge. The time for filing the Commonwealth's notice of appeal under this paragraph depends on whether the defendant has filed a post-sentence motion. When the defendant files a post-sentence motion, paragraph (B)(2)(a)(i) provides that the entry of the order disposing of the defendant's post-sentence motion triggers the 30-day period during which the Commonwealth's notice of appeal must be filed. If no post-sentence motion is filed, it is the entry of the order imposing sentence that triggers the Commonwealth's 30-day appeal period. See Rule 1411(B)(2)(a)(ii).

Given that a defendant has 10 days to file a post-sentence motion under Rule 1410A(1), it is possible that the Commonwealth might file a notice of appeal under paragraph (B)(2)(a)(ii) *followed by* the defendant's filing a timely post-sentence motion. When this occurs, the Commonwealth's notice of appeal is rendered premature, because the entry of the order disposing of the defendant's post-sentence motion then becomes the triggering device for the Commonwealth's notice of appeal. In this situation, counsel for the Commonwealth should be aware that Pa.R.A.P. 905(a) addresses this problem. In response to an extensive history of appeals which were quashed because of the premature filing of the notice of appeal, the last sentence of Pa.R.A.P. 905(a) was drafted to create a legal fiction which treats a premature notice of appeal as filed after the entry of the appealable order. For a discussion of this provision, see Darlington, McKeon, Schuckers, and Brown, *Pennsylvania Appellate Practice*, 2d., § 905.3.

Commonwealth Motion to Modify Sentence Filed

Paragraph (B)(2)(b) covers the time for filing the notice of appeal when the Commonwealth has elected to file a motion to modify sentence with the trial judge. As in paragraph (B)(2)(a), the time for notice depends on whether the defendant files a post-sentence motion. If the defendant has filed a post-sentence motion, the disposition of the Commonwealth's and the defendant's motion is simultaneous. See Rule 1411(C)(1). If the defendant does not file a post-sentence motion, the 30-day appeal period begins to run from the entry of the order disposing of the Commonwealth's motion pursuant to the time limits of paragraph (C)(2).

REPORT

*New Pa.R.Crim.P. 1411;
Amendments to Pa.R.Crim.P. 1410*

Commonwealth Challenges to Sentences;

Preservation of Sentencing Issues; Vacation of Sentence

A. Overview

When the Court adopted new Rule 1410 (Post-Sentence Motion; Appeals) in 1993, the Court rescinded former Rule 1410 (Motion to Modify Sentence), a rule which

historically has applied to both the Commonwealth and defendants. New Rule 1410, however, does not address Commonwealth sentencing challenges or the Commonwealth's right to appeal. See the "Timing" section of the Rule 1410 *Comment*. In short, the Rules of Criminal Procedure are silent on what procedures the Commonwealth should follow, and the Committee has received numerous inquiries from judges and prosecutors asking whether the time limits of present Rule 1410 apply to Commonwealth sentencing challenges. A separate but related problem brought to our attention is that some judges appear to be unaware that the absolute time limits for disposition of the post-sentence motion under Rule 1410 may not be extended by granting reconsideration pursuant to Pa.R.A.P. 1701(b)(3) or vacating sentence by any other means. See the "Disposition" section of the Rule 1410 *Comment*.

To address these two problematic areas, the Committee is proposing (1) a new Rule 1411 to provide procedures for Commonwealth sentencing challenges, with correlative amendments to Rule 1410, and (2) amendments to Rule 1410 to expressly prohibit a judge from vacating sentence during the rule's dispositional period.

1. Proposed New Rule 1411

New Pa.R.Crim.P. 1411 (Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals) provides detailed procedures for Commonwealth sentencing challenges, particularly as to the timing of Commonwealth appeals of sentencing issues. Rule 1411 makes it clear that, as to sentencing challenges, the Commonwealth has the same options that the defendant does under present Rule 1410, see *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995), and sets forth the Commonwealth's time for appeal relative to whether the defendant files a post-sentence motion. The rule sets specific time limits for the judge's disposition of the Commonwealth's motion to modify sentence which must be met or the Commonwealth's motion will be denied by operation of law. The judge may not vacate sentence pending disposition of the motion or pending reconsideration of that disposition.

2. Amendments to Rule 1410 (Post-Sentence Motion; Appeals)

In addition to clarifying amendments to paragraph A, Timing, necessitated by the interplay between proposed new Rule 1411 and Rule 1410, the proposed amendments to Rule 1410 make it clear that the judge may not vacate sentence pending disposition of the post-sentence motion or pending reconsideration of that disposition. The *Comment* to Rule 1410 has been revised to address all of the changes discussed above. In addition, the "Miscellaneous" section of the Rule 1410 *Comment* has been revised to make it clear that in order to preserve sentencing issues for appeal, they must be raised with the sentencing judge either at the time of sentencing, or in a post-sentence motion. See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995).

3. Relationship of Criminal Rule Proposal to Proposed Revisions to Note to Pa.R.A.P. 1701(b)(3).

The Note to Rule of Appellate Procedure 1701 contains an out-of-date cross-reference to former Rule 1410. At the Committee's request, the Appellate Court Rules Committee has agreed to propose that this portion of the Note be deleted, and a new paragraph added to explain that the procedures permitted by Pa.R.A.P. 1701(b)(3) do not apply to post-trial criminal practice under Rules 1410 and 1411: a judge may not vacate sentence or "grant reconsideration" in order to extend the absolute time limits of the post-sentence procedures provided in these two rules.

B. Annotations on Proposed Rule Changes

Note: Section B is a departure from our standard format for the explanatory *Report*. The proposed changes are discussed in individual annotations. The annotations appear as separate paragraphs, in bold and italics.

I. New Rule 1411

Rule 1411. Procedures for Commonwealth Challenges to Sentence; Sentencing Appeals.

(A) Commonwealth Challenges to Sentence

Because there is considerable confusion among prosecutors and judges concerning the applicability of former Rule 1410 or present Rule 1410 to Commonwealth sentencing challenges, the Committee agreed that the rule changes should make it clear that the Commonwealth has the same options as to sentencing challenges that the defendant does under present Rule 1410, options analyzed at length in the Comment to this Rule and in the "Miscellaneous" section of the Comment to Rule 1410.

(1) The Commonwealth may challenge a sentence by filing a motion to modify sentence, by filing an appeal, or by filing a motion to modify sentence followed by an appeal.

(2) Sentencing issues raised by the Commonwealth at the sentencing proceeding shall be deemed preserved for appeal whether or not the Commonwealth elects to file a motion to modify sentence on those issues.

(B) Timing

The timing provisions of this rule, especially the provision for appeal of sentence in paragraph (B)(2), contain considerable detail. The intent here is to provide the attorney with a clear map of the procedures in order to avert the loss of a Commonwealth sentencing challenge for failure to file a timely appeal.

(1) Motion for Modification of Sentence. A Commonwealth motion for modification of sentence shall be filed no later than 10 days after imposition of sentence.

(2) Appeal of Sentence.

(a) Appeal Directly from Order Imposing Sentence.

Under this section, the Commonwealth has preserved the sentencing challenge at the sentencing hearing, and seeks review of the sentence at the appellate level only. The triggering event for the Commonwealth's 30-day appeal period is defined by whether the defendant files a post-sentence motion.

The phrase "direct appeal" is not used here because the Committee felt it was a term of art that might create confusion in a timing context. Under paragraph (B)(2)(a), if the Commonwealth preserves a sentencing issue at the sentencing hearing and wants to forgo post-sentence trial court review, the Commonwealth files the appeal "directly from" the order imposing sentence, rather than filing a "direct appeal."

(i) If the defendant has filed a post-sentence motion, and the Commonwealth elects to challenge the sentence by filing an appeal directly from the order imposing sentence, notice of the Commonwealth's appeal shall be filed within 30 days of the entry of the order disposing of the defendant's post-sentence motion pursuant to Rule 1410B(3).

(ii) If the defendant has not filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the order imposing sentence.

(b) Appeal following Disposition of Commonwealth Motion to Modify Sentence.

Under this section, the Commonwealth has filed a motion to modify sentence no later than 10 days after imposition of sentence, paragraph (B)(1), and the disposition of the motion will trigger the Commonwealth's 30-day appeal period. The time limits for the judge's disposition, however, depend on whether the defendant has filed a post-sentence motion.

(i) If the defendant has filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the orders disposing of the Commonwealth's and the defendant's motions pursuant to subparagraph (C)(1).

(C)(1) requires the judge to decide a Commonwealth motion to modify simultaneously with the defendant's post-sentence motion.

(ii) If the defendant has not filed a post-sentence motion, the Commonwealth's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion pursuant to subparagraph (C)(2).

(C) Trial Court Action; Disposition

If the attorney for the Commonwealth files a timely motion for modification of sentence pursuant to paragraph (A)(1), the judge shall dispose of the motion as provided in this paragraph.

The judge is expressly prohibited from vacating sentence pending disposition of the motion, including any reconsideration of a disposition. Similar language has been included in Rule 1410 as part of this proposal. See Rule 1410B(3) and the first paragraph of the "Disposition" section of the Rule 1410 Comment.

(1) If the defendant has filed a post-sentence motion, the judge shall not vacate sentence but shall decide the Commonwealth's motion and the defendant's post-sentence motion simultaneously. The Rule 1410B(3) time limits for deciding the defendant's post-sentence motion, including the automatic denial provisions, shall apply to the disposition of the Commonwealth's motion. The starting date for disposition of both motions shall be the date on which the defendant filed the post-sentence motion.

The Rule 1410B(3) time period for disposition of the Commonwealth's motion to modify sentence is triggered by the date on which the defendant files a post-sentence motion pursuant to Rule 1410A(1). Once this time period begins to run, it becomes the disposition period for the Commonwealth's motion to modify sentence, regardless of which motion is filed first. If the judge grants the defendant the 30-day extension permitted under Rule 1410B(2)(b), the total disposition period, as extended, applies to the simultaneous disposition of the Commonwealth's motion to modify sentence. If the judge fails to decide the Commonwealth's motion by the expiration of the disposition period, the Commonwealth's motion is deemed denied by operation of law, and the clerk of courts must enter an order pursuant to paragraph D, below.

(2) If the defendant has not filed a post-sentence motion, the judge shall not vacate sentence but shall decide the Commonwealth's motion within 120 days of the filing of the motion. If the judge fails to decide the Commonwealth's motion within 120 days, the motion shall be deemed denied by operation of law.

Although the Committee considered several approaches to this provision, we concluded that when a defendant has not filed a post-sentence motion, a 120-day period allowed more than enough time for the resolution of a Commonwealth motion. Unlike Rule 1410B(3)(b), however, no 30-day extension of this disposition period is permitted.

(D) Entry of Order by Clerk of Courts

This section is a simplified version of its counterpart in Rule 1410. The order denying a Commonwealth motion to modify sentence by operation of law does not trigger the defendant's 30-day appeal period and therefore the order need not set forth the defendant's appeal rights. Compare Rule 1410B(4).

(1) When the Commonwealth's motion for modification of sentence is denied by operation of law, the clerk of courts shall forthwith:

(a) enter an order on behalf of the court denying the Commonwealth's motion for modification of sentence by operation of law, and

(b) furnish a copy of the order, by mail or personal delivery, to the attorney for the Commonwealth, the defendant, and defense counsel.

(2) An order entered by the clerk of courts pursuant to this paragraph shall not be subject to reconsideration.

Note: Adopted _____, effective _____.

Comment:

Annotation note: Those paragraphs which are self-explanatory have not been annotated.

Although the Supreme Court approves, but does not adopt, the Committee's official Comments to the rules, the Comments are part of the proposal and intended to be instructive. The Committee therefore welcomes suggestions from the bench and bar about the Comments.

New Rule 1411 was promulgated to clarify the procedures for Commonwealth challenges to sentences in light of the new post-sentence procedures adopted in 1993. See Pa.R.Crim.P. 1410. This rule does not address any other type of Commonwealth challenge or Commonwealth appeals generally.

The next several paragraphs, tailored for Commonwealth challenges, derive from similar language in the Rule 1410 Comment, as revised. They are intended to make it clear that, unless a discretionary sentencing issue is raised at the sentencing hearing, it must be raised in a motion to modify sentence.

Historically, the Commonwealth has been required to raise a discretionary sentencing issue at the sentencing hearing or in a post-trial motion to modify sentence in order to preserve the issue for appellate review. *Commonwealth v. Eyster*, 585 A.2d 1027 (Pa. Super. 1991) (en banc), appeal denied 602 A.2d 857 (Pa. 1992). Challenges to the legality of a sentence, however, are not waived if the Commonwealth fails to timely file a motion for

modification. See *Commonwealth v. Smith*, 598 A.2d 268 (Pa. 1991).

Under new Rule 1411, the Commonwealth's motion for modification of sentence is optional, as long as any discretionary sentencing issue is properly preserved at the time sentence was imposed. Before forgoing trial court review and proceeding with a direct appeal, the attorney for the Commonwealth must therefore be sure that the record created at the sentencing proceeding is adequate for appellate review of the issue, or the issue may be waived. See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995), at n.1.

The Committee agreed that we should provide citations for the well-established propositions in the following paragraph.

As a general rule, a motion for modification of sentence gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under this rule or Rule 1410B(1)(a)(v), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an issue for appeal, as long as the issue was properly preserved at the time the sentence was modified or reimposed.

Trial Court Action

Paragraph (C) sets forth the procedures for trial court action on the Commonwealth's motion for modification. Key to the timing of the judge's decision on the Commonwealth's motion is whether the defendant files a post-sentence motion.

Rule 1410 Motion Filed

Under paragraph (C)(1), if the defendant has filed a post-sentence motion, the judge is not permitted to vacate sentence and must decide the defendant's post-sentence motion and the Commonwealth's motion simultaneously. The date on which the defendant's post-sentence motion is filed, see Rule 1410A(1), triggers the time limits within which the judge must also dispose of the Commonwealth's motion, regardless of which motion is filed first. If the judge fails to decide the Commonwealth's motion within these time limits, the motion is deemed denied by operation of law. See Pa.R.Crim.P. 1410B(3).

Rule 1410 Motion Not Filed

The purpose of the following paragraph is to make it clear that any reconsideration must take place within the 120-day time limit, and that the procedural exceptions provided in Pa.R.A.P. 1701(b)(3) do not apply to Rule 1411 sentencing challenges.

When the defendant has not filed a post-sentence motion, the disposition of the Commonwealth's motion is governed by paragraph (C)(2). The judge may not vacate sentence, but has 120 days to decide the Commonwealth's motion or the motion is deemed denied by operation of law. If the judge decides the motion within the 120-day

limit and then agrees to reconsider, the reconsideration must be resolved within the original 120-day time limit. The judge may not vacate sentence in order to reconsider the motion or otherwise use the reconsideration period to extend the 120-day time limit. It follows that even if the defendant has filed a notice of appeal, the procedural exceptions provided in Pa.R.A.P. 1701(b)(3) do not apply to challenges to sentences. See also the Rule 1410 *Comment* under "Disposition."

Entry of Order by Clerk of Courts

Under paragraph (D)(1), when a Commonwealth motion to modify sentence has been denied by operation of law, the clerk of courts must enter an order on behalf of the court and furnish copies to the attorney for the Commonwealth, the defendant, and defense counsel. The clerk of courts' order is ministerial and not subject to reconsideration. See subparagraph (D)(2). The clerk of courts must also comply with the notice and docketing requirements of Rule 9024.

Appeal of Sentence

Paragraph (B)(2) contains the timing requirements for Commonwealth notices of appeal.

No Commonwealth Motion to Modify Sentence Filed

Paragraph (B)(2)(a) covers the time for filing a notice of appeal when the Commonwealth has elected not to file a motion to modify sentence with the trial judge. The time for filing the Commonwealth's notice of appeal under this paragraph depends on whether the defendant has filed a post-sentence motion. When the defendant files a post-sentence motion, paragraph (B)(2)(a)(i) provides that the entry of the order disposing of the defendant's post-sentence motion triggers the 30-day period during which the Commonwealth's notice of appeal must be filed. If no post-sentence motion is filed, it is the entry of the order imposing sentence that triggers the Commonwealth's 30-day appeal period. See Rule 1411(B)(2)(a)(ii).

The following paragraph was included because the Committee anticipates that the situation in question—the Commonwealth files an appeal and then the defendant files a post-sentence motion—may arise fairly frequently.

Given that a defendant has 10 days to file a post-sentence motion under Rule 1410A(1), it is possible that the Commonwealth might file a notice of appeal under paragraph (B)(2)(a)(ii) followed by the defendant's filing a timely post-sentence motion. When this occurs, the Commonwealth's notice of appeal is rendered premature, because the entry of the order disposing of the defendant's post-sentence motion then becomes the triggering device for the Commonwealth's notice of appeal. In this situation, counsel for the Commonwealth should be aware that Pa.R.A.P. 905(a) addresses this problem. In response to an extensive history of appeals which were quashed because of the premature filing of the notice of appeal, the last sentence of Pa.R.A.P. 905(a) was drafted to create a legal fiction which treats a premature notice of appeal as filed after the entry of the appealable order. For a discussion of this provision, see Darlington, McKeon, Schuckers, and Brown, Pennsylvania Appellate Practice, 2d., § 905.3.

Commonwealth Motion to Modify Sentence Filed

Paragraph (B)(2)(b) covers the time for filing the notice of appeal when the Commonwealth has elected to file a motion to modify sentence with the trial judge. As in

paragraph (B)(2)(a), the time for notice depends on whether the defendant files a post-sentence motion. If the defendant has filed a post-sentence motion, the disposition of the Commonwealth's and the defendant's motion is simultaneous. See Rule 1411(C)(1). If the defendant does not file a post-sentence motion, the 30-day appeal period begins to run from the entry of the order disposing of the Commonwealth's motion pursuant to the time limits of paragraph (C)(2).

2A. Changes to the Text of Rule 1410

Note: Because of the length of Rule 1410, only those portions of the rule and Comment necessary to explain the changes are included. Asterisks indicate omitted text.

Rule 1410. Post-Sentence Procedures; Appeal.

A. Timing.

(1) Except as provided in Section D, a written post-sentence motion shall be filed no later than 10 days after imposition of sentence.

(2) If the defendant files a timely post-sentence motion, the notice of appeal shall be filed within 30 days of the entry of the order deciding the motion, or, if the judge fails to decide the motion, within 30 days of the entry of the order denying the motion by operation of law.

Under paragraph A(3), when a defendant chooses to appeal from the order imposing sentence, rather than to file a post-sentence motion, the time for appeal is 30 days from the imposition of sentence, unless the Commonwealth has filed a motion to modify sentence, in which event it is the disposition of the Commonwealth's motion which triggers the defendant's appeal period. See paragraph A(4).

(3) If the defendant does not file a post-sentence motion, the defendant's notice of appeal shall be filed within 30 days of imposition of sentence, *except as provided in paragraph A(4).*

(4) *If the Commonwealth files a motion to modify sentence pursuant to Rule 1411, the defendant's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion.*

The "Miscellaneous" section of the Comment discusses how the defendant should proceed under paragraph A(4) in the event that the defendant files a premature notice of appeal, i.e., before the Commonwealth files a motion to modify sentence.

* * * * *

Rule 1410B(3) would be amended to state that the judge "shall not vacate sentence pending decision on the post-sentence motion . . ." Although this was the original intent of Rule 1410, the Committee agreed that the rule must be explicit on the issue in order to remove any confusion generated by Pa.R.A.P. 1701.

B(3) Time Limits for Decision on Motion.

The judge shall not vacate sentence pending decision on the post-sentence motion, but shall decide the motion as provided in this paragraph.

(a) Except as provided in subsection (3)(b), the judge shall decide the post-sentence motion, including any supplemental motion, within 120 days of the filing of the motion. If the judge fails to decide the motion within 120 days, or to grant an extension as provided in subsection

(3)(b), the motion shall be deemed denied by operation of law.

(b) Upon motion of the defendant within the 120-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

Proposed new Rule 1411(C)(2) does not permit a similar extension of the 120-day disposition period for a Commonwealth motion to modify sentence. However, if the defendant has filed a post-sentence motion and the judge grants the defendant an extension pursuant to paragraph B(3)(b) above, the total disposition period, as extended, would apply to the simultaneous disposition of the Commonwealth's motion to modify sentence. See Rule 1411(C)(1).

(c) When a post-sentence motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and shall forthwith furnish a copy of the order by mail or personal delivery to the attorney for the Commonwealth, the defendant(s), and defense counsel that the post-sentence motion is deemed denied. This order is not subject to reconsideration.

The Rule 1410B(3) time period for disposition of the defendant's post-sentence motion is triggered by the date on which the defendant files a post-sentence motion pursuant to Rule 1410A(1). Once this time period begins to run, it applies to any timely filed Commonwealth motion to modify sentence, regardless of which motion is filed first. See proposed Rule 1411(C)(1). If the judge fails to decide either motion within this period, the motion is deemed denied by operation of law. If the judge has failed to decide the defendant's post-sentence motion, the clerk of courts must enter an order pursuant to paragraph B(3)(c), above. If the judge has failed to decide the Commonwealth's motion to modify sentence, the clerk must enter an order pursuant to Rule 1411(D). If the judge fails to decide both motions, the clerk of courts must enter two orders on behalf of the court.

(4) Contents of Order.

An order denying a post-sentence motion, whether signed by the judge or entered by the clerk of courts, shall include notice to the defendant of the following:

(a) the right to appeal and the time limits within which the appeal must be filed;

(b) the right to assistance of counsel in the preparation of the appeal;

(c) the rights, if the defendant is indigent, to appeal in forma pauperis and to proceed with assigned counsel as provided in Rule 316; and

(d) the qualified right to bail under Rule 4010.B.

* * * * *

2B. Rule 1410 Comment Revisions

The "Timing" section has been revised to explain the addition of paragraph A(4) and to cross-reference new Rule 1411.

Timing

Section A contains the timing requirements for filing the optional post-sentence motion and taking an appeal.

Under subsection A(1), the post-sentence motion must be filed within 10 days of imposition of sentence.

When a defendant files a timely post-sentence motion, the 30-day period for the defendant's direct appeal on all matters in that case—including all issues related to any informations and any charges consolidated against the defendant for trial—is triggered by the trial judge's decision on the post-sentence motion or the denial of the motion by operation of law. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by a defendant while his or her post-sentence motion is pending. See subsection A(2).

If no timely post-sentence motion is filed, *the defendant's* appeal period runs from the date sentence is imposed. See subsection A(3). *Under subsection A(4), however, when the defendant has not filed a post-sentence motion but the Commonwealth files a motion to modify sentence under Rule 1411, it is the entry of the order disposing of the Commonwealth's motion that commences the 30-day period during which the defendant's notice of appeal must be filed. See Rule 1411(B)(2)(b).*

All references to appeals in this rule relate to the defendant's right to appeal. The rule does not address or alter the Commonwealth's right to appeal. *For Commonwealth challenges to sentences, see Rule 1411.*

The "Disposition" section has been revised to underscore the now-express prohibition against vacating sentence pending disposition of the post-sentence motion. This Comment revision also explains that a sentence may not be vacated during any reconsideration of the judge's decision on the post-sentence motion.

Disposition

Under subsection B(3), once the defendant makes a timely written post-sentence motion, the judge retains jurisdiction for the duration of the disposition period. *The judge may not vacate the order imposing sentence pending decision on the post-sentence motion. This is so whether or not the Commonwealth files a motion to modify sentence. See Rule 1411(B)(2)(a), [It is not necessary for the judge to vacate the sentence imposed.]*

Subsection B(3)(b) permits one 30-day extension of the 120-day time limit, for good cause shown, upon motion of the defendant. In most cases, an extension would be requested and granted when new counsel has entered the case. Only the defendant or counsel may request such an extension. The judge may not, sua sponte, extend the time for decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that 120 days are required for decision in most cases. The time limits for disposition of the post-sentence motion are the outer limits. Easily resolvable issues, such as a modification of sentence or a guilty plea challenge, should ordinarily be decided in a much shorter period of time.

If the trial judge decides the motion within the time limits of this rule, the judge may reconsider that decision, but [grants reconsideration on the post-sentence motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701,] the judge may not vacate the sentence pending reconsideration, Rule 1410B(3). [the] The reconsideration period may not be used to extend the timing requirements set forth in section B(3) for decision on the post-sentence

motion: the time limits imposed by subsections B(3)(a) and B(3)(b) continue to run from the date the post-sentence motion was originally filed. The trial judge's reconsideration must therefore be resolved within the 120-day decision period of subsection B(3)(a) or the 30-day extension period of subsection B(3)(b), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-sentence motion, including any issues raised for reconsideration, will be denied pursuant to subsection B(3)(c).

* * * * *

Miscellaneous

Correspondence with the Committee has noted that Rule 1410 does not clearly indicate under what circumstances a defendant may raise a discretionary sentencing issue on appeal if no post-sentence motion has been filed. (Rule 1410B(1)(c) only addresses issues raised "before or during trial.") The "Miscellaneous" section of the Rule 1410 *Comment* has therefore been revised to make it clear that in order to forgo a post-sentence motion on a discretionary sentencing issue, the issue must be preserved on the record at the sentencing proceeding, citing *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995).

* * * * *

Issues [raised] properly preserved at the sentencing proceeding need not, but may[,] be raised again in a motion to modify sentence in order to preserve them for appeal. In deciding whether to move to modify sentence, counsel [should] must carefully consider whether the record created at the sentencing proceeding is adequate for appellate review of the issues, or the issues may be waived. See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995). See also Rule 1405.C(4). As a general rule, the motion to modify sentence under subsection B(1)(a)(v) gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

The qualifier at the end of the following paragraph is a logical extension of the holding in *Commonwealth v. Jarvis*, supra.

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under subsection B(1)(a)(v) or Rule 1411 (*Commonwealth Challenges to Sentence; Sentencing Appeals*), [however,] a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an [the] issue[(s)] for appeal, as long as the issue was properly preserved at the time sentence was modified or reimposed.

The "Miscellaneous" section has also been revised to include a paragraph explaining the Rule 1411 procedures and their impact on the timing of a defendant's notice of appeal. The second paragraph of the revision discusses the treatment of premature appeals in Pa.R.A.P. 905(a).

Commonwealth challenges to sentences are governed by Rule 1411. If the defendant files a post-sentence motion,

the time limits for decision on the defendant's motion govern the time limits for disposition of the Commonwealth motion to modify sentence, regardless of which motion is filed first. See the Comment to Rule 1411(B)(2)(a). If the defendant elects to file an appeal and the Commonwealth files a motion to modify sentence, decision on the Commonwealth's motion triggers the defendant's 30-day appeal period. See Rule 1410A(4).

*Given that the Commonwealth has 10 days to file a motion to modify sentence under Rule 1411(B)(1), it is possible that the defendant might elect to file a notice of appeal under Rule 1410A(3) followed by the Commonwealth's filing a timely motion to modify sentence. When this occurs, the defendant's notice of appeal is rendered premature, because the entry of the order disposing of the Commonwealth's motion to modify sentence then becomes the triggering device for the defendant's notice of appeal. In this situation, counsel for the defendant should be aware that Pa.R.A.P. 905(a) addresses this problem. In response to an extensive history of appeals which were quashed because of the premature filing of the notice of appeal, the last sentence of PA.R.A.P. 905(a) was drafted to create a legal fiction which treats a premature notice of appeal as filed after the entry of the appealable order. For a discussion of this provision, see Darlington, McKeon, Schuckers, and Brown, *Pennsylvania Appellate Practice*, 2d., § 905.3.*

* * * * *

[Pa.B. Doc. No. 96-475. Filed for public inspection March 29, 1996, 9:00 a.m.]

Title 25—LOCAL COURT RULES

FAYETTE COUNTY

Amended Local Rule 1301: Compulsory Arbitration: Cases Covered; No. 427 of 1996, G. D.

Order

And Now, this 11th day of March, 1996, it is hereby ordered that the above-stated Local Rule be amended as follows. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered* and *Directed* to do the following:

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) to the Fayette County Law Library.

(6) Keep continuously available for public inspection copies of this Order and Amended Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM J. FRANKS,
President Judge

Rule 1301. Compulsory Arbitration: Cases Covered.

(a) Any civil action where the amount in controversy is Twenty-five Thousand (\$25,000) Dollars or less and title to real estate is not involved, shall be submitted to compulsory arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S. Section 7361, and Rules 1301 to 1314 of the Pennsylvania Rules of Civil Procedure, as well as these rules.

(b) The amount in controversy in any action shall be deemed to exceed Twenty-five Thousand (\$25,000) Dollars if any count in the complaint or counter-claim demands an amount in excess of Twenty-five Thousand (\$25,000) Dollars.

(c) Notwithstanding the amount demanded, if the Court determines that the amount in controversy does not exceed twenty-five thousand (\$25,000) dollars for the purposes of these rules, the Court shall order the matter to arbitration.

(d) If separate actions are consolidated for trial and the amount in controversy in any of these actions exceeds twenty-five thousand (\$25,000) dollars, arbitration shall not apply.

(e) If the same transaction or occurrence, or series of transactions or occurrences, give rise to more than one cause of action and separate actions have been commenced, all such actions shall be consolidated for arbitration and heard together. Before proceeding with any hearing, the board of arbitration shall inquire of the parties whether any other action has been commenced.

[Pa.B. Doc. No. 96-476. Filed for public inspection March 29, 1996, 9:00 a.m.]

MERCER COUNTY

**Revision of the Local Rules of the Court of
Common Pleas; No. L1018.1**

Order

And Now, this 4th day of March, 1996, *It Is Hereby Ordered and Decreed* that Local Rule L1018.1 concerning Civil Actions is hereby revised and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall apply to all civil actions filed after that date.

The revision of L1018.1 is as follows:

NOTICE TO DEFEND

The organization to be named in The Notice To Defend from whom legal help can be obtained is: Mercer County Lawyers Referral Service, c/o Mercer County Bar Association, P. O. Box 1302, Hermitage, PA 16148, telephone: (412) 342-3111.

It Is Also Ordered and Directed that the Prothonotary of Mercer County, in accordance with Pa.R.C.P. No. 239, shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and file one (1) certified copy with the Civil Procedures Rules Committee.

It Is Further Ordered that this local Rule shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

By the Court

FRANCIS J. FORNELLI,
President Judge

[Pa.B. Doc. No. 96-477. Filed for public inspection March 29, 1996, 9:00 a.m.]

RULES AND REGULATIONS

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CH. 11]

Five Liter Wine Containers

The Liquor Control Board (Board) under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), adopts amendments to §§ 11.83, 11.104 and 11.111 (relating to containers; wine in kegs; and sale by limited winery licenses).

These amendments permit the sale of 5 liter containers of wine by State-owned liquor stores, limited wineries and sacramental wine licensees.

Comments

Notice of proposed rulemaking was published at 25 Pa.B. 5251 (November 25, 1995), with a 30-day public written comment period. The Independent Regulatory Review Commission (IRRC) suggested the Board amend these sections in order to permit the sale of wine in sizes greater than the 5 liters requested in the proposed rulemaking.

Although the 6 liter or 6.5 liter containers may have some consumer appeal, there does not exist a significant consumer demand for wine or champagne in these sizes. The same could be said for wine or hard cider in kegs.

Because the Commonwealth is a control state, the Board shoulders a greater responsibility than our neighboring private enterprise states. The Board has the dual responsibility of providing quality service and products to our consumers and licensees while not encouraging increased consumption of alcoholic beverages.

It is because of the aforesaid that the Board enters into this final rulemaking with a 5 liter limit on wine containers.

No other comments either in support of, or in opposition to, the proposed amendments were received by the Board during the public comment period.

Fiscal Impact

These amendments will impose no additional costs on limited wineries, sacramental wine licensees or the Board. They will have no impact upon State or local government costs.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking on November 14, 1995, to IRRC and the Chairpersons of the House Committee on Liquor Control and the Senate Committee on Law and Justice for review and comment. The final-form rulemaking was

transmitted to the Chairpersons of the Senate Committee on Law and Justice and the House Committee on Liquor Control and IRRC on February 9, 1996.

These final-form regulations were deemed approved by the Senate Committee on Law and Justice on February 29, 1996, were deemed approved by the House Committee on Liquor Control on February 29, 1996, and were approved by IRRC on March 6, 1996, in accordance with section 5(c) of the Regulatory Review Act.

Contact Person

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

Findings

The Board finds that:

(1) The public notice of intention to adopt amendments to the administrative regulations by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments set forth in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Board, 40 Pa. Code Chapter 11, are amended by amending §§ 11.83, 11.104 and 11.111 to read as set forth at 25 Pa.B. 5251 (November 25, 1995).

(b) The Board shall submit this order and 25 Pa.B. 5251 to the Office of the Attorney General for approval as to form and legality as required by law.

(c) The Board shall certify this order and 25 Pa.B. 5251 and deposit them with the Legislative Reference Bureau as required by law.

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

JOHN E. JONES, III,

Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 1313 (March 23, 1996).)

Fiscal Note: Fiscal Note 54-49 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 96-478. Filed for public inspection March 29, 1996, 9:00 a.m.]

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CHS. 135 AND 141]

Lands and Buildings; Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 1996, meeting, proposed the following amendments:

1. Amend § 135.107 (relating to Middle Creek Wildlife Management Area) to provide more flexibility in the administration of the Middle Creek Wildlife Management Area (MCWMA) and to provide for some additional recreational activities through special hunting opportunities on the area.

2. Amend § 141.1 (relating to special regulations areas) to provide adequate flexibility for the controlling of deer by political subdivisions issued a deer control permit and located within the Special Regulations Areas by adding new language to allow the use of rifles and single-projectile ammunition specifically for deer control purposes within the Special Regulations Areas.

3. Amend § 141.23 (relating to nontoxic shot) to restrict the shot size of nontoxic shot used to hunt waterfowl in this Commonwealth.

4. Amend § 141.25 (relating to early and late goose hunting seasons) to permit the taking of Canada geese until September 25 Statewide, except in Crawford County where the season will have to close on September 15.

5. Amend Chapter 141 by adding §§ 141.26 and 141.27 (relating to early Canada goose hunting season on Middle Creek Wildlife Management Area; and early Canada goose hunting season on Pymatuning Wildlife Management Area) to better utilize the controlled hunting areas at the MCWMA, as well as the Pymatuning Wildlife Management Area (PWMA) and to fall into place with our existing language that establishes the early and late Canada goose hunting season.

6. Amend § 141.45 (relating to turkey) to restrict fall turkey hunting in Turkey Management Area No. 9-B to shotguns and bows and arrows only.

7. Amend § 141.61 (relating to trapping hours) to permit the removal of traps by trappers no later than sunset on the last day of the trapping season, instead of the 12 noon time currently provided for.

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

The authority for these proposed amendments is 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

The proposals were made public at the January 23, 1996, meeting of the Commission and comments on these proposals can be sent to the Executive Director of the Game Commission, 2001 Elmerton Ave., Harrisburg, PA 17110-9797, until April 10, 1996.

Proposed Amendment to § 135.107

1. *Introduction*

To provide more flexibility in the administration of the MCWMA and to provide additional recreational opportunities, the Commission proposes to amend § 135.107 relating to MCWMA to allow fishing by permit only, to allow closing of roadways and trails utilizing gates, to

control shot size for small game and waterfowl hunting and to provide for special rabbit and squirrel hunts. These proposals are made under the authority contained in section 721(a) of the code (relating to control of property).

2. *Purpose and Authority*

Section 135.107 currently does not permit fishing or special rabbit and squirrel hunts in controlled hunting areas on the MCWMA nor does it regulate shot sizes for hunting small game and waterfowl on the MCWMA. The Commission has decided that these activities can be safely conducted by permit only in the controlled hunting areas with limitations on shot size. These changes are proposed under authority contained in section 721(a) of the code which requires the Commission to promulgate regulations necessary to properly manage State game lands.

3. *Regulatory Requirements*

The proposed changes would require the obtaining of a permit prior to fishing or participating in special rabbit or squirrel hunts in controlled hunting areas of the MCWMA. The changes would also permit closing of roads to all entry by closing of gates and require that nontoxic shot no larger than #4 Bismuth/tin and #2 steel be used in hunting small game in the controlled and propagation areas and no larger than Size "T" to hunt waterfowl.

4. *Persons Affected*

Persons wishing to use the MCWMA may be affected by the proposed changes.

5. *Cost and Paperwork Requirements*

Persons wishing to fish in controlled hunting areas of the MCWMA would need to first obtain a permit. It is anticipated that the number of those permits will be fairly small.

Proposed Amendment to § 141.1

1. *Introduction*

The Commission proposes to amend § 141.1 to create an exception which would allow municipalities holding valid deer control permits to kill deer with rifles firing single projectile ammunition in the special regulations areas. These changes are proposed under sections 322(c)(5) and 2102(b)(1) of the code (relating to powers and duties of Commission; and regulations).

2. *Purpose and Authority*

Currently, § 141.1 makes it unlawful to kill wildlife in special regulations areas with single projectile ammunition. The purpose behind issuing deer control permits to municipalities is to reduce deer populations in the most efficient manner possible. The proposed changes will provide an option under appropriate circumstances to achieve this purpose while still insuring safety.

Section 322(c)(5) of the code empowers the Commission to fix the type and number of devices which may be used to take game or wildlife. Section 2102(b) of the code authorizes the Commission to promulgate regulations relating to these devices. The proposed changes would be adopted under this authority.

3. *Regulatory Requirements*

The proposed changes would not result in any additional regulatory requirements.

4. *Persons Affected*

Municipalities with deer control permits will be affected by the proposed changes.

5. *Cost and Paperwork Requirements*

The proposed amendment would not result in additional costs or paperwork.

Proposed Amendment to § 141.23

1. *Introduction*

The Commission proposes to amend § 141.23 to permit the use of any shot composition and size up to "T" approved by the Director of the United States Fish and Wildlife Service (USFWS) to hunt migratory waterfowl in this Commonwealth. This change was made under sections 322(c)(1) and 2102(b)(1) of the code.

2. *Purpose and Authority*

The Commission has the authority under section 2102(a) of the code to "... promulgate such regulations as it seems necessary and appropriate concerning game and wildlife..." Section 322 of the code specifically empowers the Commission to "fix the type and number of devices which may be used to take game or wildlife."

The proposed change broadens the language of § 141.25 to permit the lawful use of shot composition and cartridge lengths approved by the Director of the USFWS in the future to hunt migratory waterfowl. The proposed changes also puts a maximum lawful size limit on the shot of "T."

3. *Regulatory Requirements*

The proposed change permits the lawful use of shot compositions and cartridge lengths to hunt migratory waterfowl in this Commonwealth so long as they are approved by the Director of the USFWS.

4. *Persons Affected*

Persons wishing to hunt waterfowl in this Commonwealth would be affected.

5. *Cost and Paperwork*

The proposed change would not result in additional costs either to the Commission or to hunters.

Proposed Amendment to § 141.25

1. *Introduction*

The Commission proposes to amend § 141.25 to extend the early Canada goose hunting season an additional 10 days. This change was proposed under sections 322(c)(1) and 2102(b)(1) of the code.

2. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Section 322 of the code specifically empowers the Commission to fix seasons for any species of game or wildlife. Section 2102(b) of the code mandates that the Commission promulgates regulations relating to seasons and bag limits.

Because concerns about the migratory goose populations will likely result in no regular goose hunting season in this Commonwealth, extension of the early season, which targets resident geese, should help to control resident populations. This should result in a reduction in nuisance goose complaints.

3. *Regulatory Requirements*

These proposed changes would make it lawful to hunt Canada Geese in this Commonwealth except Crawford County during an additional 10-day period.

4. *Persons Affected*

Persons wishing to hunt geese in this Commonwealth would be affected by the proposed change.

6. *Cost and Paperwork Requirements*

The proposed change would not result in additional costs, either to the Commission or to hunters or furtakers.

Proposed Additions of §§ 141.26 and 141.27

1. *Introduction*

The Commission proposes to add §§ 141.26 and 141.27. These sections would provide procedures to have goose hunting during the early goose season at the MCWMA and PWMA when the USFWS closes the regular goose hunting season. These provisions are proposed under section 2102(b)(1) of the code and the authority contained in section 721(a) of the code.

2. *Purpose and Authority*

Because of concerns about a dramatic drop in migratory Canada goose populations, the USFWS closed the regular 1995 goose hunting season in all but four counties in northwestern Pennsylvania. As a result, the provisions for controlled goose hunting at the MCWMA and PWMA contained in § 135.103 could not be implemented. At the same time, resident Canada goose populations have been increasing throughout this Commonwealth since the 1970's. Associated with these increases have been increases in crop damage and nuisance complaints. The experimental early and late Canada goose seasons started in 1992 were successful in harvesting nuisance geese and providing additional recreational opportunities.

The proposed changes would give the Commission the option of having goose hunting during the early goose season at the MCWMA and PWMA if the USFWS closes the regular goose hunting season. Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits. Section 721(a) of the code authorizes the Commission to adopt regulations to manage lands and waters under its control. Both of these sections authorize the proposed regulations.

3. *Regulatory Requirements*

The proposed additions would not involve additional regulatory requirements over and above what is already in § 135.103.

4. *Persons Affected*

Persons wishing to hunt Canada Geese in this Commonwealth in the early season at the MCWMA or PWMA would be affected by these regulations.

5. *Cost and Paperwork Requirements*

No additional costs or paperwork over and above what has been already established.

Proposed Amendment to § 141.45

1. *Introduction*

The Commission proposes to amend § 141.45 to prohibit the use of rifles, single projectile ammunition except bows and arrows for taking wild turkey during the fall season in Turkey Management Area No. 9. This change is proposed under section 2102(b) of the code.

2. Purpose and Authority

At its October 3, 1995, meeting, the Commission decided that wild turkey populations in part of Turkey Management Area No. 9 are sufficient to permit a fall turkey hunting season. Because of the density of development in these areas, however, it was decided that safety required excluding rifles and single projectile ammunition except bows and arrows. The proposed changes would accomplish this purpose.

Section 2102(b) of the code directs the Commission to "... promulgate regulations relating to seasons and bag limits for hunting and furtaking... and the use and possession of devices." That section provides authority for this change in the regulation.

3. Regulatory Requirements

The proposed change would prohibit the use of rifles and single projectile ammunition except bows and arrows to hunt wild turkeys during the fall season in Turkey Management Area Number 9.

4. Persons Affected

Those wishing to hunt turkeys during the fall season in Turkey Management Area Number 9 would be affected by the change.

5. Cost and Paperwork Requirements

The Commission anticipates no additional cost or paperwork to result from this change.

Proposed Amendments to § 141.61

1. Introduction

The Commission proposes to amend § 141.61 to allow trappers until sunset on the closing day to remove their traps. The change was proposed under sections 322(c)(1) and 2102(a) of the code.

2. Purpose and Authority

Section 141.61 currently requires trappers to remove their traps by noon of the closing day of the season. This can be burdensome on individuals with extensive trap lines. Because the impact on the wildlife resources of moving the closing time to later is negligible, the Commission has decided to move the deadline to sunset.

Section 322(c)(1) of the code empowers the Commission to fix daily shooting or taking hours. Section 2102(a) of the code authorizes the Commission to promulgate regulations relating to furtaking in this Commonwealth. The proposed change would be adopted under this authority.

3. Regulatory Requirements

The proposed change would relax regulatory requirements.

4. Persons Affected

Individuals wishing to trap in this Commonwealth would be affected by the proposed change.

5. Cost and Paperwork Requirements

The proposed change would not result in additional costs or paperwork.

Effective Date

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

Contact Person

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

DONALD C. MADL,
Executive Director

Fiscal Note: 48-93. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.107. Middle Creek Wildlife Management Area.

(a) In addition to §§ 135.2 and 135.41 (relating to unlawful actions; and State game lands) and this subchapter, the following pertain to the Middle Creek Wildlife Management Area:

(1) Entering, hunting [or], trapping or fishing on the controlled hunting areas shall be by permit only, except as listed in [paragraphs (2)—(4)] paragraph (3).

(2) [From February 1 to March 15, hunting (except waterfowl), trapping, dog training and hiking is permitted.

(3) From March 16] From March 1 to September 14, entry on foot or vehicle is restricted to roadways and designated trails, except that when gates are closed, entry is prohibited.

[(4)] (3) ***

[(5)] (4) ***

[(6)] (5) A permit holder shall surrender, in person, the permit at the registration center through which he entered. A hunter shall submit for examination all game taken. The deadline for checking out is 2:30 p.m.

(6) Nontoxic shot in sizes no larger than #4 Bismuth/tin and #2 steel shall be used in the controlled and propagation areas for hunting small game. For hunting waterfowl, nontoxic shot no larger than Size "T" shall be used.

* * * * *

(c) The following apply to special rabbit and squirrel hunts on the controlled hunting areas:

(1) Rabbit and squirrel hunting will be by permit only.

(2) A drawing will be conducted at the visitor center to determine successful applicants on dates designated by the Director.

(3) The number of permits and methods of issue shall be set by the Director or a designee prior to the drawing.

(4) The Director or a designee reserve the right to suspend the hunt and cancel remaining permits when an adequate number of rabbits and squirrels, or both, have been taken.

(5) The permittee shall return the permit and report form to the visitor center by United States Postal Service no later than 5 days after the expiration of the permit.

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

* * * * *

(c) Prohibitions.

(1) It is unlawful to take, kill or attempt to take or kill wildlife through the use of a rifle of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for political subdivisions that have a valid deer control permit issued under the authority of section 2901 of the act (relating to general categories of permits) and Chapter 147, Subchapter R (relating to deer control).

* * * * *

Subchapter B. SMALL GAME

§ 141.23. Nontoxic shot.

It is unlawful to hunt for or take migratory waterfowl in this Commonwealth while possessing or using lead shot or shotshells loaded with shot [other than steel shot or shot, shot size or cartridge length not approved by the Director of the United States Fish and Wildlife Service or an authorized representative under 50 CFR 20.134 (relating to nontoxic shot)] of a composition or alloy and of a cartridge length not approved by the Director of the United States Fish and Wildlife Service or an authorized representative under 50 CFR 20.134 (relating to nontoxic shot). It is unlawful to hunt for or take migratory waterfowl in this Commonwealth using nontoxic shot larger than Size "T."

§ 141.25. Early and late goose hunting seasons.

(a) Early season and description.

(1) Subject to approval of the United States Fish and Wildlife Service, there will be an early Canada goose hunting season starting on September 1 (except when Sunday, then September 2), and ending on September [15] 25 (except when Sunday, then September [14] 24) Statewide, except in Crawford County where the season will end on September 15 (except when Sunday, then September 14). Geese may be taken on the Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir excluding the area east of L. R. 20006.

* * * * *

§ 141.26. Early Canada goose hunting season on Middle Creek Wildlife Management Area.

In lieu of fall season, the following apply:

(1) Opening of controlled hunting area. In years when the United States Fish and Wildlife Service does not authorize a regular fall Canada goose hunting season, but does authorize an early Canada goose hunting season, the Director may open the controlled hunting area at Middle Creek Wildlife Management Area for Canada goose hunting. When the controlled hunting area is open during an early

Canada goose hunting season, the closed areas in Lebanon and Lancaster Counties, as defined in § 141.25(a)(2) (relating to early and late goose hunting seasons) do not apply.

(2) Registration for Middle Creek controlled goose hunting area, early season and description.

(i) Section 135.103 (relating to registration for controlled goose hunting areas) applies, except that applications will be accepted through the second Saturday in August and a public drawing will be held at the registration center at 10 a.m. on the second Saturday in August.

(ii) The restrictions as defined in § 135.104 (relating to restrictions on controlled goose hunting areas) apply.

(3) Bag limits. The bag limit in the controlled area of Middle Creek Wildlife Management Area is one goose.

§ 141.27. Early Canada goose hunting season on Pymatuning Wildlife Management Area.

(a) In lieu of fall season, the following apply:

(1) Opening of controlled hunting area. In years when the United States Fish and Wildlife Service does not authorize a regular fall Canada goose hunting season, but does authorize an early Canada goose hunting season, the Director may open the controlled hunting area at Pymatuning Wildlife Management Area for Canada goose hunting. When the controlled hunting area is open during an early Canada goose hunting season, the closed areas in Crawford County, as defined in § 141.25(a)(2) (relating to early and late goose hunting seasons) do not apply.

(2) Registration for Pymatuning controlled goose hunting area, early season and restrictions.

(i) Section 135.103 (relating to registration for controlled goose hunting areas) applies, except that applications will be accepted through the second Saturday in August and a public drawing will be held at the registration center at 10 a.m. on the second Saturday in August.

(ii) The restrictions defined in § 135.104 (relating to restrictions on controlled goose hunting areas) apply.

(3) Bag limits. The bag limit in the controlled area of Pymatuning Wildlife Management Area is one goose.

Subchapter C. BIG GAME

§ 141.45. Turkey.

(a) While hunting wild turkey, it is unlawful to:

* * * * *

(4) Use or possess rifles or single projectile ammunition, except arrows, in Turkey Management Area #1 and Turkey Management Area #9.

* * * * *

Subchapter D. TRAPPING

§ 141.61. Trapping hours.

Except on the opening and closing day of trapping seasons, [fur-bearing] furbearing animals may be taken by trapping any hour, day or night, during the open season. On the opening day of trapping season, it is

unlawful to set, place or stake out traps prior to 7 a.m. On the closing day, traps shall be removed by [12 noon] sunset.

[Pa.B. Doc. No. 96-479. Filed for public inspection March 29, 1996, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA CODE CHS. 1, 3, 21, 23, 29 AND 31]

[L-950106]

Motor Carriers of Property

At a public meeting held December 14, 1995, the Pennsylvania Public Utility Commission (Commission) adopted an order which promulgated a proposed rulemaking modifying regulations to reflect its changed regulatory role since the Federal Aviation Authorization Act of 1994 amended the Interstate Commerce Act, preempting state regulation of motor carriers of property in the areas of rates, routes and service. The Commission historically regulated intrastate property transportation in these areas as well as in the areas of safety and insurance. In light of the preemption, the Commission has proposed these changes. Also, the Commission has taken this opportunity to delete the requirement of filing annual reports for both motor carriers of passengers and property. The contact person is John Herzog, Assistant Counsel, Legal Division, Bureau of Transportation and Safety, (717) 783-3173.

Executive Summary

The Federal Aviation Authorization Act of 1994 amended the Interstate Commerce Act, preempting state regulation of motor carriers of property in the areas of rates, routes and service. The Commission historically regulated intrastate property transportation in these areas, as well as in the areas of safety and insurance. In light of the preemption, the Commission has promulgated a proposed rulemaking modifying its regulations to reflect its changed regulatory role. Also, the Commission has taken this opportunity to delete the requirement of filing annual reports for both motor carriers of passengers and property.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Commission submitted a copy of these proposed amendments on March 15, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If the Committees have objections to any portion of the proposed amendments, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of any objections raised.

Public meeting held
December 14, 1995

Commissioners Present: John M. Quain, Chairperson, Statement follows; Lisa Crutchfield, Vice Chairperson; John Hanger; David W. Rolka; and Robert K. Bloom, Statement follows

Order

By the Commission:

Under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission proposes a rulemaking to amend our regulations governing motor common carriers of property now found in 52 Pa. Code. In 1994, the United States Congress adopted legislation entitled the Federal Aviation Authorization Act of 1994 which amended, inter alia, the Interstate Commerce Act at sections 41713(b) and 1501(h), 49 U.S.C.A. §§ 41713(b) and 1501(h), (hereinafter referred to as the Act.) These sections provide, in pertinent part, that states are not permitted to regulate rates, routes or service of motor carriers of property, except household goods. However, our oversight of safety and financial responsibility of property carriers are not affected and remain necessary and essential parts of our obligation to ensure safe and available transportation throughout the Commonwealth.

Historically, we have used economic regulation of motor carrier transportation as a means to carry out our responsibilities under the Public Utility Code to promote safe and reasonable transportation service within the Commonwealth. For example, our regulations are designed to require a showing of market need for transportation services prior to a grant of authority. See e.g., 52 Pa. Code § 3.381. This was an efficient method to ensure stability in the transportation industry and sufficient earnings to promote safe operations and available service. However, Federal legislation requires that we alter our current methodology and move to a safety/insurance based system for motor carriers of property.

Our goal in this proposed rulemaking is to excise economic regulation over motor carriers of property without disturbing those measures which should remain regarding common carriers of property, passenger and household goods common carriers and contract carriers of household goods in use. Consistent with our responsibilities under the Public Utility Code to ensure safe transportation within the Commonwealth, we are proposing to amend our regulations to provide for an abbreviated application process for motor common carriers of property. This proposed procedure is designed to highlight safety issues and continue our insurance requirements while removing economic factors. We are also amending regulations such as rate and tariff requirements to conform to the preemptive provisions of the Act as it relates to motor common carriers of property. In addition, we are taking this opportunity to delete certain regulations which are no longer useful or in the public interest.

A discussion of the affected provisions with a brief description of the changes is set forth below. In addition to the regulations specifically discussed herein, our current leasing regulation now found at 52 Pa. Code § 31.32 require examination in light of the significant changes now being undertaken. While specific changes are not proposed at this time, we invite comments to that regulation in the context of this proceeding. We also invite

comments to our insurance regulations now found at 52 Pa. Code §§ 32.12 and 32.13. Amendment to those sections may be undertaken in our final form rulemaking. Corrections to grammar, addresses and bureau titles have been made throughout this rulemaking without specific discussion in this order.

We propose to amend the following regulations as discussed herein and as set forth in Annex A:

§ 1.43. Schedule of fees payable to the Commission.

This section has been modified to recognize a new application for motor common carriers of property with a \$100 fee. We have also specified that Emergency Temporary Authority and Temporary Authority applications are available for passenger and household goods carriers. This indicates that these forms of authority will not be available for property carriers. Since all property carriers will possess Statewide authority, it is doubtful that the shipping public will be faced with such a lack of carriers that Emergency Temporary Authority will be required. Also, the application process for motor common carriers of property set forth below is such that permanent authority can be obtained by fit carriers in a very brief time period thereby alleviating the need for a Temporary Authority procedure. It should be noted that no such applications for motor common carriers of property have been filed within the last 6 months.

§ 3.381. Applications for transportation of property, household goods in use and persons.

This section has been substantially revised. Subsections (a), (c), (d)—(f) and (i) have been revised to clarify that common carriers of property will be considered separate and distinct from common carriers of passengers and household goods in use. Subsection (i) deletes the word "order" to conform to current practice which uses letters to apprise applicants of compliance requirements.

§ 3.381(k)—(n). Adverse Comments to Property Applications.

These subsections are the heart of the proposed rulemaking. The new subsections provide for the application process for motor common carriers of property. As described in the proposed regulations, the application process is intended to focus on the safety fitness of applicants and is in keeping with the Commission's mandate to approve such applications if it finds that granting the certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103(a).

Contrary to the former procedure in which adverse parties could intervene in carrier applications by filing protests on economic and fitness grounds, the proposed procedure permits intervention by staff of the Bureau of Transportation and Safety only on significant safety fitness grounds. That Bureau has the responsibility to screen adverse comments to ensure that frivolous or non-safety related issues do not interfere with the application process. In addition, the Bureau of Transportation and Safety may intervene based upon its own determination of safety issues. It need not rely solely on outside comments.

In the event significant safety issues are raised regarding an application, the matter will be referred to the Office of Administrative Law Judge for hearing. If no safety issues are raised, or the Bureau of Transportation and Safety determines that filed comments do not raise significant safety issues, the matter will be processed as

set forth in § 3.381(n). That section provides that a Statewide certificate will be issued upon the filing of appropriate evidence of insurance. It is contemplated that an applicant which possesses a satisfactory safety rating from the United States Department of Transportation, or from a state with safety regulations consistent with those of the Commonwealth, will be presumed to be fit.

In cases in which an applicant does not possess a satisfactory safety rating from the United States Department of Transportation or a state regulatory body with safety regulations similar to those of the Commonwealth, the applicant will be required to complete a safety fitness review conducted by Commission enforcement staff within 180 days of the issuance of the compliance letter apprising them of the review requirement. If the review is not successfully completed within 180 days, a 60 day grace period will begin. If the review is not successfully completed within the grace period, the certificate will be immediately suspended without formal action by the Commission. Failure to successfully complete the safety fitness review within 30 days of notice of suspension for such failure will result in revocation proceedings.

§ 3.382. Transportation applications—evidentiary guidelines.

Evidence of market need is no longer relevant in motor common carrier of property applications. Accordingly, we propose to modify this section to clarify that such evidence will not be received in motor common carrier of property proceedings.

§ 3.383. Applications for temporary authority and emergency temporary authority.

This section has been revised to make it applicable to passenger and household goods carriers. Given the time frame for property carrier applications and the fact that any property carrier can transport any commodities within this Commonwealth, it is unnecessary to provide for Emergency Temporary Authority in property matters. For consistency, we have deleted the requirement that information relating to commodities to be transported be provided in verified statements filed in these proceedings.

§ 3.384. Disposition of applications.

This section is the companion to § 3.383 and has been modified to restrict its application to passenger and household goods carriers.

§ 3.385. Rates, fares and charges for TA and ETA authorities.

Subsection (b) has been deleted as not serving any useful purpose.

§ 21.1. Definitions.

This section provides for definitions of motor common carriers of property and household goods carriers. The definitions are those set forth in the Commission's Final Decision at P-00940884 (entered December 20, 1994) and, for household goods carriers, conform to definitions now used at the Federal level.

This section, through the definitions, is intended to restrict the application of sections in this subpart when such application would not be permitted by the act. The definition of the phrase "motor carrier" limits it to only passenger and household goods in use carriers.

§ 23.1. Definitions.

This is one of the more significant sections of the proposed rulemaking. The definitions provided here serve

to restrict the applicability of some regulations to passenger and household goods carriers. Federal preemption has eliminated our ability to engage in ratemaking and impose tariff restrictions on motor common carriers of property. Accordingly, by altering the definitions section here, we are attempting to limit the applicability of ratemaking and tariff filings to passenger and household goods carriers.

§ 23.14. Numbering of tariffs and supplements.

This proposed modification removes the "Express" and "Freight" tariff designations from our regulations as the tariff requirements will no longer apply to motor common carriers of property.

§ 23.16. Filing in numerical order.

This change merely reflects the new Bureau of Transportation and Safety and the correct address for the Commission.

§ 23.21. Title page.

This change restricts applicability to passenger and household goods carriers. We have also removed "aircraft" from this section since it is of no use.

§ 23.22. List of changes made by tariff.

Again, we have attempted to limit this section's scope to remove motor common carriers of property and aircraft.

§ 23.33. Index of commodities.

This section has been deleted since tariff requirements no longer apply to motor common carriers of property.

§ 23.67. Financial data.

We have restricted the scope of this section to passenger and household goods in use carriers.

§§ 23.81, 23.82, 23.83 and 23.85. Relating to carrier rates at intermediate points.

These sections have been deleted as no longer serving any useful purpose.

§ 23.116. Transportation of circuses and other shows.

This section has been deleted as no longer serving any useful purpose.

§§ 23.131—23.135. Relating to embargoes.

These sections have been deleted as no longer serving any useful purpose.

§ 23.149. Filing of discontinuance or termination.

This section has been deleted as serving no useful purpose.

Appendix I, Pennsylvania Public Utility Commission Policy Statement on Federal Anti-Inflation Guidelines.

This Appendix appears at the end of Chapter 23 and was adopted in response to the rampant inflation experienced in the 1970's. It is being deleted as no longer serving any useful purpose.

§ 29.42. Annual reports.

This section requires annual reports for passenger carriers. It is being deleted since most of the useful information required in the reports is duplicated in the annual Assessment Report. The Assessment Report will continue to be required and can be modified to provide information which used to be provided in the annual report.

§ 31.1. Definitions.

In this section, we are again restricting the applicability of preempted provisions through our definitions. We have provided for the definition of "motor common carrier of property" separate and distinct from "common carrier by motor vehicle." The definition of "household goods carrier" is that now used at the Federal level. We have also eliminated the former definition of "property carrier" to avoid conflicting interpretations.

§ 31.2. Applicability.

This section, together with the definitions, provides for motor common carriers of property as a separate class of carrier. It further advances our goal of restricting application of preempted regulations to passenger and household goods carriers. We have also deleted the final clause of this section as surplusage.

§ 31.4. Transfer of certificates and permits.

This section has been modified to provide that certificates for motor common carriers of property are non-transferable. Because our oversight of these carriers is strictly safety and insurance based, those qualities run with the specific carrier. It would be pointless to permit a transfer since we would have to perform the same checks on a transferee as on a new applicant. There appears to be no public benefit to a transfer process.

§ 31.9. Annual reports.

This section has been deleted to eliminate annual reports for property carriers and household goods carriers. As pointed out in our discussion of § 29.42, any useful information now contained in these reports can be provided in the Assessment Report forms.

§ 31.10. Assessment reports.

Because we have defined motor common carriers of property separately from common carrier, that class has been specifically added to this section. It is important to note here that the Congressional Conference Committee Report on the act expressly provided that the act was not intended to affect state taxation of motor common carriers of property. Accordingly, our mechanism of funding oversight of this industry through assessments remains unaffected.

§ 31.16. Mileage description in certificates.

This has been revised to apply only to household goods carriers. Mileage restrictions no longer apply to property carriers.

§§ 31.21—31.25. Relating to classification.

These sections provided the separate classifications for motor carriers which indicated territorial and route restrictions depending on the type of class involved. These classifications have been uniformly ignored since certificates now describe the authorized territory. Also, all motor common carriers of property will now have State-wide authority. The sections are being deleted as no longer necessary.

§§ 31.27. Rate schedules and tariffs.

This section has been modified to recognize the elimination of regulation of property rates. It retains its usefulness as a tool for consumer protection in the regulation of household goods in use carriers.

§§ 31.28—31.31. *Relating to commencement of service, interruptions in service, credit requirements and bills of lading and receipts.*

These sections have been deleted as no longer serving a useful purpose.

§ 31.34. *Handling of c.o.d. shipments.*

This section has no application to property carriers and serves no useful purpose in the regulation of household goods in use. Accordingly, it has been deleted.

§ 31.37. *Return of refused, rejected or damaged shipments to points of origin.*

Motor common carriers of property will have Statewide authority. Also, this section has no use in household goods transportation. This section is being deleted as unnecessary.

§§ 31.41 and 31.45. *Relating to contract carrier classifications and contracts.*

These two sections have been modified to restrict their application to contract carriers of household goods in use.

§§ 31.47—31.50. *Relating to commencement of service, interruptions of service, credit requirements and bills of lading and receipts.*

These sections are being deleted as no longer serving any useful purpose.

§ 31.61. *Classification.*

This section eliminates the classification scheme for forwarders to be consistent with our modification to §§ 31.21—31.25.

§ 31.62. *Use of or interchange with carriers.*

This section has been modified to remove air carriers from its application. The final sentence has been deleted since motor common carriers of property no longer have any designated routes or territories in their certificates.

§§ 31.66—31.71. *Relating to rate schedules and tariffs, commencement of service, interruptions of service, credit requirements, bills of lading and receipts and allowances and rebates.*

These sections are being deleted as no longer serving a useful purpose.

Due to the recent Federal preemption of economic oversight of motor common carriers of property, the Commission has determined that modifications to our regulations must be made as more specifically discussed above. In addition, we are taking this opportunity to remove certain regulations which are no longer useful or in the public interest. We invite all interested parties to file comments to the proposed revisions set forth in Annex A attached to this order. Also, we invite comments regarding our current regulations found at 52 Pa. Code §§ 32.12, 32.13 and 31.32 (relating to insurance; cargo insurance; and leasing).

Accordingly, under section 501 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 501, the Commonwealth Documents Law (45 P. S. § 1201 et seq.), and 45 Pa.C.S. § 702(3), we propose to amend the regulations in 52 Pa. Code, as discussed above and as set forth in Annex A; *Therefore,*

It is Ordered that:

1. A proposed rulemaking docket be opened to consider the proposed revisions to regulations set forth in Annex A of this order.

2. The Secretary shall submit a copy of this order, together with Annex A to the Office of Attorney General for preliminary review as to form and legality.

3. The Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit a copy of this order, together with Annex A, for review by the designated standing committees of both Houses of the General Assembly, and for informal review and comments by the Independent Regulatory Review Commission.

5. The Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. The public is invited to submit comments, original and 10 copies, regarding the proposed rulemaking with the Secretary of the Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, within 30 days after publication in the *Pennsylvania Bulletin*.

JOHN G. ALFORD,
Secretary

Statement of Chairperson John M. Quain

Before us today are two significant rulemakings that when combined, will delete or rescind 62 obsolete and redundant sections of our regulations and revise another 43 sections. Furthermore, when this Commission again meets on January 11, 1996, we will consider another 58 sections pertaining to Chapters 63, 64 and 56 for possible rescission or revision.

I wish to express my appreciation to all of the staff of the various bureaus, and those public commentators who contributed to this massive undertaking.

Statement of Commissioner Robert K. Bloom

Before us for consideration is the proposed rulemaking which would amend regulations governing motor carrier regulation. I offer the following comments associated with the proposed rulemaking.

In *Frank Renda v. Edward Rabel*, Docket A-00101022C9501, Mr. Renda filed a formal complaint against Mr. Rabel, a household goods mover for failure to provide a binding estimate. In the Initial Decision of Administrative Law Judge Michael C. Schnierle, issued December 7, 1995, the ALJ stated:

"One final comment is necessary. These kinds of cases could be avoided in large measure if the Commission would simply require movers to render binding estimates, as the Federal government did many years ago for interstate moves. I strongly recommend that the Commission institute a proposed rulemaking to require movers to render binding estimates for any customer requesting one." Initial Decision p. 16.

I would examine the ALJ's recommendation in the context of this rulemaking proceeding to see if it is appropriate for this Commission to require binding estimates. I would like a copy of this Statement attached to the Order served on the parties.

Fiscal Note: 57-166. No fiscal impact; (8) recommends adoption.

(Editor's Note: A proposal to amend § 1.43 (relating to schedule of fees payable to the Commission) remains outstanding at 25 Pa.B. 1288 (April 8, 1995).)

Annex A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart A. GENERAL PROVISIONS
CHAPTER 1. RULES OF ADMINISTRATIVE
PRACTICE AND PROCEDURE
Subchapter E. FEES

§ 1.43. Schedule of fees payable to the Commission.

(a) *Fees for services.* The fees for services rendered by the Commission are as follows:

| <i>Description</i> | <i>Fee (in dollars)</i> |
|---|-----------------------------|
| * * * * * | |
| Filing an application for a certificate of public convenience for a motor common carrier of property | \$100 |
| Filing an application for emergency temporary authority as common carrier [or] of passengers or household goods in use , contract carrier of passengers or household goods in use , or broker or for an extension thereof | \$100 |
| Filing an application for temporary authority as common carrier of passengers or household goods in use , contract carrier of passengers or household goods in use , or broker | \$100 |
| Filing an application for a certificate to discontinue intrastate common carrier transportation of household goods in use or passenger service | \$ 10 |
| * * * * * | |

CHAPTER 3. SPECIAL PROVISIONS
Subchapter E. MOTOR TRANSPORTATION
PROCEEDINGS

§ 3.381. Applications for transportation of property, household goods in use and persons.

(a) *Applications.*

(1) *Forms.* The following **[applications shall be made to the Commission substantially in accordance with the forms prescribed in § 3.551 (relating to official forms)] list of forms may be obtained from the Office of the Secretary of the Commission:**

* * * * *

(3) *Filing and verification.* An original application, together with two copies, shall be filed by the applicant, or an authorized officer or representative, with the Secretary of the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania **[17120] 17105-3265**. The application shall be verified under § 1.36 (relating to verification). An application by a common carrier for a certificate of public convenience **authorizing the transportation of passengers or household goods in use** may be accompanied by verified statements of the applicant and supporting party or firm, as set forth **[at]** in subsection (e)(1)(ii) and (iii). An application by a contract carrier for a permit **authorizing the transportation of passengers or household goods in use** may be accompanied by a verified statement of the applicant, as set forth at subsection (e)(1)(ii)

and a copy of the bilateral contract or statement of the shipper that it will enter into a bilateral contract with the carrier.

* * * * *

(5) *Abandonment or discontinuance of service.* A **motor common carrier of property**, contract carrier or broker is not required to file an application to abandon or discontinue service. Abandonment or discontinuance of service, in whole or in part, by a **motor common carrier of property**, contract carrier or a broker shall require the submission of a letter to the Commission containing a statement that the service is no longer being rendered or that the contract has expired.

* * * * *

(8) *Change in the name of shipper:*

(i) If a shipper named in the existing or proposed operating authority of a motor carrier of **passengers or household goods in use** changes its name, the motor carrier shall submit a verified letter of notification to the Secretary containing the following information:

* * * * *

(ii) If a shipper named in the existing or proposed operating authority of a motor carrier of **passengers or household goods in use** simply makes an addition to or change of a fictitious trade name, the motor carrier shall notify the Secretary by letter, identifying the name and docket number of the motor carrier and submitting a copy of the shipper's fictitious name registration form filed with the Department of State under 54 Pa.C.S. § 312.

(9) *Change in entity of named shipper:*

(i) A change in the entity of a shipper named in the existing or proposed operating authority of a motor carrier of **passengers or household goods in use**, which is accompanied by a change in the ownership or control of the shipper's business—for example, through a sale or merger—requires the filing of an application by the motor carrier in accordance with paragraphs (3) and (4) and § 5.12.

(ii) A change in the entity of a shipper named in the existing or proposed operating authority of a motor carrier of **passengers or household goods in use**, which is not accompanied by a change in the ownership or control of the shipper's business—for example, through the incorporation of a sole proprietorship or partnership—requires the submission by the motor carrier of a verified letter of notification to the Secretary containing the following information:

* * * * *

(10) *Change in location of named shipper:*

(i) A change in the location of an existing facility of a shipper named in the existing or proposed operating authority of a motor carrier of **passengers or household goods in use** requires the filing of an application under paragraphs (3) and (4) and § 5.12, except as provided in subparagraph (ii).

(ii) A change in the location of an existing facility of a shipper named in the existing or proposed operating authority of a motor contract carrier of **passengers or household goods in use**, which is not accompanied by a change in ownership or control of the business, requires the submission of a verified letter of notification to the Secretary containing the name and docket number of the

motor carrier, and a statement that there is no change in ownership or control of the business.

* * * * *

(c) *Protests to applications for passenger or household goods in use authority: content and effect.*

(1) A person objecting to the approval of an application for passenger or household goods in use authority shall file with the Secretary of the Commission and serve upon the applicant and the applicant's attorney, if any, a written protest which shall contain [all of] the following:

* * * * *

(2) Upon the filing of a timely protest to an application for passenger or household goods in use authority, the protestant will be allowed to participate in the proceeding as a party intervener.

(3) A protest to an application for passenger or household goods in use authority shall be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file motions to strike, to dismiss, or for amplification as provided in § 5.101 (relating to preliminary motion).

(d) *Protests: time of filing.* A protest to an application for passenger or household goods authority shall be filed within the time specified in the notice appearing in the *Pennsylvania Bulletin*, which shall be no less than 15 days from date of publication [thereof]. Failure to file such a protest in accordance with this subsection shall be a bar to subsequent participation in the proceeding, except [where] when permitted by the Commission for good cause shown.

(e) *Failure to file protests.* If no protest to an application for passenger or household goods in use authority is filed with the Commission on or before the date specified in the *Pennsylvania Bulletin* or if all protests have been withdrawn at or prior to the hearing, the Commission may[, in its discretion,] take either of the following actions:

* * * * *

(f) *Scheduling hearings.* The applications for passenger or household goods in use authority to which timely protests were filed will not be acted on by the Commission for [a period of] 20 days after the closing date for filing protests, to permit the applicant to make restrictive amendments leading to the withdrawal of protests. [In the event that] If all protests are withdrawn upon amendment, the Commission may dispose of the application in accordance with subsection (e). [In the event that] If the application is still subject to protest, then after the expiration of the 20-day waiting period, the Commission will set the application for hearing and will notify the parties thereof. Absent good cause shown, no further amendments to the application will be considered after the expiration of the 20-day period or the commencement of hearings.

* * * * *

(i) *Compliance [order]; conditions for approval.* Whenever the Commission shall approve operation by a motor common carrier of passengers or household goods in use, forwarder, broker or motor contract carrier of passengers or household goods in use, the motor common carrier, forwarder, broker or motor contract carrier will be notified thereof by registered or certified

mail, whereupon it shall file with the Commission, within 60 days of receipt of [such] the notice, a certificate of insurance or other security required by this title, relating to insurance and security for the protection of the public. In addition, motor common carriers of passengers or household goods in use shall file tariffs of their applicable rates and charges, and contract carriers of passengers or household goods in use shall file schedules of actual charges. When all of these requirements have been met, the Commission will issue the certificate, permit[,] or license as the case may be. Failure on the part of any motor common carrier of passengers or household goods in use, forwarder, broker or motor contract carrier of passengers or household goods in use to comply with [the provisions of] this section within the 60-day period may result in the dismissal of the application and rescission of prior approval, unless the Commission shall have, upon written request demonstrating good cause, extended the time for compliance.

* * * * *

(k) *Adverse comments to applications for motor common carrier of property authority: content and effect.*

(1) A person objecting to the approval of an application for motor common carrier of property authority may file with the Secretary of the Commission and serve upon the applicant, the applicant's attorney, if any, and the Bureau of Transportation and Safety written comments which shall contain specific factual allegations regarding an applicant's safety fitness. Factual allegations which specifically reference the applicant's United States Department of Transportation Safety rating, safety ratings from other State agencies or adverse decisions in safety related proceedings before other tribunals will be required in the comments. Comments which are not supported by specific factual allegations as described will not be considered.

(2) Upon the filing of timely adverse comments which contain specific factual allegations relating to an applicant's safety fitness, the application and comments will be referred to the prosecutory staff of the Bureau of Transportation and Safety for a determination as to the necessity for a hearing.

(l) *Adverse comments: time for filing.* Adverse comments to applications for motor common carrier property authority shall be filed within the time specified in the *Pennsylvania Bulletin*, which shall be at least 10 days from the date of publication.

(m) *Hearings on applications for motor common carrier property authority.* If adverse comments are filed which raise significant issues regarding an applicant's safety fitness, or if the Bureau of Transportation and Safety prosecutory staff determine that safety ratings from other jurisdictions or adverse decisions in safety related proceedings before other tribunals exist, the Bureau of Transportation and Safety shall enter its appearance and refer the matter to the Office of Administrative Law Judge for hearings on the applicant's safety fitness. A determination by the Commission, after hearing, that the applicant possesses the necessary safety fitness will result in the application being processed as though the applicant possessed a satisfactory safety rating.

(n) *Action on applications for motor common carrier property authority without adverse comments or hearing.* If no adverse comments are filed, or if the Bureau of Transportation and Safety has determined that the adverse comments do not raise significant allegations of safety fitness, the Commission will act on motor common carrier of property applications as follows:

(1) A compliance letter will be issued directing that the applicant file a Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance and a Form K Uniform Cargo Insurance Certificate. Temporary evidence of insurance may be filed in the form of an insurance identification card for Pennsylvania registered vehicles, a copy of the declaration page of the insurance policy, a copy of a valid binder of insurance or a copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan. The temporary evidence of insurance shall be replaced by the required certificates within 60 days.

(2) Once acceptable evidence of insurance has been filed, a certificate of public convenience will be issued authorizing the transportation of property, not including household goods in use, between points in this Commonwealth.

(3) Applicants which do not possess a current satisfactory safety rating issued by the United States Department of Transportation or a state with safety regulations comparable to the Commonwealth, shall complete a safety fitness review conducted by Commission staff. The safety fitness review shall be scheduled and completed within 180 days of the date of the compliance letter. If the applicant fails to attain a satisfactory safety rating within the 180 day period, it will be given an additional 60-days to correct the deficiencies. Failure to achieve a satisfactory rating within the 60-day period will result in immediate suspension of the certificate of public convenience. Failure to achieve a satisfactory safety rating within 30 days of notification of suspension under this section will result in proceedings to revoke the certificate.

(4) Safety fitness reviews will take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth will have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission enforcement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(5) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's management policies, records and equipment to ensure that the applicant understands and will comply with the Commission's regulations in Chapter 37 (relating to safety code for transportation of property and passengers).

§ 3.382. Transportation applications—evidentiary guidelines.

(a) *Service request evidence.* Evidence of requests received by an applicant for **passenger or household goods in use** service may be offered by the applicant in a transportation application proceeding relevant to the existence of public necessity for the proposed service. The credibility and demeanor of a witness offering evidence

will be considered in evaluating the evidence. The weight which will be attributed to the evidence will depend upon the extent to which the alleged requests are substantiated by [such] the evidence as [the following] follows:

* * * * *

(b) *Prospective rate evidence.* An applicant for a motor carrier certificate or permit **for the transportation of passengers or household goods in use**, though not required to offer testimony as to the rates proposed to be charged, may do so provided it is otherwise competent. The weight to be attributed to the evidence will depend upon the extent to which it is accompanied by cost evidence demonstrating that the prospective rates would be compensatory, that is, that the prospective rates would be adequate to enable the applicant to recover its costs and realize a reasonable return either on investment or under operating ratio standards. The demeanor and credibility of a witness offering the evidence will also be considered in evaluating the weight to be attributed to the evidence.

§ 3.383. Applications for temporary authority and emergency temporary authority.

* * * * *

(b) *Definitions.* The following words and terms, when used in this subchapter, have the following meanings:

Carrier—Includes **motor common carriers of passengers or household goods in use** and **motor contract carriers [by motor vehicle] of passengers or household goods in use**, brokers and forwarders.

Emergency temporary authority (ETA)—Limited duration operating authority issued under 66 Pa.C.S. §§ 1103(d) and 2509 to authorize **the transportation [service] of passengers or household goods in use** to meet an emergency situation and **[where] when** time or circumstances do not reasonably permit the filing and processing of an application for TA.

Temporary authority (TA)—Limited duration operating authority issued under 66 Pa.C.S. §§ 1103(d) and 2509 to authorize **the transportation [service] of passengers or household goods** to meet an emergency situation.

(c) *Filing of applications.* An application shall be filed as follows:

* * * * *

(3) *Supporting statements.* An application shall be accompanied by supporting statements of the applicant and shippers or other witnesses which establish an immediate need for service. A statement shall contain a certification of its accuracy and shall be signed by the person submitting the statement.

* * * * *

(ii) *Statements of supporting shippers or witnesses.* The statement of a supporting shipper or witness, which shall be prepared by the shipper or witness, or an authorized representative of the shipper or witness, shall contain the following information:

[(A) A description of the specific commodity which will be transported, if the transportation of property is involved.]

[(B)] (A) ***

[(C)] (B) ***

[(D)] (C) ***

- [(E)] (D) ***
- [(F)] (E) ***
- [(G)] (F) ***
- [(H)] (G) ***
- [(I)] (H) ***
- [(J)] (I) ***
- [(K)] (J) ***

(4) *Procedures for filing ETA application.* Procedures for filing ETA applications are as follows:

* * * * *

(ii) If the urgency of the situation warrants, the supporting statement of those having the immediate need for [carrier] service may be furnished by telegram. The telegram shall contain substantially the factual information described in paragraph (3). The telegram shall be sent to the Director, Bureau of Transportation and Safety.

* * * * *

§ 3.384. Disposition of applications.

(a) *General.* Initial determination of ETA and TA applications will be made by the Bureau of [Nonrail] Transportation and Safety with the approval of the Commission.

(b) *Standards for determination of need.*

(1) *General.* Grants of TA or ETA shall be made upon the establishment of an immediate need for the transportation of passengers or of [particular commodities or classes of commodities] household goods in use. Requests involving service to cities, counties, townships[,] or other defined areas warrant approval when supported by evidence that there is a need for service to or from a representative number of points in each [such] city, county, township or areas and that there is a reasonable certainty that the service will be used.

(2) *Immediate need.* A grant of TA or ETA will be made [where] when it is established that there is or soon will be an immediate transportation need. A showing of immediate need may involve passenger service to a new or relocated plant, [a different method of distribution, new or unusual commodities,] an origin or destination not presently served by carriers a discontinuance of existing service, failure of existing carriers to provide service or comparable situations which require new carrier service before an application for permanent authority can be filed and processed. An immediate need will not normally be found to exist where there are other carriers capable of rendering the service unless it is determined that there is a substantial benefit to be derived from the initiation of a competitive service.

* * * * *

§ 3.385. Rates, fares and charges for TA and ETA authorities.

* * * * *

[(b) *Emergency temporary authority.* Upon completion of services rendered under ETA, a carrier shall submit to the Bureau of Transportation a statement containing the gross revenue and other

charges related to the transportation, and the total tonnage or number of persons transported.]

[(c)] (b) ***

[(d)] (c) ***

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

CHAPTER 21. GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

Common carrier of property—A motor common carrier who or which transports property, other than household goods in use. Common carriers of property shall by definition be permitted to transport those items described in subparagraph (iii) in the definition of "household goods in use carrier" in this section.

* * * * *

Household goods in use carrier—A motor common or contract carrier who or which holds authority to transport:

(i) Personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property; except that this does not include property moving from a factory or store, except property that the householder has purchased with the intent to use in his dwelling and which is transported at the request of and the transportation charges paid to the carrier by the householder.

(ii) Furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of the store, offices, museums, institutions, hospitals or other establishments; except that this does not include the stock-in-trade of any establishment, whether consignor or consignee, except when transported as incidental to moving of the establishment from one location to another.

(iii) Articles, including objects of art, displays, exhibits and business machines, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods; except that this does not include any article whether crated or uncrated, which does not, because of the unusual nature or value require specialized handling usually employed in moving household goods.

Motor carrier—A common or contract carrier by motor vehicle of passengers or household goods in use.

CHAPTER 23. TARIFFS FOR COMMON CARRIERS OF PASSENGERS AND HOUSEHOLD GOODS IN USE

GENERAL PROVISIONS

§ 23.1. Definitions.

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

Common carrier or [Carrier] carrier—A person or corporation holding out, offering or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or [property] household goods in use, or both, or any class of passengers or [property] household goods in use, between points within this Commonwealth by, through, over, above or under land, water or air, including forwarders, but not motor common carriers of property, contract carriers [by motor vehicles], brokers[,] or any bona fide cooperative association transporting property exclusively for the members of [such] the association on a non-profit basis.

Contract carrier—Any person or corporation who or which provides or furnishes transportation of passengers or [property] household goods in use, or both, or any class of passengers or [property] household goods in use, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of [such] the motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for the transportation, or for use in the transportation, other than as a common carrier by motor vehicle, but not including [any] one or more of the following:

* * * * *

Rate—An individual or joint fare, toll, charge, rental or other compensation of a public utility, other than a motor common carrier of property in its transportation of property, or contract carrier by motor vehicle, made, demanded or received for [a] jurisdictional service [within this act], offered, rendered or furnished by the public utility, other than a motor carrier of property in its transportation of property, or contract carrier by motor vehicle, whether in currency, legal tender or evidence thereof, in kind, in services or in another medium or manner, and whether received directly or indirectly, and rules, regulations, practices, classifications or contracts affecting the compensation, charge, fare, toll or rental.

Tariff—Schedules of rates, rules, regulations, practices or contracts involving any rate or rates, including contracts for interchange of service and, in the case of a common carrier, other than a common carrier of property in the transportation of property, schedules showing the method of distribution of the facilities of the common carrier.

FORM AND FILING OF TARIFFS

§ 23.14. Numbering of tariffs and supplements.

* * * * *

(b) The designation on tariffs of motor carriers shall show the kind of service and serial number as follows:

* * * * *

[(4) "Express Pa.P.U.C. No. ____ ."]

[(5) "Freight Pa.P.U.C. No. ____ ."]

[(6)] (4) ***

* * * * *

§ 23.16. Filing in numerical order.

* * * * *

(f) Separate letters shall be used for tariffs or supplements filed for different classes of service. Tariffs tendered for filing shall be addressed to:

Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3254
Harrisburg, Pennsylvania [17120] 17105-3265

CONTENT AND ARRANGEMENT OF TARIFFS

§ 23.21. Title page.

Each tariff shall contain a title page showing [all of] the following information in the sequence specified:

* * * * *

(9) [All] The tariffs and supplements filed by other than [motor carriers of property,] railroad companies [, and aircraft,] or their agents, shall indicate the amendments to existing rules and rates made by the tariff or supplement, together with reference to the page [or pages] on which they are listed, and which shall be shown at the bottom of the page, as follows:

* * * * *

§ 23.22. List of changes made by tariff.

(a) Except as to [motor carriers of property,] railroad companies [, and aircraft], page two of the tariff or supplement shall begin with the following:

LIST OF CHANGES MADE BY THIS TARIFF (or supplement)

* * * * *

§ 23.33. [Index of commodities] (Reserved).

[A complete and alphabetically arranged index of all commodities upon which commodity rates are named shall be provided.]

NOTICE OF CHANGES IN FARES

§ 23.67. Financial data.

(a) The Commission will not, on or after the effective date of this order, permit a tariff filing increasing rates by a common carrier of [property] household goods in use with gross annual intrastate revenues of \$200,000 or more, or making general increase in rates published by a rate bureau, conference [,] or similar organization of carriers, which will increase gross annual revenues by more than 1.0%, unless financial justification in support of the proposed increase is filed with the tariff.

(b) [Property] Household goods in use carriers referred to in subsection (a), shall be governed by the following procedures in the filing of tariffs or tariff supplements:

* * * * *

(c) Common carriers of [property] household goods in use, with gross annual intrastate revenues of less than \$200,000, and with operating ratios of [no less than] at least 93%, before income taxes, [*] need not file substantiating data required by subsection (b)(2), but shall submit a statement with the tariff, or tariff supplement, stating that gross annual intrastate revenues did not exceed \$200,000 in the 12-month period preceding the

tariff filing together with a statement that its operating ratio before income taxes for the same period is no less than 93%. [*] The tariffs, or tariff supplements, shall be published to become effective on no less than 30 days notice. Nothing in this subsection [shall preclude] preclude the Commission from requiring supporting financial data in instances where increases in rates appear to be excessive.

[*Operating ratio is operating expenses, excluding income taxes, divided by operating revenues.]

[CARRIER RATES AT INTERMEDIATE POINTS]

(Editor's Note: The following sections which appear at 52 Pa. Code pages 93—95, serial pages (20773), (26114)—(28769) are proposed to be deleted in their entirety.)

- § 23.81. (Reserved).
- § 23.82. (Reserved).
- § 23.83. (Reserved).
- § 23.85. (Reserved).

[EXCEPTIONS TO PUBLIC UTILITY LAW PROHIBITIONS PERTAINING TO RATES]

(Editor's Note: The following sections which appear at 52 Pa. Code pages 95—98, serial pages (28769), (20776)—(20778) are proposed to be deleted in their entirety.)

- § 23.91. (Reserved).
- § 23.92. (Reserved).

OTHER RULES PERTAINING TO CARRIER RATES

§ 23.116. [Transportation of circuses and other shows] (Reserved).

[Rates for specified movements of circuses and other show outfits may be established on not less than one day's notice to the Commission. Such tariffs shall bear reference to this section and publish the charges specifically, showing the number and kind of cars moved, or may consist of a proper title page reading "as per copy of contract attached," and to it may be attached a copy of the contract under which the movement is made. Tariffs containing such rates need not be posted at stations. As far as practicable, general rules or regulations governing the fixing of such rates should be regularly published, posted, and filed upon the usual notice.]

[EMBARGOES]

(Editor's Note: The following sections which appear at 52 Pa. Code pages 106—108, serial pages (26116), (20787) and (20788) are proposed to be deleted in their entirety.)

- § 23.131. (Reserved).
- § 23.132. (Reserved).
- § 23.133. (Reserved).
- § 23.134. (Reserved).
- § 23.135. (Reserved).

CONTRACT CARRIERS

§ 23.149. [Filing of discontinuance or termination] (Reserved).

[If any contract carrier discontinues any service provided for in any schedule or terminates any contract approved by the Commission, such carrier

shall file with the Commission a suitable supplement providing for cancellation of the existing charges for such service from its schedule or schedules.]

(Editor's Note: Appendix I, PENNSYLVANIA PUBLIC UTILITY COMMISSION POLITY STATEMENT ON FEDERAL ANTI-INFLATION GUIDELINES, which appears at 52 Pa. Code page 110, serial page (120404), is proposed to be deleted in its entirety.)

APPENDIX I. (Reserved)

CHAPTER 29. MOTOR CARRIERS OF PASSENGERS

Subchapter B. COMMON CARRIERS ACCOUNTS, RECORD AND REPORTS

§ 29.42. [Annual reports] (Reserved).

[(a) A common carrier having average gross annual revenues, intrastate and interstate combined, during the preceding year of \$1 million and over, shall file, in properly completed form, signed and notarized, a Class I Annual Report Form as prescribed and furnished by the Commission, on or before March 31, covering the preceding calendar year.

(b) A common carrier having gross annual revenues, intrastate and interstate combined, during the preceding year, or an average over the preceding 3 years, of less than \$1 million, shall file, in properly completed form, signed and notarized, a Class II Annual Report Form as prescribed and furnished by the Commission, on or before March 31, covering the preceding calendar year.]

CHAPTER 31. MOTOR CARRIER PROPERTY TRANSPORTATION

GENERAL PROVISIONS

§ 31.1. Definitions.

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

Common carrier by motor vehicle—A person or corporation holding out or undertaking, directly or indirectly, to transport [property, or a class of property,] household goods in use between points within this Commonwealth by motor vehicle for compensation, whether or not as the owner or operator of the motor vehicle. The term includes, [but is not limited to, person] persons or [corporation] corporations providing or furnishing a motor vehicle with or without a driver for the transportation or for use in the transportation of [property] household goods in use; a common carrier by rail, water or air; and express or forwarding public [utility] utilities insofar as the common carrier or the public utility is engaged in motor vehicle operation, except as expressly exempted by the act. For purposes of this chapter, the term does not include motor common carriers of property.

Contract carrier by motor vehicle—A person or corporation who or which provides or furnishes transportation of [property or a class of property] household goods in use between points within this Commonwealth by motor vehicle for compensation, whether or not as the owner or operator of the motor vehicle. The term includes a person or corporation providing or furnishing a motor

vehicle with or without a driver for the transportation or for use in the transportation other than as a common carrier by motor vehicle or a motor common carrier of property, except as expressly exempted by the act.

* * * * *

Household goods carrier—A motor common or contract carrier who or which holds a certificate or permit to transport:

(i) Personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property; except that this does not include property moving from a factory or store, except property the householder has purchased with the intent to use in his dwelling and which is transported at the request of and the transportation charges paid to the carrier by, the householder.

(ii) Furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of the store, offices, museums, institutions, hospitals, or other establishments; except that this does not include the stock-in-trade of any establishment, whether consignor or consignee, except when transported as incidental to moving of the establishment from one location to another.

(iii) Articles, including objects of art, displays, exhibits and business machines, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods; except that this does not include any article whether crated or uncrated, which does not, because of the unusual nature or value require specialized handling usually employed in moving household goods.

Motor common carrier of property—A motor common carrier who or which transports property, other than household goods in use. Motor common carriers of property shall be permitted to transport those items described in subparagraph (iii) in the definition of "household goods carrier" in this section.

* * * * *

Property—Tangible property, other than household goods in use.

[**Property carrier**—A person or corporation engaged in transporting property by means of motor vehicle or motor vehicles for compensation, in intrastate commerce, and includes common carriers, contract carriers and forwarders.]

§ 31.2. Applicability.

This chapter applies to common carriers by motor vehicle, contract carriers by motor vehicle, motor common carriers of property and forwarders operating at the time of the adoption of this chapter; and also to those to whom a certificate or permit may be issued[; and this chapter is subject to amendment, change or modification that the Commission may deem advisable, and to exceptions in individual cases as the Commission deems proper].

§ 31.4. Transfer of certificates and permits.

(a) No certificate or permit or the rights thereunder may not be sold or transferred by act, deed or operation of law, unless the approval of the Commission is first obtained. The approval may be granted with or without hearing and after reasonable notice in the *Pennsylvania Bulletin* as the Commission directs. **Certificates issued to motor common carriers of property are nontransferrable.**

* * * * *

§ 31.9. [Annual reports] (Reserved).

[(a) A common carrier and forwarder of property having gross annual revenues, intrastate and interstate combined, during the preceding year, or an average over the preceding 3 years, of \$1 million and over, shall file, in properly completed form, signed and notarized, a Class I Annual Report form as prescribed and furnished by the Pennsylvania Public Utility Commission, on or before March 31, covering the preceding calendar year.

(b) A Class I common carrier, contract carrier and forwarder of property subject to the jurisdiction of the Commission and the Interstate Commerce Commission and required to file an Interstate Commerce Commission Class I or Class II Annual Report with that commission, may file with the Commission, on forms obtained by the carrier, a copy of its Interstate Commerce Commission Class I or Class II Annual Report in substitution of the Class I Annual Report prescribed by the Commission, if the Commonwealth intrastate gross revenues included in the form are set forth separately.

(c) A common carrier and forwarder of property having gross annual revenues, intrastate and interstate combined, during the preceding year, of less than \$1 million, shall file, in properly completed form, signed and notarized, on or before March 31, covering the preceding calendar year, a Class II Annual Report Form as prescribed and furnished by the Commission.

(d) A contract carrier of property, regardless of the amount of gross annual revenues, intrastate and interstate combined, shall file, in properly completed form, signed and notarized, on or before March 31, covering the preceding calendar year, a contract carrier annual report form as prescribed and furnished by the Commission.]

§ 31.10. Assessment reports.

Each common carrier, motor common carrier of property and forwarder of property shall file with the Commission each year an assessment report, on Form MT—(year) provided by the Commission, showing gross Commonwealth intrastate revenues for assessment purposes. The assessment report shall be filed by March 31, covering the preceding calendar year.

§ 31.16. Mileage description in certificates.

A certificate of public convenience issued by the Commission for the transportation of [property] household goods in use to common carriers by motor vehicle, in which mileage distances are provided without being described in terms of "airline distance," "statute miles," "usually traveled highways[,]" or other comprehensive definition, shall be construed to mean airline distance measured in statute miles.

MOTOR COMMON CARRIERS OF PROPERTY [BY MOTOR VEHICLE] AND HOUSEHOLD GOODS IN USE CARRIERS

(Editor's Note: The following sections, which appear at 52 Pa. Code pages 31-10—31-13, serial pages (142878)—(142881) are proposed to be deleted in their entirety.)

§ 31.21. (Reserved).

§ 31.22. (Reserved).

§ 31.23. (Reserved).

§ 31.24. (Reserved).

§ 31.25. (Reserved).

§ 31.27. Rate schedules and tariffs.

(a) Each common carrier [by motor vehicle] of household goods in use shall comply with the regulations the Commission may formulate governing the filing, publishing and posting of tariffs by [common carriers of property by motor vehicle] household goods carriers as set forth in Chapter 23 (relating to tariffs for common carriers of passengers and household goods in use).

(b) No rate based upon a limitation of liability may be published in the tariff and no limitation of liability may be prescribed in a bill of lading, unless approval has been obtained from the Commission for the publication of tariffs providing rates limited to value of the commodity, in the form and manner of [such] the petition and proceedings as the Commission may provide in its rules governing filing, publishing and posting of tariffs by [common carriers of property by motor vehicle] household goods carriers as set forth in Chapter 23. [Rates based upon a limitation of liability for loss or damage to baggage may be published without approval of the Commission.]

(Editor's Note: The following sections, which appear at 52 Pa. Code pages 31-14—31-16, serial pages (142882)—(142884) are proposed to be deleted in their entirety.)

§ 31.28. (Reserved).

§ 31.29. (Reserved).

§ 31.30. (Reserved).

§ 31.31. (Reserved).

§ 31.34. [Handling of c.o.d. shipments] (Reserved).

[(a) This section applies to the handling of c.o.d., that is, cash on delivery shipments by common carriers, except transportation which is auxiliary to or supplemental to transportation by railroad and performed on railroad bills of lading, or performed for freight forwarders on freight forwarder bills of lading.

(b) No common carrier, except as otherwise provided in subsection (a), may render c.o.d. service, unless the carrier has published, posted and filed tariffs which contain the rates, charges and rules governing the service, which rules shall conform with this chapter.

(c) Each common carrier, except as otherwise provided in subsection (a), shall remit each c.o.d. collection directly to the consignor or other person designated by the consignor as payee promptly and within 10 days after delivery of the c.o.d. shipment to the consignee. If the c.o.d. shipment moved in

interline service, the delivering carrier shall, at the time of remittance of the c.o.d. collection to the consignor or payee, notify the originating carrier of the remittance.

(d) A common carrier, except as otherwise provided in subsection (a), handling c.o.d. shipments as a delivering carrier shall maintain a record of c.o.d. shipments received for delivery in a manner and form that will plainly and readily show the following information with respect to each shipment.

- (1) The number and date of the freight bill.
- (2) The name and address of the consignee.
- (3) The date the shipment was delivered.
- (4) The amount of c.o.d.
- (5) The date collected by the delivering carrier.
- (6) The date remitted to the payee.
- (7) The check number or other identification of the remittance to payee.]

§ 31.37. [Return of refused, rejected or damaged shipments to points of origin] (Reserved).

[Common carriers by motor vehicle now holding certificates of public convenience from the Commission for the transportation of property shall of right be authorized to return refused, rejected or damaged shipments to the point of origin without further Commission approval.]

CONTRACT CARRIERS OF [PROPERTY] HOUSEHOLD GOODS IN USE BY MOTOR VEHICLE

§ 31.41. Classification.

The classification of contract carriers of [property] household goods in use is as described in the permit.

§ 31.45. Contracts.

(a) *Form.* The special or individual agreements entered into by a contract carrier of [property by motor vehicle] household goods in use with shippers shall be in writing, shall provide for transportation for a particular shipper, shall be bilateral and impose specific obligations upon both carrier and shipper [and shall cover a series of shipments over a stated route or in a stated area during a stated period of time in contrast to contracts of carriage governing individual shipments].

(b) *Filing.* Each contract carrier of [property by motor vehicle] household goods in use shall file and keep on file with the Commission copies or abstracts of contracts in [such] a manner [as] the Commission may by regulation from time to time prescribe. The contracts shall be certified by the carrier and the shipper.

* * * * *

(Editor's Note: The following sections, which appear at 52 Pa. Code page 31-27, serial page (122611) are proposed to be deleted in their entirety.)

§ 31.47. (Reserved).

§ 31.48. (Reserved).

§ 31.49. (Reserved).

§ 31.50. (Reserved).

FORWARDERS OF PROPERTY

§ 31.61. [Classification] (Reserved).

[Classification regulations applicable to common carriers, the provisions of which are set forth in § 31.21 (relating to classification), also apply to forwarders.]

§ 31.62. Use of or interchange with carriers.

(a) No forwarder in intrastate commerce may use or interchange with a motor[, air] or water common carrier which does not have a certificate of public convenience issued by the Commission, if the certificate is required. [The forwarder may use or interchange with a certified common carrier, but only over a route or within a territory covered by the certificate.]

* * * * *

(Editor's Note: The following sections, which appear at 52 Pa. Code page 31-29, serial page (132651) are proposed to be deleted in their entirety.)

- § 31.66. (Reserved).
- § 31.67. (Reserved).
- § 31.68. (Reserved).
- § 31.69. (Reserved).
- § 31.70. (Reserved).
- § 31.71. (Reserved).

[Pa.B. Doc. No. 96-480. Filed for public inspection March 29, 1996, 9:00 a.m.]

[52 PA. CODE CH. 59]

[L-950109]

Obsolete Regulations

The Pennsylvania Public Utility Commission (Commission) on December 14, 1995, adopted a proposed rulemaking regarding obsolete regulations in Chapter 59 (relating to gas service). The proposed amendments are to reflect changes in 11 sections in this chapter which will clarify, simplify and remove excessive and burdensome requirements from the Commission's gas service regulations. Sections will be eliminated which no longer serve a useful purpose and other sections will be modified to promote ease of application, as well as fairness. The contact persons are R. K. Smith, Assistant Counsel, Legal Division, Bureau of Transportation and Safety, (717) 783-3713, and Joseph A. Finnan, Bureau of Transportation and Safety, (717) 787-1063.

Executive Summary

By order entered May 23, 1995, the Commission issued an Advance Notice of Proposed Rulemaking to Review and Rescind All Obsolete and Excessive Rules and Regulations. Comments were received from Columbia Gas of Pennsylvania, Pennsylvania Gas Association and the Commission's Bureau of Transportation and Safety, and the Bureau of Conservation Economics Energy Planning which reflect the need to evaluate and update several sections contained in Chapter 59.

The proposed amendments reflect changes in 11 sections in Chapter 59, and the Commission believes these changes will clarify, simplify and remove excessive and

burdensome requirements from the Commission's gas service regulations. Sections will be eliminated which no longer serve a useful purpose and other sections will be modified to promote ease of application as well as fairness.

Public Meeting held
December 14, 1995

Commissioners present: John M. Quain, Chairperson, Statement follows; Lisa Crutchfield, Vice Chairperson; John Hanger, Dissenting in part—Statement follows; David W. Rolka; and Robert K. Bloom.

Order

By the Commission:

By Order entered May 23, 1995, we issued an Advance Notice of Proposed Rulemaking To Review And Rescind All Obsolete And Excessive Rules And Regulations at Docket No. L-950103. The advance notice was published in the *Pennsylvania Bulletin* on June 3, 1995, 25 Pa.B. 2188, and a 60-day comment period was set.

We received comments from Columbia Gas of Pennsylvania, Pennsylvania Gas Association and our own Bureau of Transportation and Safety and CEEP which reflect the need to evaluate and update several sections contained in Chapter 59. We are setting forth proposed changes in 11 sections in Chapter 59, and we believe these changes will clarify, simplify and remove excessive and burdensome requirements from our gas service regulations.

Our review of the affected chapters was careful and meticulous. We are well aware of our duty to ensure the safety of utility service, and our proposed changes will not result in any lapse in our mandate. At the same time, this is not a complete list of regulations which have become obsolete. Due to the Federal legislation which preempted a portion of the Commission's jurisdiction in the motor carrier field, we are preparing another rulemaking to bring affected regulations up to date. Those included in the present rulemaking are those which are not affected by the Federal legislation but should be amended or deleted for other reasons.

What follows is a summary of the proposed changes.

§ 59.1. Definitions.

Definitions are added for the terms "distribution line," "gathering line," "liquefied natural gas," "LNG facility," "pipeline," "public utility service line," "specified minimum yield strength" and "transmission line." The definition of "main" is updated. Utility system designations are deleted as obsolete.

§ 59.11. Accidents.

The definition of a reportable accident is changed to coincide as much as possible under the confines of 66 Pa.C.S. § 1508 with the definition of a reportable incident in 49 CFR Part 191.3.

§ 59.15. Measurement of gas at higher than standard service pressure.

The verification period in subsection (c) is enlarged from 2 to 5 years to reflect technological advances in meter equipment which has produced more reliable and accurate instruments to measure utility service.

§ 59.21. Meter tests.

Consistent with the change to § 59.15, this section provides that the period between inspections is lengthened from 2 to 5 years and the recordkeeping period is reduced from 10 to 5 years.

§ 59.26. Refusal to serve applicants or customers.

A subsection is added to specifically provide that a utility may suspend service anytime a hazardous condition is found.

§ 59.29. Gas pressure requirements for low-pressure distribution systems.

This section is modified to eliminate references to pressure districts and exceptions.

§ 59.33. Safety.

References to Federal standards are updated in this section.

§ 59.35. Increasing pressure in distribution facilities and transmission facilities.

Minor word changes are substituted for greater accuracy.

§ 59.38. Filing of major construction reports.

The monetary amount defining "major construction" is increased from \$200,000 to \$300,000 to account for inflation.

§ 59.41. Classification of gas public utilities.

This section proposes to adopt the Federal classification system to simplify the matter for gas companies.

§ 59.42. Systems of accounts.

Language substituted provides for changes to coincide with the general instructions in 18 CFR Part 201, which will ease the administrative burden of maintaining accounts. This is consistent with the Commission's prior adoption of the Uniform System of Accounts.

§ 59.62. Gas sales ban.

As suggested by the Pennsylvania Gas Association, the gas sales ban regulations are no longer necessary in today's gas market and, accordingly, we are proposing that these regulations be rescinded as obsolete.

In proposing these changes, we believe that our efficiency as a regulatory agency will be enhanced. We are eliminating those sections which no longer serve a useful purpose and we are modifying others to promote the ease of application as well as fairness. We encourage those affected by these changes to file comments.

Accordingly, under sections 501, 504, 505, 506, 1301 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1301 and 1501, and the Commonwealth Documents Law (45 P. S. § 1201 et seq.), and the regulations promulgated thereunder, we shall institute a rulemaking proceeding to accomplish the objectives described in the body of this order. *Therefore,*

It is Ordered that:

1. A rulemaking proceeding is hereby instituted at this docket.

2. The Commission's regulations are hereby proposed to be amended with changes to §§ 59.1, 59.11, 59.15, 59.21, 59.26, 59.29, 59.33, 59.35, 59.38, 59.41 and 59.42, and the rescission of § 59.62.

3. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for informal review by the designated standing committees of both houses of the General Assembly, and for informal review and approval by the Independent Regulatory Review Commission (IRRC).

6. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 10 copies, to John G. Alford, Secretary, Commission, and shall have 30 days from the date this order is published to submit comments.

7. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

JOHN G. ALFORD,
Secretary

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of these proposed amendments on March 15, 1996, to IRRC and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the Committees have objections to any portion of the proposed amendments, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of any objections raised.

Statement of Chairperson John M. Quain

Before us today are two significant rulemakings that, when combined, will delete or rescind 62 obsolete and redundant sections of our regulations and revise another 43 sections. Furthermore, when this Commission again meets on January 11, 1996, we will consider another 58 sections pertaining to Chapters 63, 64 and 56 for possible rescission or revision.

I wish to express my appreciation to all of the staff of the various bureaus, and those public commentators who contributed to this massive undertaking.

Statement of Commissioner John Hanger

Before us for consideration is the Law Bureau's recommendation and Motion of Chairperson John M. Quain regarding regulations appearing in 52 Pa. Code Chapter 59.

While supporting most of the recommendations, the following section should not be modified:

Section 59.11. Accidents. The Bureau of Transportation and Safety correctly recommended that these reporting requirements be retained since the reporting requirements of 49 CFR Part 191.3 do not include telephonic notice to state agencies and only require that written reports be submitted to the states "if the regulations of

that agency require submission of such reports." For this reason, § 59.11 should not be modified.

Fiscal Note: 57-164. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED UTILITY SERVICES
CHAPTER 59. GAS SERVICE
GENERAL PROVISIONS**

§ 59.1. Definitions.

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

* * * * *

Distribution line—A pipeline other than a gathering or transmission line.

* * * * *

Gathering line—A pipeline that transports gas from a current production facility to a transmission line or main.

* * * * *

LNG—Liquified Natural Gas—A natural gas or synthetic gas having methane (CH₄) as its major constituent which has been changed to a liquid or semisolid.

LNG facility—A pipeline facility that is used for liquefying or solidifying natural gas or synthetic gas or transferring, storing or vaporizing liquefied natural gas.

* * * * *

Main—[The pipe of a public utility system, excluding service connection located in a public highway, street, alley or private right-of-way, and used to transport gas] A distribution line that serves as a common source of supply for more than one service line.

* * * * *

Pipeline—All parts of those physical facilities through which gas moves in transportation, including pipe, valves and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

* * * * *

Public utility service line—The pipe and appurtenances of the public utility which connect any main with either the point of connection of a service line of the customer if the line is provided by the customer in accordance with the rules and regulations of the public utility, or the meter of the public utility if the utility owns all the pipe and appurtenances between its main and meter.

* * * * *

SMYS—Specified minimum yield strength—One of the following:

(i) For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification.

(ii) For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with 49 CFR 192.107(b) (relating to yield strength).

* * * * *

Service line—[The pipe and appurtenances of the public utility which connect any main with either the point of connection of a service line of the customer if such line is provided by the customer in accordance with the rules and regulations of the public utility, or the meter of the public utility if the utility owns all the pipe and appurtenances between its main and meter.] A distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer's piping, whichever is further downstream, or the connection to a customer's piping if there is no customer meter. A customer meter is the meter that measures the transfer of gas from an operator to a consumer.

* * * * *

Transmission line—A pipeline, other than a gathering line that does one of the following:

(i) Transports gas from a gathering line or storage facility to a distribution center or storage facility.

(ii) Operates at a hoop stress of 20% or more of SMYS.

(iii) Transports gas within a storage field.

[**Utility system designations**—Utility systems include both of the following:

(i) **Distribution system**—That portion of a public utility system used for the primary purpose of delivering gas to the ultimate consumers.

(ii) **Transmission system**—That portion of a public utility system installed for the primary purpose of transmitting gas from a source or sources of supply to one or more distribution centers or to one or more large volume customers or a pipe installed to interconnect sources of supply.]

SERVICE AND FACILITIES

§ 59.11. Accidents.

* * * * *

(b) **Reportable accidents.** Reportable accidents are those involving utility facilities or operations which result in one or more of the following circumstances:

(1) [The death of a person.

(2) Injury to an employe on duty sufficient to incapacitate him from performing his ordinary duties for a period longer than 3 days.

(3) Injury to a person other than an employe on duty sufficient to incapacitate the injured person from following his customary vocation, or mode of life, for a period of more than 1 day.

(4) An occurrence of an unusual nature, whether or not death or injury of a person results, which may result in a prolonged and serious interruption of normal service.]

An event that involves a release of gas from a pipeline or of LNG or gas from an LNG facility and one of the following:

- (i) A death or personal injury.
- (ii) Estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more.
- (2) An event that results in an emergency shut-down of an LNG facility.
- (3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2).

* * * * *

§ 59.15. Measurement of gas at higher than standard service pressure.

* * * * *

(c) *Fixed pressure factor measurement.* If the gas metering pressure can be maintained at a constant level so that it will not vary by more than plus or minus 1.0% of the absolute metering pressure, the quantity of gas corrected for pressure for billing purposes may be determined by multiplying the uncorrected volume by the factor of Metering Pressure Plus Atmospheric Pressure Divided by Base Pressure or by a special index with gearing to perform this calculation. The special index shall meet the specifications of ANSI Standard B109.1, § 6.2 (1986) or ANSI Standard B109.1, § 6.9 (1986). The ability of the regulator to maintain the constant pressure shall be verified at or prior to installation. Verification will be established by the use of a verified pressure-indicating gauge (accuracy: ANSI B40.1 Grade 3A), or a pressure-recording gauge, at both high and low flow conditions. When customer load is measured with a meter with a rated capacity of [1500] 1,500 cubic feet per hour or less, with metering pressure less than 3 psig, the performance of the regulator shall be verified in accordance with the test schedule of the downstream meter, established under § 59.21 (relating to meter tests). When customer load is measured with a meter with a capacity of over [1500] 1,500 cubic feet per hour or metering pressure of 3 psig or more, the performance of the regulator shall be verified at least every [2] 5 years.

* * * * *

§ 59.21. Meter tests.

(a) *Test schedule for other than Class A, B and C meters.* Each public utility shall make and record tests of orifice, rotary displacement and turbine type service meters as follows:

* * * * *

(2) Rotary displacement meters shall be tested and calibrated at the factory in accordance with recognized and accepted practices and shall be correct to within 1.0% when passing gas at their rated capacities. A record of the test shall be made available to and retained by the utility for the life of the meter. At least once every 10 years, a differential-rate test shall be made and the results checked against the original test recorded at the time of installation. At least every [2] 5 years, the meter shall be inspected to observe the condition of the meter bearings—noise, vibration, and the like—and the level and condition of the oil in the reservoirs. An observed problem shall be promptly corrected. A record of the results of these [2] 5-year tests shall be maintained by the utility

for [a period of 10] 5 years. In lieu of a differential-rate test, a test method approved by the Commission may be used.

* * * * *

§ 59.26. Refusal to serve applicants or customers.

(a) A public utility may initially decline to serve an applicant if, in the judgment of the utility, any of the following conditions [is] are present:

* * * * *

(b) A public utility may decline to serve an existing customer if, in the judgment of the utility, a hazardous condition exists regarding the piping or gas equipment of the customer.

§ 59.29. Gas pressure requirements for low-pressure distribution systems.

(a) [*Pressure districts.* Each public utility shall divide the territory served by it into pressure districts and shall specify for each district or for the territory as a whole (which shall then be regarded as a single district) the maximum pressure to be maintained within that district.

(b) [*Maximum pressure.* The maximum pressure specified for a [district] low pressure system may not be greater than a pressure which will not cause the unsafe operation of connected and properly adjusted gas utilization equipment or 14 inches of water column (8.1 ounces), whichever is less, at the outlet of the service meter of a low pressure customer.

[(c)] (b) ***

[(d)] (c) *Changing pressure.* A public utility may change the distribution pressure for any [district] system, but if [any such] a change is made, all appliances of a customer located within the [district] system shall, if necessary, be readjusted by and at the expense of the utility. The utility shall notify the Commission whenever [district] system pressure changes are made which require adjustment of appliances of the customer.

[(e)] *Exceptions.* Exceptions to the gas pressure requirements of this section may be made as follows:

(1) Higher maximum pressures may be allowed by the Commission in exceptional cases following the presentation of factual data showing that adequate service cannot be supplied with existing facilities at the maximum pressure established in this section, and that it is impracticable to make the necessary changes immediately. In these cases the public utility shall formulate a plan for eliminating the higher pressure conditions as soon as practicable and economically possible.

(2) A public utility supplying gas will not be deemed to have violated the provisions of this section if it is shown that variations from the pressures are due to either of the following:

(i) The use of gas by the customer in violation of contract or rules of the public utility or the Commission.

(ii) Infrequent fluctuations of short duration due to unavoidable conditions of operation.]

[(f)] (d) *Pressure gauges.* A public utility shall maintain and operate on the outlet side of the [district] system regulator station, at least one recording gas pressure gauge of suitable range. If more than one regulator station is used to serve a single pressure [district] system, recording pressure gauges need not be installed for each regulator station. A sufficient number of recording pressure gauges shall be installed and operated in each distribution system to furnish a continuous record of the pressure prevailing in all parts of the system.

§ 59.33. Safety.

* * * * *

(b) *Safety code.* Unless otherwise authorized by the Commission, the minimum safety standards for all gas transmission and distribution facilities in this Commonwealth shall be those issued under the [Natural Gas Pipeline Safety Act of 1968 () pipeline safety laws found at 49 U.S.C.A. §§ [§ 1671—1684] 60101—60503 and as [set forth] implemented in 49 CFR Parts 191, 192 [and], 193 and 199, including all subsequent amendments thereto which have been reviewed by the Commission and ratified by an order published in the *Pennsylvania Bulletin* or alternatively served on all jurisdictional gas utilities. The date the Commission's order is entered, or in the case of publication the date of publication in the *Pennsylvania Bulletin*, shall serve as the effective date of the amendments.

* * * * *

§ 59.35. Increasing pressure in distribution facilities and transmission facilities.

A significant increase in the normal operating pressure of a distribution or transmission [system] pipeline shall be made in accordance with 49 CFR Part 192, Subpart K (relating to uprating) as of May 1, 1986, and subsequent amendments thereto which have been ratified by the Commission under § 59.33 (relating to safety). A leak survey of mains and services shall be made prior to increasing the pressure initially and also following each incremental increase in pressure. Structures abutting or adjacent to the gas mains shall be inspected to [conform] confirm the utility's records as to the presence or absence of a gas service line on each property.

§ 59.38. Filing of major construction reports.

A public utility shall notify the Commission of proposed major construction, reconstruction or maintenance of plant at least 30 days prior to the commencement of work. Major construction, reconstruction or maintenance is defined for this reporting as a single project involving an expenditure in excess of \$ [200,000] 300,000 or 10% of the cost of the utility's plant in service, whichever is less, production well drilling to be excluded. This notification of proposed construction shall include the following: description and location (city, township, county) of proposed work; type of facility (distribution main, transmission pipeline, compressor station, and the like); estimated starting date; estimated completion date; design pressure; estimated cost; name and address of reporting gas company; name, address and telephone number of person to be contacted regarding the project; and notification to the Commission of the completion date.

ACCOUNTS AND RECORDS

§ 59.41. Classification of gas public utilities.

For accounting and reporting purposes, gas public utilities are classified as follows:

(1) [*Class A. Public Utilities having annual gas operating revenues of \$2,500,000 or more.*]

(2) *Class B. Public utilities having annual gas operating revenues of \$1,000,000 or more but less than \$2,500,000.*

(3) *Class C. Public utilities having annual gas operating revenues of \$100,000 or more but less than \$1,000,000.*

(4) *Class D. Public utilities having annual gas operating revenues of \$25,000 or more but less than \$100,000.*

(5) *Class E. Public utilities having annual gas operating revenues of less than \$25,000.]*

Major. Public utilities having annual gas operating revenues of \$1 million or more.

(2) *Nonmajor. Public utilities having annual gas operating revenues of less than \$1 million.*

§ 59.42. Systems of accounts.

(a) [Each Class A and Class B gas public utility shall keep its accounts in conformity with the "Uniform System of Accounts Prescribed for Natural Gas Companies (Class A and Class B)" by the Federal Power Commission (18 CFR Part 201).]

(b) Each Class C gas public utility shall keep its accounts in conformity with the "Uniform System of Accounts Prescribed for Natural Gas Companies (Class C)" by the Federal Power Commission (18 CFR Part 204).

(c) Each Class D gas public utility shall keep its accounts in conformity with the "Uniform System of Accounts Prescribed for Natural Gas Companies (Class D)" by the Federal Power Commission (18 CFR Part 204).

(d) Each Class E gas public utility, in the absence of a prescribed system of accounts for Class E gas utilities, shall keep the accounts as will be adequately informative for reasonable and foreseeable regulatory purposes.

(e) The provisions of this section apply to manufactured gas public utilities.]

Each major gas public utility shall keep its accounts in conformity with the "Uniform System of Accounts Prescribed for Natural Gas Companies (Major)" by the Federal Energy Regulatory Commission (18 CFR Part 201) (relating to Uniform System of Accounts prescribed for natural gas companies subject to the provisions of the Natural Gas Act).

(b) Each nonmajor gas public utility shall keep its accounts in conformity with the "Uniform System of Accounts Prescribed for Natural Gas Companies (Nonmajor)" by the Federal Energy Regulatory Commission (18 CFR Part 201).

(c) A gas public utility with annual gas operating revenue of less than \$25,000 shall keep the accounts as will be adequately informative for reasonable and foreseeable regulatory purposes.

(d) This section applies to manufactured gas public utilities.

REPORTING AND CURTAILMENT OF SERVICE

§ 59.62. [Gas sales ban] (Reserved).

[(a) No jurisdictional gas distributor shall enter into a contract for serving any gas-burning equipment except under any of the following circumstances:

(1) In the case of major distributors, the most recent reports submitted under § 59.61 (relating to periodic reporting requirements for major gas utilities) show, in each period covered by the reports, that the equipment can be supplied without causing annual or peak-day deliveries to exceed annual or peak-day supplies; and, in the case of distributors not reporting under § 59.61, actual and projected supply exceeds actual and projected requirements.

(2) The contract for service expressly provides that the service may be curtailed, interrupted or terminated upon 24 hours notice.

(3) The gas-burning equipment is a replacement of similar equipment installed prior to February 16, 1972 and is of the same or lesser rated capacity.

(b) [Reserved].

(c) Despite the restrictions of subsection (a) a distributor may make new gas sales to applicants for one- and two-family residential service, although only to the extent that the number of residential accounts remains no greater than the number receiving service or under commitment to receive service at the date that distributor first became subject to sales ban provisions of this section. Jurisdictional natural gas distribution utilities making the new residential sales shall do so in order of priority established by a utility-complied waiting list. Each distributor shall keep an annual record of residential replacement sales and shall report the information to the Commission by May 15 of each year.

(d) Despite the prohibition contained in subsection (a) restricting the establishment of new service during periods of supply deficiency, additional meters may be permitted at existing accounts if the total volume of gas served at the location does not increase by virtue of installing additional meters, the utility does not thereby institute service to new or larger capacity gas-burning equipment in violation of subsection (a)(3) and splitting of the subject account does not result in avoidance of curtailment or reduction of the curtailment base of the utility. The charges under the tariff of the utility incident to installing additional meters shall be assumed by the customer requesting splitting of service. An increase in the total number of meters resulting from the splitting of service shall be reflected as an increase in the number of authorized accounts of the utility, which accounts shall be permitted to be

adjusted upward corresponding to the increase in the number of meters.

(e) Each jurisdictional utility having suspended new sales under subsection (a) shall petition the Commission for express approval prior to commencement of sales to new gas customers—to include the expansion of service or new service to an existing customer. New or expanded sales shall be permitted to all customer classes as defined in § 69.21 (relating to priority of service); except that for Priorities 5 and 6 customers, equivalent alternative fuel capacity installed within 1 year of commencement of service is to be required by the utility as a precondition to new or expanded service. A petition to resume new sales must be in full compliance with provisions of this section and shall contain supporting data including, but not limited to, the following:

(1) Updated PUC Forms 1 and 2 for the current year and the 3 forward years as required at § 59.67 (relating to formats).

(2) A 10-year supply/demand projection indicating sources of all presently available and new supplies which the utility estimates will become available.

(3) A detailed statement of energy efficiency standards which the utility proposes to require, if any, for entitlement to new or expanded service, to be included in the rules and regulations of its tariff.

(4) Projections for the current year and 3 forward years, by priority classification under § 69.21 of the number of new customers and associated consumption in each priority class to be served.

(5) A brief economic impact statement discussing the effects of new or expanded sales, including any effect on unemployment, the demand for alternate fuels and local economic conditions, the estimated cost of future gas supply, and the effects of increased gas prices on various classes of customers and industries within the utility's service area.

(6) Other information as the Commission may, by this title or by special order, require.

(f) When a major jurisdictional gas distribution utility subject to the sales-ban provisions of this section determines in the ordinary course of its business that a customer has connected a gas appliance in violation of this section, the utility shall promptly notify the customer and the Commission, in writing, of a violation. If the customer does not remove the unauthorized gas equipment within 30 days after a notice is served on the customer, the utility shall disconnect gas service until the equipment is removed; however, in the case of residential customers, termination after expiration of the 30-day period shall be Chapter 56, Subchapter E (relating to termination of service), and no disconnections may be required or permitted during the winter heating season, November 1 through March 31. New customers shall be notified in writing of the restrictions against and implications of unauthorized attachments at the time of application for service and shall be informed of the fact that written application to the

utility is re-quired any time the addition of new or larger-capacity gas burning equipment is contemplated.

(g) A report (Form 4, Parts A and B) on new customer attachments and associated volumes shall be submitted prior to the end of the month follow-

ing the termination of each quarter in accordance with the instructions specified on the forms.

(h) [Reserved].]

[Pa.B. Doc. No. 96-481. Filed for public inspection March 29, 1996, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

Public Meeting held
December 14, 1995

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Liquor Control Board

The Executive Board approved a reorganization of the Liquor Control Board effective March 20, 1996.

The organization chart at 26 Pa.B. 1378 (March 30, 1996) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 96-482. Filed for public inspection March 29, 1996, 9:00 a.m.]

[4 PA. CODE CH. 9]

Reorganization of the State Police

The Executive Board approved a reorganization of the State Police effective March 18, 1996.

The organization chart at 26 Pa.B. 1379 (March 30, 1996) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 96-483. Filed for public inspection March 29, 1996, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 53, 69 AND 93]

[L-950107]

Rescission of Obsolete Policy Statements

The Pennsylvania Public Utility Commission (Commission) adopted an order rescinding obsolete policies that either no longer serve a useful purpose or relate to a procedure that has been completed or soon will be completed. The contact person is Patricia Krise Burket, Assistant Counsel, Law Bureau (717) 787-3464.

Commissioners Present: John M. Quain, Chairperson, Statement follows; Lisa Crutchfield, Vice Chairperson; John Hanger; David W. Rolka; and Robert K. Bloom

Order

By the Commission:

By Order entered May 23, 1995, we issued an Advance Notice of Proposed Rulemaking To Review And Rescind All Obsolete And Excessive Rules And Regulations at Docket No. L-950103. The advance notice was published in the *Pennsylvania Bulletin* on June 3, 1995, 25 Pa.B. 2188, and a 60-day comment period set.

We received comments from Pennsylvania Electric Association, the Pennsylvania Gas Association, the Office of Consumer Advocate and our own Bureaus of Law and CEEP specific to the electric, gas and transportation industries which reflect the need to eliminate policy statements appearing in Chapters 53, 69 and 93. We are setting forth proposed changes and we believe these changes will clarify, simplify and remove excessive and burdensome requirements from our policy statements.

Our review of the affected sections was careful and meticulous. We are well aware of our duty to ensure the safety of utility service, and our proposed changes will not result in any lapse in our mandate.

What follows is a summary of the changes.

Chapter 53. Appendix I and Appendix II. Pennsylvania Public Utility Commission Policy Statement on Procedure for Implementing Normalization of Federal Income Tax Benefits of Accelerated Cost Recovery System.

The policy statement was issued to permit utilities to obtain for tax years 1981 and 1982 the benefits of a form of accelerated tax depreciation established under the Federal Economic Recovery Act of 1981 for post-1980 assets. It is obsolete and will be deleted.

§ 69.41. Vacation resort developments.

§ 69.43. Notice and lead-time.

The Commission's proposed amendment of Subchapter H, 52 Pa. Code §§ 57.81—57.88 at Docket No. L-950103, which makes underground installation of electric distribution and service lines in new residential developments voluntary and not mandatory, eliminates the need for exemptions. Accordingly these sections should be deleted.

§ 69.61. Competent evidence for certification; policy statement.

This section is eliminated as unnecessary since age of the supporting data is always a factor in weighing the probative value of technical evidence in Commission proceedings; moreover, a 5-year bright line standard is overly restrictive.

§ 69.62. Relocation of high voltage electric transmission lines.

This policy statement, which sets out criteria that should be included in a petition for waiver of the transmission line siting regulations, is deleted as redundant since § 57.72(e) of the Commission's siting regulations provides the utility with the authority to petition for a waiver of the siting application process for relocating an existing transmission line.

LIQUOR CONTROL BOARD ORGANIZATION CHART HERE

STATE POLICE ORGANIZATIONAL CHART HERE

Federal Residential Conservation Service Program,
Policies and Procedures.

§ 69.71. *General.*

§ 69.72. *Direct charges to ratepayers.*

§ 69.73. *General utility expenses recovery.*

§ 69.74. *Accounting.*

§ 69.75. *Periodic evaluation.*

The Federal Residential Conservation Program policy statement at these sections established guidelines for accounting for and recovery of expenses in utility Residential Conservation Services (RCS) Programs and the method of allocation of such costs to ratepayers through direct charges and rates. The RCS Program was a Federal program directed to residential energy conservation which was terminated effective June 30, 1989. Since the sole purpose of the five-section statement was the RCS Program's implementation, then it is eliminated as obsolete.

Recovery of Take-or-Pay Expenses

§ 69.181. *Recovery of take-or-pay expenses—policy statement.*

Since every natural gas local distribution company has completed or will soon complete its take-or-pay recovery process, this section is no longer needed and should be eliminated.

Chapter 93. Policy statement regarding Motor Carrier Advisory Counsel. §§ 93.1—93.5.

The Motor Carrier Advisory Council no longer exists, and its regulations are rescinded as obsolete.

In making these changes, we believe that our efficiency as a regulatory agency will be enhanced. We are eliminating those sections which no longer serve a useful purpose and we are modifying others to promote the ease of application as well as fairness.

Accordingly, pursuant to sections 501, 504, 505, 506, 1301 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1301 and 1501, and the Commonwealth Documents Law, 45 P.S. § 1201 et seq., and the regulations promulgated thereunder, we shall institute a proceeding to accomplish the objectives described in the body of this order. *Therefore,*

It is Ordered that:

1. A policy statement proceeding is hereby instituted at this docket.

2. The Commission's policy statements are hereby amended by deleting Appendix I and Appendix II in Chapter 53; and by deleting §§ 69.41, 69.43, 69.61, 69.62, 69.71—69.75, 69.181 and 93.1—93.5 to read as set forth in Annex A.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

5. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

JOHN G. ALFORD,
Secretary

Fiscal Note: 57-165. No fiscal impact; (8) recommends adoption.

Statement of Chairperson John M. Quain

Before us today are two significant rulemakings that when combined, will delete or rescind 62 obsolete and redundant sections of our regulations and revise another 43 sections. Furthermore, when this Commission again meets on January 11, 1996, we will consider another 58 sections pertaining to Chapters 63, 64 and 56 for possible rescission or revision.

I wish to express my appreciation to all of the staff of the various bureaus, and those public commentators who contributed to this massive undertaking.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED UTILITY SERVICES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

APPENDIX I (RESERVED)

APPENDIX II (RESERVED)

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

§ 69.41. **(Reserved).**

§ 69.43. **(Reserved).**

§ 69.61. **(Reserved).**

§ 69.62. **(Reserved).**

§ 69.71. **(Reserved).**

§ 69.72. **(Reserved).**

§ 69.73. **(Reserved).**

§ 69.74. **(Reserved).**

§ 69.75. **(Reserved).**

§ 69.181. **(Reserved).**

CHAPTER 93. (RESERVED)

§ 93.1. **(Reserved).**

§ 93.2. **(Reserved).**

§ 93.3. **(Reserved).**

§ 93.4. **(Reserved).**

§ 93.5. **(Reserved).**

[Pa.B. Doc. No. 96-484. Filed for public inspection March 29, 1996, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-950686]

Incentives for the Acquisition and Merger of Small, Nonviable Water and Wastewater Systems

The Pennsylvania Public Utility Commission (Commission) at its February 22, 1996, public meeting adopted a policy statement regarding incentives for the acquisition and merger of small, nonviable water and waste water systems. The policy seeks to strengthen the viability of jurisdictional water and waste water systems. The contact persons are Stanley E. Brown, Assistant Counsel, Law

Bureau, (717) 783-3968 and Judith Koch Carlson, Supervisor, Office of Special Assistants, (717) 783-5392.

Public Meeting held
February 22, 1996

Commissioners Present: John M. Quain, Chairperson; Lisa Crutchfield, Vice Chairperson, statement follows; John Hanger; David W. Rolka, concurring and dissenting in part—statement follows; and Robert K. Bloom, statement follows

Order

By the Commission:

On July 10, 1995, the Commission issued a proposed policy statement at this docket which set forth the Commission's objective of increasing the number of mergers and acquisitions of small, nonviable water companies to foster regionalization. In the order adopting the proposed policy statement, the Commission first defined a viable water system as one that is economically self-sustaining and has the capability to continue to operate into the future. Then, the Commission identified the most critical problem associated with small water companies; namely, service which does not meet regulatory standards, specifically those of the Public Utility Code and the Pennsylvania Safe Drinking Water Act, 66 Pa.C.S. § 1501 and 35 P.S. §§ 721.1—721.17, respectively.

The Commission's order noted that over the past decade, the Commission has endorsed regionalization, which is the consolidation of two or more water systems as a mechanism to promote increased viability. While the Commission has approved a number of acquisitions by viable water companies, it appears now that only a few additional acquisitions are likely to occur at a time when many are sorely needed. Accordingly, the Commission, in the order adopting the proposed policy statement, set forth five acquisition incentive proposals to foster acquisitions of water companies which are in violation of applicable health and safety legal standards. Specifically, the proposed policy statement listed the following acquisition incentives: (1) rate of return premiums; (2) acquisition adjustments; (3) deferral of acquisition improvement costs; (4) plant improvement surcharge; and (5) operating ratios. § 69.711(b).

In addition to the aforementioned regulatory incentives, the Commission indicated that it would consider other appropriate incentives if they also met the following summarized parameters: (1) that the acquisition serves the public interest; (2) that the acquiring company meet viability criteria which will not be impaired by the acquisition; (3) that the acquired company is not viable; (4) that the acquired company's ratepayers will be provided with necessary plant improvements; (5) that the acquisition was conducted through arm's length negotiations and that the purchase price is reasonable; and (6) that single tariff pricing will be applied to the rates of the acquired company with consideration given to a phase-in of rates if affordability concerns exist.

Finally, by way of statements attached to the order, Chairperson Quain and Commissioner Rolka invited interested parties to respond to four specific questions, to wit:

(1) Whether the rate of return premium should be available under 66 Pa.C.S. § 523(b)(7) with specific criteria established as it has been for § 523(b)(5) at 52 Pa. Code § 65.20?

(2) Should a rate of return premium be available for accelerated accomplishment of system improvements?

(3) Whether the Commonwealth Court decision in *Popowsky v. Pa. P.U.C.*, 1315 C.D. 1993 on deferrals of Financial Accounting Standards Board 106 would be a barrier to a phase-in or deferred recovery of plant improvement costs?

(4) What is the relationship between Section 327 and 523 in defining our jurisdictional boundaries to implement incentives for acquisitions and mergers of small nonviable water utilities?

As we noted in our order adopting the proposed policy statement:

Water companies are encouraged to utilize these options or may submit others, provided they are consistent with the guidelines set forth within the Proposed Policy Statement at subsection (a). Each request for an acquisition incentive will be considered on a case by case basis. In order to allow for public comment, this document will first be issued as a Proposed Policy Statement.

On August 19, 1995, the order and proposed policy statement were published in the *Pennsylvania Bulletin* at 25 Pa.B. 3352. Comments were received from the Office of Consumer Advocate (OCA), the Pennsylvania Chapter of the National Association of Water Companies (PA-NAWC), Pennsylvania-American Water Company (PAWC), York Water Company (York), Glendale Yearound Water Company (Glendale), the Independent Regulatory Review Commission (IRRC), former Commission Chairperson Bill Shane, and two individuals, William V. Bottonari and E. J. Knittel.

The comments received were largely in support of the Commission's efforts to increase the number of acquisitions of small, nonviable water companies. However, not all of the commentators agreed that all of the regulatory incentives proposed in the policy statement were within the statutory authority of the Commission. Because of the importance of the proposed policy statement and the overall interest in the proposed regulatory incentives, we shall first identify the comments of each of the commentators and then address them as they relate to the specific acquisition incentives proposed.

A. Office of Consumer Advocate

The OCA filed comments which supported the Commission's goal of increasing the number of mergers and acquisitions of small, nonviable water companies to foster regionalization. In addition, the OCA agreed with the parameters established by the proposed policy statement and supported some, but not all of the proposed incentive mechanisms. In response to the parameter that the acquired company be "nonviable," the OCA stated:

There should be no need for an acquisition incentive to be granted for a utility to take over a viable utility. The acquisition incentives should be used *solely* to aid the acquisition of nonviable utilities so that service is improved for the acquired company without causing service to the acquiring company's customers to deteriorate. OCA Comments, p.3 (emphasis supplied).

As to the five possible methods of providing incentives for the acquisition of nonviable water utilities, the OCA supports, with caution, the proposed rate of return acquisition incentive noting that a rate of return approach for acquisitions or associated improvements is consistent with section 523 of the Public Utility Code. The OCA emphasizes in its comments that section 523 requires that "[a]ny adjustment made under this section shall be

made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly with their underlying rationale, in the final order of the Commission." 66 Pa.C.S. § 523(a). The OCA also supports the proposed acquisition adjustment incentive as long as it is applied consistent with section 1327 of the Public Utility Code.

The OCA suggested a need for clarification as to whether the deferral of acquisition improvements costs incentive is a deferral of rate recovery similar to a phase in of a rate request or a proposal to use deferred accounting for the cost of plant improvements. To this end, the OCA supports the former interpretation and opposes the latter.

As to the plant improvement surcharge incentive, the OCA submits that this proposed acquisition incentive "may be contrary to the Public Utility Code and in any case is inconsistent with the goal of single tariff pricing." OCA Comments, p.6. According to the OCA, this proposed incentive could be read to allow the use of a surcharge for improvements that are not used and useful at the time the surcharge is implemented. Such a use, in the opinion of the OCA, would be violative of several appellate court decisions which prohibit customers from paying rates that include costs for plant not used and useful. Instead of a surcharge, the OCA suggests the use of a separate tariff or rate zone if the circumstances involve an extraordinary plant improvement.

Finally, the OCA opposes the use of an operating ratio as an acquisition incentive. According to OCA, the use of an operating ratio in setting rates for a fixed utility is outside the Commission's authority under the Public Utility Code.

As to the procedural implementation of the acquisition incentives, the OCA supports the requirements in the policy statement that the acquisition incentives be requested during the next filed rate case and that the utility retain the burden of proof. The OCA further suggests that the request and the support for an acquisition incentive should be made as part of the acquiring company's original filing.

B. The Pennsylvania Chapter of the National Association of Water Companies

PA-NAWC filed comments in support of the Commission's goal of fostering regionalization by increasing the number of mergers and acquisitions of small, nonviable water companies. However, according to PA-NAWC, there are specific provisions of the proposed policy statement which should be clarified and/or strengthened to improve its effectiveness.

First, it is the opinion of PA-NAWC that the proposed policy statement strongly implies that the incentives are only to apply to the acquisition and/or merger of *small* nonviable water utilities. Significantly, however, PA-NAWC asserts that the policy statement makes no reference to the size of the acquired system but instead focuses exclusively on the issue of viability. Therefore, according to PA-NAWC, it is unclear as to whether the availability of the acquisition incentives is premised upon the size of the system or the viability of the system. In light of the recent amendments by the Legislature to section 1327 of the Public Utility Code, PA-NAWC suggests that size should not be the sole determinant for the availability of the acquisition incentives. To this end, PA-NAWC asserts that public policy should encourage the acquisition of troubled systems regardless of the number of customer connections. Pointing to section 1327 again,

PA-NAWC also suggests that the proposed policy statement should apply to water and waste water utilities.

As to specific comments to the proposed policy statement, PA-NAWC asserts that in order to avoid confusion in the future, the words "company" or "utility" should be changed to "water system." According to PA-NAWC, this change would ensure that the acquisition of a municipal system, homeowners' association or a defacto water system would be similarly eligible for incentive treatment.

Next, PA-NAWC avers that the proposed policy statement incentives should be broadened to include the "prospective inability of a system to meet statutory and regulatory standards." As an alternative, PA-NAWC suggests that the acquired system should not have to be in violation of statutory or regulatory standards *and* have failed to comply with an order of the Commission or Department of Environmental Protection (DEP). Consistent with the aforementioned assertion concerning the prospective inability of the acquired company to provide adequate service in the future, PA-NAWC recommends that the acquiring company should only be required to provide "adequate service" and not "improved service."

The proposed policy statement states at § 69.711(a)(6)(relating to acquisition incentives) that under certain circumstances of extreme differences in rates, or of affordability concerns, or both, consideration should be given to a phase-in of the rate difference over a reasonable period of time. Based upon considerations for the customers of similar financial means of the acquiring company, PA-NAWC recommends that the phrase "or of affordability concerns, or both" should be deleted.

For clarification and consistency, PA-NAWC states that if the Commission intends the "acquisition adjustment" premium at § 69.711(b) to be consistent with the parameters set forth at 66 Pa.C.S. § 1327, the phrase "included in the costs of base rates" should be changed to "added to the rate base."

As to the "deferral of acquisition improvement cost" incentive in the proposed policy statement, PA-NAWC believes that it is deficient in its present form because it implies a deferral of cost recovery without any offsetting benefit. According to PA-NAWC, if the improvement costs are to be "recovered in phases," then there must be a provision for the accrual of carrying charges *and* deferral of depreciation expense.

The "upon connection" phrase in the plant improvement surcharge incentive is, in the opinion of PA-NAWC, "ambiguous" because the acquiring company may not be contiguous. Therefore, PA-NAWC recommends that "upon connection" be revised to "upon completion of the acquisition." PA-NAWC also suggests that the use of a plant improvement surcharge should not be limited to "extraordinary" plant improvements costs.

As to the procedural implementation of an acquisition incentive, PA-NAWC believes that there should be a mechanism in place whereby a potential acquiror can obtain a pre-acquisition determination of whether it will qualify for incentive treatment. According to PA-NAWC, requiring utilities to wait until their next rate case to implement a surcharge would be a disincentive to embarking on needed plant improvements on a timely basis.

In response to the questions posed by Chairperson Quain and Commissioner Rolka, PA-NAWC states that while a rate of return premium should be available under section 523(b)(7) of the Public Utility Code, there should not be specific standards. In the opinion of PA-NAWC, spelling out specific standards would limit the intended

discretion for the Commission to consider "any other relevant and material evidence. . ." As to the availability of a rate of return premium for accelerated accomplishment of system improvements, PA-NAWC is "cautiously optimistic." As to whether the Commonwealth Court decision *Popowsky v. Pa. P.U.C.*, 164 Pa. Cmwlt. 594, 643 A.2d 1146 (1994), would be a barrier to a phase-in of deferred recovery of plant improvement cost, PA-NAWC believes that Commonwealth Court's decision merely held that the Commission could not preapprove the future recovery of costs outside of the context of rate proceeding. Thus, the Commission, in the opinion of PA-NAWC, can still allow the recovery of such costs when properly claimed in rate proceeding. Finally, in response to Commissioner Rolka's question as to whether section 1327 of the Public Utility Code limits the Commission's discretion to award acquisition incentives under section 523 of the Public Utility Code, PA-NAWC responds that section 1327 of the Public Utility Code was designed to deal with the extremely narrow issue of rate base treatment of the purchase. Accordingly, PA-NAWC asserts that section 1327 of the Public Utility Code should not be construed as precluding the use of other acquisition incentive mechanisms found appropriate by the Commission under section 523 of the Public Utility Code.

C. *York Water Company*

York's comments focused upon the suggested expansion of the proposed policy statement to include language as follows:

In cases when the acquisition costs are less than the depreciated original cost, no amortization or other pass-through to ratepayers of the difference between depreciated original cost acquisition cost is required.

York's Comments at p. 1. In this regard, York notes that the Commission has previously proposed treatment of acquisition costs lower than depreciated original in York's general rate increase at Docket No. R-922168 entered on January 21, 1993.

D. *Pennsylvania-American Water Company*

The comments filed by the PAWC recognized the proposed policy statement as another important step which would facilitate the efforts of PAWC and other capable water utilities to bring quality water service to all citizens in the Commonwealth.

Initially, PAWC expressed its concurrence in the comments filed by PA-NAWC. Specifically, PAWC suggested that if the objective of the Commission is to bring quality water service to all citizens in the Commonwealth, then viability, and not size, should be the controlling factor. To this end, PAWC submits that the critical issue for the Commission to address is whether the system to be acquired is capable of meeting its service obligations on a *prospective* basis.

As to the procedural implementation of the proposed incentives in the policy statement, PAWC recommends two changes. First, PAWC asserts that there must be pre-acquisition determination that an intended purchase will qualify for acquisition incentive treatment. Second, the acquiring company should not be forced to wait until its next rate filing before receiving relief. According to PAWC, mechanisms should be included in the policy statement which will permit the acquiring company to either: (1) implement surcharges to recover improvement costs contemporaneously upon making required investments; or (2) accrue carrying charges on and defer depreciation expense related to such investment.

In response to the questions posed by Chairperson Quain and Commissioner Rolka, PAWC believes the Commission should embrace the broad authority and the discretion granted by the General Assembly. Pointing to section 523 of the Public Utility Code and the recent amendments to section 1327 of the Public Utility Code which relaxed the standards required for rate base recognition of acquisition premiums, PAWC submits that the Commission should take maximum advantage of its discretion in addressing the challenges which confront the water supply industry in the Commonwealth.

E. *Glendale Yearround Water Company*

Comments to the proposed policy statement were filed by the Glendale, a small water system serving less than 1,200 customers with annual revenues of approximately \$100,000. In its comments, Glendale asserts:

We are economically self sustaining, well managed, provide high quality water, meet all regulatory mandates and have the capability to continue to operate into the future. Our tariffs are about 50% lower than the prevailing rates charged by water authorities in this area. As the attached certificate issued by PA DER attests, we are meeting all MCL Monitoring and Treatment performance requirements under the Safe Drinking Water Act.

Glendale Comments at p. 1.

In general, Glendale's comments challenge the perceived notion in the policy statement and, according to Glendale, "the underlying assumptions" in the policy statement that "larger is better" and that mergers and acquisitions of small systems into larger entities are "necessary, desirable or the most efficient solution to the problem of nonviability of small water systems." Glendale Comments at p. 1. Specifically, Glendale submits that the proposed policy statement does not address the role played by the Commission and DER (now DEP) in causing small water systems to become nonviable.

In support of its position that there are "PUC imposed burdens," Glendale notes the following significant costs:

1. Legal services to respond to ratepayers who do not appear at the hearing;
2. PUC audits to examine a plant improvement project which had already been inspected by DEP and PennVest;
3. PUC Annual Assessments which in some years have exceeded the profit level for the company; and
4. Costs to file a rate request which carry huge financial and administrative burdens for a small company.

Glendale Comments at pp. 2—3.

In conclusion, Glendale suggests that the PUC and DEP should examine their internal procedures which will in turn reduce the burdens on small water systems.

F. *Independent Regulatory Review Commission*

The comments filed by IRRC were in support of the Commission's goal of encouraging the acquisition of non-viable water systems. However, IRRC challenged the Commission's statutory authority for one of the five regulatory acquisition incentives suggested in the proposed policy statement.

In the opinion of IRRC, the Public Utility Code does not permit water and waste water companies to establish rates based upon an operating ratio methodology. Moreover, IRRC submits that the operating ratio methodology

does not guarantee that the water utility will reinvest the revenue in excess of expenses into needed capital improvements. Finally, IRRRC raises the question as to whether an operating ratio will actually encourage the efficient operation of these utilities.

G. *Former Commission Chairperson Bill Shane*

Supportive comments to the proposed policy statement in general and the specific rate of return premium incentive were filed by former Commission Chairperson Bill Shane. In the opinion of the former Chairperson, return on equity is the most potent factor in a rate case because it magnifies other decisions in the case. Accordingly, he strongly suggested that the rate of return premium should be available under section 523(b)(7) of the Public Utility Code. Finally, the former Chairperson submits that the Commission should recognize the return on equity as a powerful tool of positive or negative reinforcement of behavior.

H. *William V. Bottonari*

Comments to the proposed policy statement were filed by William V. Bottonari, a customer of a large water utility. According to Mr. Bottonari, the concept and application of single tariff pricing to water rates is inappropriate because it obscures the actual cost of providing service to customers in different areas. Mr. Bottonari believes that while single tariff pricing may be appropriate for the customers of an electric company that has a common source of generation, such a pricing concept is not appropriate for a "regionalized" water utility which has several sources of supply.

I. *E. J. Knittel*

Similar comments were filed by E. J. Knittel, the Borough Manager in Camp Hill, Pennsylvania. According to Mr. Knittel, the Borough Council is extremely concerned with the practice of single tariff pricing which, in the opinion of Mr. Knittel, places an unfair burden upon the residents of Camp Hill. Mr. Knittel also believes that established rates in a given area should reflect the actual operating costs in that area and should not be spread among the noncontiguous service territories of a large utility.

Discussion

In preparing our final policy statement, we have carefully reviewed and considered all of the comments filed by the interested parties. Although not all of the concerns and viewpoints can be satisfied, we believe that we have developed a meaningful policy statement which will enable the Commission to foster acquisitions of water utilities and wastewater utilities that are currently nonviable.

The following discussion will summarize the changes and refinements made to the proposed policy statement published on August 19, 1995, and shall generally follow the chronology of the aforementioned comments filed to the proposed policy statement.

Parameters of the Proposed Policy Statement—§ 69.711(a)

Upon review of the comments which addressed the applicability of the proposed acquisition incentives, we agree with the OCA that the proposed acquisition incentives should be applied consistent with the latest amendment to section 1327 of the Public Utility Code. Specifically, the acquired system should have 3,300 or fewer customer connections. Moreover, we believe the acquisition incentives should be available for the acquisition of water and wastewater systems that are currently nonviable.

We also agree with the suggestion of PA-NAWC that the words "company" or "utility" should be changed to "water system" and as stated above, the proposed policy statement should apply to water and wastewater systems. Accordingly, we shall reflect these changes in the final policy statement.

The parameter in the proposed policy statement at § 69.711(a)(6) suggests that under certain circumstances of extreme differences in rates, or of affordability concerns, or both, consideration should be given to a phase-in of the rate difference over a reasonable period of time. PA-NAWC has recommended that the phrase "or of affordability concerns, or both" should be deleted in the final policy statement. Although we can certainly appreciate PA-NAWC's expressed concern for existing customers who may be similarly financially challenged, we are of the opinion that affordability concerns are indeed a relevant consideration of the Commission in fulfilling our statutory obligation to establish just and reasonable rates. Therefore, the phrase "or of affordability concerns, or both" will remain in the final policy statement.

The aforementioned parameter at § 69.711(a)(6) also recognizes our previously endorsed concept of single tariff pricing. Single tariff pricing is a concept applied to allocate revenue requirements on a company-wide basis so that each customer within its usage classification pays the same water rate regardless of location. In the 1986 case of *Pa. P.U.C. v. Western Pennsylvania Water Co.*, 72 PUR 4th 103 (1986), justification for the Commission's endorsement of single tariff pricing was pronounced as follows:

1. A larger rate and revenue base ameliorates the impact of major capital additions needed from time to time in every service area;
2. A larger revenue base promotes flexibility in timing and financing major capital additions;
3. The impact of instability resulting from changes in sales volumes is mitigated when the effect of such volumetric factors is spread over a larger economic base; and
4. The reduction of the number of accounting units and the number of individual rate filings results in administrative efficiency with a potential to reduce costs to ratepayers.

74 PUR 4th at 147-148.

Both Mr. Bottonari and Mr. Knittel have presented comments which further confirm our opinion that the Commission must always be cognizant of the rate impact of any increase in rates even if it is spread among a large number of customers in a large geographical region. In this regard, we firmly believe that every system and every ratepayer in the Commonwealth will eventually be in need of specific service improvements and at that point, the true benefits of single tariff pricing will be realized by all citizens in the Commonwealth.

As previously stated, the proposed policy statement set forth five possible methods of providing incentives to the acquisition of nonviable water utilities. We shall address these *seriatim*.

Rate of Return Premiums—§ 69.711(b)(1)

The first proposed incentive is additional allowed rate of return basis points for acquisitions and associated improvements. This incentive, which is consistent with section 523 of the Public Utility Code, was generally supported by several commentators and thus shall be

included in the final policy statement. However, it should be emphasized that any claim for a rate of return premium must be supported by evidence of record submitted by the utility within its rate case filing. The utility must prove that the tangible service improvements have been completed or will be completed within 6 months beyond the test year. In our review of a rate of return premium claim, the Commission will endeavor to balance the impact of the application of a rate of return premium with the reasonableness of the resulting rates.

Acquisition Adjustment—§ 69.711(b)(2).

In the proposed policy statement, it was suggested that in cases where the acquisition costs are greater than the depreciated original cost, that reasonable excess may be included in the costs of base rates of the acquiring utility and amortized as an expense over a 10-year period, consistent with the parameters set forth at 66 Pa.C.S. § 1327. At the outset, it should be stated that while it was our intention that this proposed acquisition incentive would be applied consistent with section 1327 of the Public Utility Code, we believe that an amortization period of 10 years is generally reasonable for acquisition costs. However, as suggested by PA-NAWC, the phrase "included in the costs of base rates" will be changed to "added to the rate base." This change is required so that this proposed acquisition incentive is not violative of section 1327 of the Public Utility Code.

On a similar basis, we must decline the invitation of York to expand section 1327 of the Public Utility Code in manner which would preclude amortization or other pass through to ratepayers of the difference between depreciated original cost and lower acquisition costs. In this regard, it should be noted that the Commission actually rejected such a pass through proposal by the OCA in the proceeding at Docket No. R-922168. Contrary to York's assertion, in the final order, the Commission concluded that the pass through proposal was outweighed by "matters of a substantial public interest" which is an expressed criterion under section 1327 of the Public Utility Code.

Deferral of Acquisition Improvement Costs—§ 69.711(b)(3)

This proposed acquisition incentive states, "In cases where the plant improvements are of too great a magnitude to be absorbed by ratepayers at one time, improvement costs may be deferred, to be recovered in phases."

This proposal was intended to be an incentive to allow the phase-in of rate increases associated with a large capital improvement program due to the acquisition as opposed to using deferred accounting for the cost of plant improvements. In response to an appropriate suggestion for clarification by the OCA, we will make the necessary clarification in the final policy statement to reflect not only the intended meaning of this proposed incentive but also our statutory obligation to balance the interests of the utility investors and the ratepayers. To this end, we shall also state that there may be a one time treatment (in the initial rate case) of the improvement costs but a phasing-in of the acquisition, improvements and associated carrying-costs may be allowed over a finite period of years.

Plant Improvement Surcharge—§ 69.711(b)(4)

This proposed acquisition incentive states, "collection of a surcharge from each customer of the acquired utility upon connection could be implemented to offset extraordinary improvement costs."

Based upon the comments filed by the OCA and PA-NAWC, two revisions will be made to this incentive in

the final policy statement. First, we will make the necessary revision of the phrase "upon connection" to "upon completion of the acquisition." As observed by PA-NAWC, the acquiring company may not be contiguous to the acquired company.

The second revision will reflect our determination that it may be more appropriate from an equitable standpoint for the Commission to allow the acquiring company to allocate to the new customers a greater than average level of the extraordinary improvement costs. Specifically, collection of a different rate from each customer of the acquired system upon completion of the acquisition could be implemented to temporarily offset extraordinary improvement costs. In cases where the improvement benefits only those customers who are newly acquired, the added costs may be allocated on a greater than average level (but less than 100%) to the new customers for a reasonable period of time, as determined by the Commission.

Operating Ratios—§ 69.711(b)(5)

The proposed policy statement suggests that the use of an operating ratio may be allowed as an interim measure in cases where little or no rate base exists. Although the use of an operating ratio was suggested as a possible incentive for acquisitions, no commentator advocated support for the use of an operating ratio. In fact, the comments submitted on this incentive were in opposition to an operating ratio. In the opinion of the OCA and IRRRC, the use of an operating ratio is beyond the statutory powers of the Commission.

As stated by the OCA, the use of an operating ratio in setting rates for a water or waste water utility is currently on appeal to the Commonwealth Court in a case involving LP Water and Sewer. *See Popowsky v. Pa. P.U.C.*, 1912 C.D. 1993. Although the Commission remains of the opinion that there is nothing in the Public Utility Code which prohibits the Commission from exercising its discretion and expertise in setting rates that are just and reasonable, we will delete from the final policy statement the provision regarding the use of an operating ratio as an incentive to regionalization.

Questions Posed By Chairperson Quain and Commissioner Rolka

As stated previously, there were four questions which interested parties were invited to address in their comments.

In response to the first question concerning the availability of a rate of return premium with specific criteria established, we believe that it would be inconsistent with Legislative intent for the Commission to attempt to identify the specific standards for a rate of return premium. While the Commission has identified in this proposed policy statement the parameters for this incentive, it is our opinion that the Legislature intended the Commission to exercise its discretion, based upon material evidence of record, as to whether a rate of return premium was appropriate.

As to the second question concerning the availability of a rate of return premium for accelerated accomplishment of system improvements, we merely state that any system improvement must be used and useful to ratepayers.

In light the aforementioned clarification of the deferral of rate recovery of the acquisition improvement costs incentive, the third question is rendered moot. As stated previously, this incentive was not intended as a proposal to use deferred accounting for the cost of plant improvements.

In response to the final question as to whether section 1327 of the Public Utility Code limits the Commission's discretion to award incentives under section 523 of the Public Utility Code, we agree with PA-NAWC that section 1327 was designed to deal with one of the regulatory barriers to the acquisition of a nonviable system. Indeed, this policy statement is an attempt to deal with several other regulatory barriers to acquisitions. As such, the Commission shall cautiously exercise the broad authority and the discretion granted by both sections 523 and 1327 of the Public Utility Code.

Procedural Implementation

In the proposed policy statement, it was suggested that the appropriate implementation procedure for the acquisition incentives would be to submit the claim as part of a company's next filed rate case. The proposed policy statement further provided that the burden of proof would rest with the acquiring utility.

PA-NAWC and PAWC have both presented strong arguments that there should be a mechanism in place whereby a potential acquiror can obtain a pre-determination as to whether it will qualify for incentive treatment. To this end, PA-NAWC asserts that requiring a utility to wait until its next rate case would be a disincentive to embarking on needed plant improvements on a timely basis.

In response to these arguments, we appreciate the fact that most of the large utilities do not file general rate requests on an annual or semiannual basis and we would hope that the acquisition of a nonviable system would not automatically precipitate the filing of a rate increase. While the Commission does not routinely issue declaratory orders, we believe that it would be appropriate for the Commission to consider a petition for a declaratory order provided that the standards for the issuance of such an order are clearly satisfied by the acquiring company.

Accordingly, pursuant to sections 501, 1301 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 1301 and 1501, and the Commonwealth Documents Law (45 P.S. § 1201, et seq.), the Commission has the authority to adopt the policy statement as set forth in Annex A; *Therefore, It is Ordered that:*

1. The policy statement regarding incentives for the acquisition and merger of small, nonviable water and wastewater systems, as set forth in Annex A, is hereby adopted upon publication.

2. The Secretary shall serve this order and Annex A upon all jurisdictional water and wastewater utilities, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Department of Environmental Protection, the National Association of Water Companies-Pennsylvania Chapter and the Pennsylvania Rural Water Association. This order and Annex A shall also be served upon all persons who submitted comments to the proposed policy statement.

3. The Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. This final policy statement shall be effective upon publication in the *Pennsylvania Bulletin*.

6. Alternate formats of this document are available to persons with disabilities and may be obtained by contact-

ing Shirley M. Leming, Regulatory Coordinator, Law Bureau, at (717) 772-4597 or through the AT&T Relay Center at (800) 654-5988.

JOHN G. ALFORD,
Secretary

Statement of Vice Chairperson Lisa Crutchfield

Before us for consideration is the Policy Statement regarding incentives for the acquisition and merger of nonviable water and wastewater systems. Today's action by the Commission marks the culmination of the process which began in July, 1995, with the Policy Statement first being adopted as a proposal and later published in the *Pennsylvania Bulletin* for public comment. Nine sets of comments have since been filed. The Commission is appreciative of the insightful remarks received and the revisions in today's Order reflect the public input.

Following Staff's thorough review of the comments, a number of modifications and clarifications have been made to the Policy Statement. Among these changes are: 1) the Policy Statement now also will apply to waste water systems, and 2) the clarification has been made that the Deferral of Acquisition Improvement Costs incentive is similar to a phase-in of a rate increase and it does not refer to deferred accounting for the cost of the plant improvements.

One substantive change was the deletion of the use of an operating ratio as an incentive to regionalization. The decision to delete this incentive was due to: 1) no comments were received supporting its inclusion, while 2) the Independent Regulatory Review Commission (IRRC) and the Office of Consumer Advocate (OCA) opposed its inclusion; both agencies believe that its application is prohibited by the Public Utility Code. Both noted the (then) pending Commonwealth Court case on appeal involving the Commission's allowance of an operating ratio for the LP Water and Sewer Company.

However, in a Memorandum Opinion filed February 15, 1996, the Commonwealth Court affirmed the Commission's Order to use an operating ratio. The Court held that the Commission's allowance of an operating ratio was appropriate, that the Commission "did not err in utilizing an operating ratio, since it is within the discretion of the PUC and its expertise." No. 1912 C.D. and No. 2028 C.D. at page 12.

While I am not at this time compelled to advocate the use of an operating ratio as an acquisition incentive, I am compelled to address the concerns of IRRC and the OCA that the Commonwealth Court affirmed that the Commission can use an operating ratio where we deem it appropriate.

Statement of Commissioner David W. Rolka

I dissent with respect to the proposed inclusion of a rate of return premium under section 523 of the Public Utility Code as an acquisition incentive set forth in § 69.711(b). After reviewing the report and parties' comments regarding the issue of the interplay between sections 523 and 1327, I remain unconvinced that the Legislature contemplated that section 523 would be used as an acquisition incentive in light of the passage of section 1327.

Second, neither the proposed Order nor any of the parties' comments discuss the interplay between the two sections and reconcile my statutory construction concerns. Consequently, my concern as detailed in my Statement issued when this docket was first opened, has not been met. In addition, rate of return premiums are available

by law; you do not need a policy statement to restate the law. At the very least, there should be an "either/or" clarification imposed so that either an acquiring company could qualify for an acquisition adjustment or a rate of return premium but not both. For these reasons I dissent with respect to the inclusion of a section 523 rate of return premium within the Policy Statement.

Statement of Commissioner Robert K. Bloom

Before us for consideration is the Policy Statement regarding incentives for the acquisition and merger of small, nonviable water and wastewater systems which will become final upon publication.

I support the goals of the Policy Statement. It is imperative that this Commission take the necessary actions to encourage companies to acquire troubled companies. It is the best interest of the Commonwealth that Pennsylvania has a safe and reliable water industry.

I have concerns that the Policy Statement is vague in setting forth the regulatory incentives. The Policy Statement does not explain how the deferral of rate recovery for significant plant improvements will occur. Will the Commission allow recovery of carrying costs and deferral of depreciation before rates go into effect? This knowledge is critical for the acquiring company.

Parties should file a Petition for Declaratory Order at the time the acquisition is being contemplated. This should remove the uncertainty of whether the acquisition will satisfy the requirements set forth in the Policy Statement. While specific dollar adjustments would not be granted, the Commission could and should set forth the guidance to the acquiring company as to the rate making treatment it can expect if the acquisition occurs (such as whether there will be recovery for carrying costs—not the dollar amount). The Commission should provide a commitment on the treatment of these issues rather than requiring the acquiring utility to "wait and see" a Commission determination in a rate application proceeding.

Fiscal Note: Fiscal Note 57-161 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

SMALL NONVIABLE WATER AND WASTEWATER SYSTEMS—STATEMENT OF POLICY

§ 69.711. Acquisition incentives.

(a) *General.* To accomplish the goal of increasing the number of mergers and acquisitions to foster regionalization, the Commission will consider the acquisition incentives in subsection (b). The following parameters shall first be met in order for Commission consideration of a utility's proposed acquisition incentive. It should be demonstrated that:

(1) The acquisition serves the general public interest.

(2) The acquiring utility meets the criteria of viability which will not be impaired by the acquisition; that it maintains the managerial, technical and financial capabilities to safely and adequately operate the acquired

system, in compliance with 66 Pa.C.S. (relating to the Public Utility Code), the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)) and other requisite regulatory requirements on a short and long-term basis.

(3) The acquired system has less than 3,300 customer connections; the acquired system is not viable; it is in violation of statutory or regulatory standards concerning the safety, adequacy, efficiency or reasonableness of service and facilities; and that it has failed to comply, within a reasonable period of time, with any order of the Department of Environmental Protection or the Commission.

(4) The acquired system's ratepayers should be provided with improved service in the future, with the necessary plant improvements being completed within a reasonable period of time.

(5) The purchase price of the acquisition is fair and reasonable and the acquisition has been conducted through arm's length negotiations.

(6) The concept of single tariff pricing should be applied to the rates of the acquired system, to the extent that it is reasonable. Under certain circumstances of extreme differences in rates, or of affordability concerns, consideration should be given to a phase-in of the rate difference over a reasonable period of time.

(b) *Acquisition incentives.* In its efforts to foster acquisitions of suitable water and sewer systems by viable utilities when the acquisitions are in the public interest, the Commission seeks to assist these acquisitions by permitting the use of a number of regulatory incentives. Accordingly, the Commission will consider the following acquisition incentives:

(1) *Rate of return premiums.* Additional rate of return basis points may be awarded for certain acquisitions and for certain associated improvement costs, based on sufficient supporting data submitted by the utility within its rate case filing.

(2) *Acquisition adjustment.* In cases when the acquisition costs are greater than the depreciated original cost, that reasonable excess may be included in the rate base of the acquiring utility and amortized as an expense over a 10-year period.

(3) *Deferral of acquisition improvement costs.*—In cases when the plant improvements are of too great a magnitude to be absorbed by ratepayers at one time, rate recovery of the improvement costs may be recovered in phases. There may be a one time treatment—in the initial rate case—of the improvement costs but a phasing-in of the acquisition, improvements and associated carrying-costs may be allowed over a finite period.

(4) *Plant improvement surcharge.*—Collection of a different rate from each customer of the acquired system upon completion of the acquisition could be implemented to temporarily offset extraordinary improvement costs. In cases when the improvement benefits only those customers who are newly acquired, the added costs may be allocated on a greater than average level—but less than 100%—to the new customers for a reasonable period of time, as determined by the Commission.

(c) *Procedural implementation.*

(1) The appropriate implementation procedure for the acquisition incentives listed would be to file the request during the next filed rate case. In the case of the first

incentive, for example, the rate of return premium, appropriate supporting data should be filed within the rate of return section for Commission evaluation of its applicability. The rate of return premium as an acquisition incentive may be the most straightforward and its use is encouraged.

(2) Other appropriate incentives may be considered by the Commission, if they meet the parameters listed at

subsection (a). Acquisition incentive requests will be considered on a case-by-case basis. In acquisition incentive filings, the burden of proof rests with the acquiring utility.

[Pa.B. Doc. No. 96-485. Filed for public inspection March 29, 1996, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Adjudicatory Hearing—Wissahickon Spring Water, Inc., Doc. No. D-95-11

An Adjudicatory Hearing will be conducted by the Delaware River Basin Commission in connection with the docket issued to Wissahickon Spring Water, Inc., Doc. No. D-95-11.

On April 26, 1995, the Delaware River Basin Commission approved an application for a groundwater withdrawal project by Wissahickon Spring Water, Inc., Docket D-95-11. On September 18, 1995, Oley Township et al. brought an action in the United States District Court for the Eastern District of Pennsylvania against the Delaware River Basin Commission et al., Civil Action No. 95-5873. On October 25, 1995, the Commission adopted Resolution No. 95-10 to provide to Oley Township and any other objectors to the Wissahickon project the opportunity to be heard and present evidence in support of a request to modify or revoke the Wissahickon Docket. The United States District Court in *Oley Township et al. vs. DRBC et al.* on February 8, 1996, remanded to the Commission the matter before the Court so that a complete administrative hearing record can be developed in accordance with applicable DRBC Regulations and Rules of Practice and Procedure as provided in DRBC Resolution No. 95-10.

At its February 28, 1996 business meeting, the Commission adopted Resolution No. 96-2 directing the Executive Director and DRBC staff to proceed with an Adjudicatory Hearing in accordance with the provisions of Article 6 of its Rules of Practice and Procedure to provide any objectors to the Wissahickon Docket an opportunity to be heard and present evidence supporting modification or revocation of the Wissahickon Docket.

The hearing shall be conducted before a Hearing Officer who shall take evidence and compile the record necessary to a decision. The findings of fact and conclusions of law of the Hearing Officer shall be provided to the DRBC Commissioners as provided in the above-cited Rules.

Any person desiring to testify or otherwise participate in the Adjudicatory Hearing shall notify the Commission and Wissahickon Spring Water, Inc. of their intention on or before 5 p.m. on April 17, 1996. Persons intending to participate in the Adjudicatory Hearing shall file with the Commission a summary statement of their testimony before 5 p.m. on May 10, 1996. Persons intending to submit expert witness testimony shall also file in writing the proposed testimony of the expert witness and any supporting technical reports or other documents with the Commission and Wissahickon Spring Water, Inc. before 5 p.m. on May 10, 1996.

Testimony will be taken before the Hearing Officer on Monday, July 8, 1996, commencing at 10 a.m. The hearing will be continued day to day until concluded and will be held in the Goddard Conference Room at the offices of the Commission, 25 State Police Drive, West Trenton, NJ.

All statements, testimony and other documents filed with the Commission concerning this hearing will be available for public inspection during regular Commission hours. A copy of the Commission's Rules of Practice and Procedure, Article 6, Conduct of Hearings, the Procedures to be followed and the Schedule for the Adjudicatory Hearing for the Wissahickon Docket will be made available upon request.

SUSAN M. WEISMAN,
Secretary

[Pa.B. Doc. No. 96-486. Filed for public inspection March 29, 1996, 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 March 19, 1996.

BANKING INSTITUTIONS

Bank Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 3-14-96 | ExecuFirst Bancorp, Inc., Philadelphia, to acquire 100% of the voting shares of Republic Bancorporation, Inc., Philadelphia | Philadelphia | Filed |

Conversions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|---|----------------------------------|
| 3-13-96 | Prime Bank Philadelphia Philadelphia County | 6425 Rising Sun Ave. Philadelphia Philadelphia County | Approved Effective 3-19-96 |

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| | <i>To:</i> Prime Bank, a savings bank Philadelphia Philadelphia County | | |
| | Represents conversion from a Federally-chartered stock savings bank to a State-chartered stock savings bank. Subject institution is wholly-owned by Prime Bancorp, Inc., Philadelphia, a thrift holding company. | | |
| | <i>Branches Acquired:</i> | | |
| | 1000 Cottman Avenue Philadelphia Philadelphia County | Benjamin Fox Pavillion 261 Old York Road Jenkintown Montgomery County | |
| | 1695 Grant Avenue Philadelphia Philadelphia County | 423 E. Girard Avenue Philadelphia Philadelphia County | |
| | 14425 Bustleton Avenue Philadelphia Philadelphia County | 755 Oxford Valley Road Fairless Hills Bucks County | |
| | 1841 E. Allegheny Avenue Philadelphia Philadelphia County | 8500 Germantown Avenue Philadelphia Philadelphia County | |
| | 521 Stump Road North Wales Montgomery County | 18th and JFK Boulevard Philadelphia Philadelphia County | |
| | 301 Horsham Road Horsham Montgomery County | Moreland Plaza Shopping Center Old York and Moreland Rds. Willow Grove Montgomery County | |
| | 723 Street Road Southampton Bucks County | Bethayres Shopping Center 618 Welsh Road Huntingdon Valley Montgomery County | |
| | 984 Second Street Pike Richboro Bucks County | 10 South Street Yardley Bucks County | |
| 3-18-96 | Pennwood Savings Bank Pittsburgh Allegheny County | Pittsburgh | Filed |
| | Application represents conversion from a State-chartered mutual savings bank to a State-chartered stock savings bank. | | |

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 3-14-96 | Republic Bank, Philadelphia, and First Executive Bank, Philadelphia surviving institution— Republic Bank, Philadelphia | Philadelphia | Filed |
| 3-15-96 | Wayne Bank, Honesdale, and Wayne Interim Bank, Honesdale surviving institution— Wayne Bank, Honesdale | Honesdale | Approved |
| | Subject merger is being affected solely to facilitate the acquisition of Wayne Bank, Honesdale, by Norwood Financial Corp., Honesdale, a bank holding company in organization. | | |
| 3-15-96 | First Commonwealth Bank Indiana Indiana County | Indiana | Filed |
| | Purchase of assets/assumption of liabilities of one branch office of Moxham National Bank, Johnstown, located at: | | |

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| | Salem Plaza Route 22 Delmont Westmoreland County | | |
| 3-15-96 | Harris Savings Bank, Harrisburg, and First Federal Savings and Loan Association of Harrisburg, Harrisburg surviving institution— Harris Savings Bank, Harrisburg | Harrisburg | Approved |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 3-11-96 | Mid-State Bank and Trust Company Altoona Blair County | 1115—1119 12th Ave. Altoona Blair County (Drive-Up Facility) | Opened |
| 3-14-96 | Financial Trust Company Carlisle Cumberland County | 1 Forge Road Boiling Springs S. Middleton Twp. Cumberland County | Approved |
| 3-14-96 | Northwest Savings Bank Warren Warren County | Cranberry Mall Routes 257 and 322 Cranberry Township Venango County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|---|---------------|
| 3-14-96 | Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County | 760 Cumberland St. Lebanon Lebanon County | Approved |

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 96-487. Filed for public inspection March 29, 1996, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of April 1996

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of April is 8 3/4%.

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

individual occupies or has occupied as a principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in Pennsylvania. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the U. S. Treasury. The latest yield rate on long-term government securities is 6.28 to which was added 2.50 percentage points for a total of 8.78 that by law is rounded off to the nearest quarter at 8 3/4%.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 96-488. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AFFAIRS

Communities of Opportunity Program

The Department of Community Affairs (DCA), or its successor is announcing the availability of 1996 State Housing and Redevelopment Assistance (H&RA) funds as part of a new program entitled Communities of Opportunity. These funds will be awarded through a competitive application process.

The awarding of 1996 Housing and Redevelopment Assistance funds is contingent upon receipt of an appropriation from the General Assembly.

The Department is adopting a comprehensive community-development based strategy that recognizes communities as a key component contributing to rebuilding the economic strength of the Commonwealth. Just as conditions that diminish a community's ability to create economic opportunity are interrelated, so are the solutions that enhance economic and social development.

The Department seeks to utilize H&RA funds in 1996 to support local initiatives designed to promote the stability of its communities, and to assist communities in achieving and maintaining social and economic diversity, ensuring a productive tax base and a good quality of life.

The creation of local partnerships of municipal agencies, the financial community and for profit and not for profit organizations is encouraged.

The Communities of Opportunity Program and the State's HOME Investment Partnerships (HOME) Program will operate separate funding rounds for this grant cycle. The HOME Program is the Department's major low income housing assistance program. As such, H&RA will not typically be used to match HOME funds nor will HOME eligible activities in nonparticipating jurisdictions be eligible for H&RA funding.

The Department strongly encourages community-based organizations, public agencies, business leaders, private developers, financial institutions and private citizens to create partnerships with eligible applicants to prepare programs for submission which examine their approach to meeting locally defined needs. The Department encourages a comprehensive approach which integrates all available resources. HUD Entitlement and the Commonwealth's Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs are all excellent sources of flexible dollars to address locally-identified needs. Applicants are encouraged to use CDBG, HOME and other public and private programs to complement Community of Opportunity Program applications.

Overview of the Application Process

DCA's Bureau of Housing and Development, Division of Communities Development is responsible for administering the Community of Opportunity Program in accordance with the requirements of the Pennsylvania Housing and Redevelopment Assistance Law (Act 477 of 1955). Housing and Community Development analysts in DCA's regional offices are prepared to answer Community of Opportunity Program-related questions.

There are two major categories of funding assistance under the Communities of Opportunity Program—Community Development and Housing Assistance. Both of these will be described in detail.

Eligible activities previously considered under the Downtown Pennsylvania Program will be eligible during the 1996 funding round under the Community Development category. The exception to this is new first year Main Street Manager applicants. The Commonwealth will not be accepting applications for new Main Street Manager Programs during this funding round. Plans are to evaluate this program during the 1996-97 year. Funding commitments to second and third year Main Street communities will continue unabated. These communities will be informed when to apply for second and third year funds.

Changes in Operating Procedures

The 1996 Communities of Opportunity Program project expenditures will be charged to the State fiscal year (July 1 to June 30) during which the actual expenditures are incurred. Because the H&RA appropriation is currently a 1 year lapsing appropriation, the cost of multiyear projects must be allocated among several fiscal year appropriations.

In addition, 1996 H&RA contract payments will be limited to each grantee's immediate cash needs to fund eligible project expenditures. Long term lump sum advances will not be approved.

1996 H&RA funds not expended by the end of the fiscal year (June 30, 1997) will automatically lapse. Therefore, any contract funds budgeted but not drawn down prior to June 30, 1997 by a grantee may be forfeited.

Finally, the funding of project costs budgeted beyond the current appropriation year is contingent upon the future appropriation of adequate spending authority by the General Assembly.

The above factors should be taken into consideration when designing local programs. A "Project Budget by Fiscal Year" form has been included in this year's application requirements to clarify the annual demand on H&RA funds. Given this scenario, it is crucial that applications selected for funding approval contain all necessary documentation for immediate contracting.

There are certain State compliance areas explained in the contract, such as the adoption of a Minority and Women's Business Enterprise Plan, that may also affect the administration of any project. A sample contract can be obtained from the regional or central office.

Competitive Review Process

The Department completes competitive reviews of applications to make final funding decisions. Program design descriptions and staff capacity will be carefully evaluated to ensure that grants will be administered in a timely manner and according to program requirements.

All successful grantees will be required to attend regional grant recipient training seminars.

The following programmatic factors should be kept in mind when preparing applications:

All programs should be structured to maximize the return of program income (principal and interest) to the Commonwealth. Local revolving loan programs will not be permitted.

The Department has established a minimum application amount of \$25,000.

The Department will not typically permit State H&RA funds to be used as HOME match in 1996 applications for State administered HOME funds.

The Department will not permit H&RA funds to be placed in HOME participating jurisdiction "match banks."

If sewer or water system activities are included as part of a Communities of Opportunity Program project, mandatory tap-ins are required. Only tap-in fees for very-low and low-income families or individuals may be included as an eligible budget cost.

Moderate housing rehabilitation projects under the Communities of Opportunity Program must comply with HUD Section 8 Housing Quality Rehabilitation Standards.

Eligible Applicants

General purpose units of local governments such as counties, cities, boroughs, townships and home rule municipalities.

City and county housing authorities and redevelopment authorities.

Nonprofit housing corporations. Only nonprofit housing corporations with projects located in Participating Jurisdictions may apply directly to DCA under provisions of section 4(d) and 4(e) of the Housing and Redevelopment Assistance Law.

Please Note: Nonprofits in the Cities of Philadelphia and Pittsburgh are not eligible to apply directly for H&RA funds.

Community Development Category

Community development activities can be defined as those necessary for community to enhance quality of life and/or to become competitive for business retention, expansion and attraction. These activities should contribute to achieving the highest level of community livability. Applications that propose to revitalize distressed areas or meet critical community needs must show their relationship with a larger community strategy. Direct linkages to job creation or retention, especially to those jobs that are "family sustaining" will be considered during the review process.

Applications under the Community Development category generally should clearly demonstrate the following:

- A clear public benefit;
- Significant leverage of other dollars;
- Evidence of need for the assistance in order to complete the project;
- Evidence that the need cannot be financed locally;
- Evidence that other funding sources are unavailable; and
- Evidence that the activity supports a larger and more comprehensive community development strategy (either existing documents or developed narrative).

If H&RA funds are being proposed for acquisition, evidence should be available to support market value. In most cases this would entail getting at least one appraisal.

1. Community Revitalization

The examples below illustrate the type of projects that are eligible for assistance under this subcategory. Applications may be submitted for the following projects as well as other projects which results in community revitalization:

- The construction or reconstruction of infrastructure;
- The performance of other site improvements where the improvement will provide direct benefit to other coordinated community improvement efforts;
- The rehabilitation or restoration of older or under-utilized buildings for immediate reuse which will support other community development goals;
- The extension or service through public rights-of way that is, paving or widening of access roads and upgrading water, sanitary or storm sewers. The improvement must have a documented beneficial impact on the community; or
- The acquisition and demolition of a blighted structure when there is a reuse plan which has been adopted by the community for the cleared site and a private development commitment is secured.

2. Commercial Revitalization

The examples below illustrate the type of projects that are eligible for this subcategory. Applications may be submitted for the following projects as well as other projects which result in commercial revitalization:

- Business District Authority (Act 41) Assistance (\$25,000 is also the minimum application amount (pg. 9)) to carry out activities identified in the available only to those BDAs that are currently doing assessments;
- Restoring or improving commercial building facades in historic districts or central business districts through a subsidized loan program;
- Rehabilitating or restoring older or under utilized buildings for immediate reuse, creating job opportunities and/or supporting commercial revitalization goals;
- Improving sites in a commercial target area that are part of an overall strategy for revitalization.

Housing Assistance Category

The Commonwealth's HOME Investment Partnerships Program is the Department's major low income housing program. Since H&RA funds are limited, we are this year encouraging applicants to submit applications for unique or innovative housing assistance projects or programs which cannot be funded with HOME funds. These projects or programs should be those that contribute to local, county or regional strategic community development plans. H&RA should not be looked to for low income housing assistance in nonparticipating jurisdictions. In the same stead, applicants with projects located in participating jurisdictions must provide evidence that their own HOME funds are not available for the activity proposed.

Housing assistance can be available for residents up to 115% of county median if supported by the strategic plan. H&RA financial assistance is eligible as part of the units themselves or in support of public improvements or off-site improvements that are essential to the housing activities.

The linking of housing and supportive services is required if appropriate.

The Department will not accept applications for multi-family housing projects over four units. The Pennsylvania Housing Finance Agency is the Commonwealth multifamily housing agency.

If H&RA funds are being proposed for acquisition, evidence should be available to support market value. In

most cases this would entail getting at least one appraisal.

Note: New construction or modernization of conventional public housing is ineligible for H&CD assistance.

Only nonprofit agencies with projects located in participating jurisdictions are eligible to apply directly for certain types of activities. Section 4(d) identifies financially supplementing Federal housing programs in an amount not to exceed 10% of the total cost of a proposed project. Section 4(e) deals with assistance for single family dwelling units which are in a state for disrepair, rehabilitating and reselling them to persons or families with very low or low incomes. Contact your regional H&RA analysts for guidance regarding the eligibility of proposed activities under section 4(d) or (e) of the law.

The following examples illustrate the types of activities that are eligible for housing assistance grants. Applications may be submitted for the following activities, as well as other activities, which result in the creation or preservation of affordable housing units.

- Acquisition, rehabilitation, and/or new construction of housing which result in homeowner or rental opportunities (under 4 units);
- Provision of site improvements to support new construction of housing units;
- Rehabilitation of owner-occupied residential properties;
- Acquisition, rehabilitation and resale of housing units;
- Public improvements to support the rehabilitation or housing units;
- Acquisition of units which results in their preservation.

Submission Dates

The Department of Community Affairs will accept applications through the five DCA Regional Offices (addresses appear at the end of this notice). One original and two copies of the application must be received in the Regional Office, with one copy to the Central Office by the close of business May 31, 1996. No applications will be accepted after 5 p.m., May 31, 1996. Transmittals by facsimile (fax) machine will not be accepted.

Training Sessions

The Department will conduct a 1/2 day workshop at three locations during the month of April. The H&RA session will take place from 8:30 a.m. to noon at the following locations:

April 2nd—Holiday Inn Scranton/East Dunmore
200 Tigie Street
I-380 Exit 1 (Tigie Street)
(717) 343-4771

April 9th—Holiday Inn—Harrisburg/Hershey Area
I-81 at Exit 28
(717) 469-0661

April 11th—Days Inn Conference Center Butler
139 Pittsburgh Road
PA Tpke. Exit 4 to Route 8 North
(412) 287-6761

Application Forms

Application forms and instructions may be obtained by contacting the Department's regional offices. Persons with a disability who wish to submit an application in accord-

ance with the provisions stated herein and who require assistance with the application and persons who require copies of this notice in an alternative format (large type, braille, and the like) should contact David Chittister, Room 507 Forum Building, Harrisburg, PA 17120, telephone (717) 787-7156 to discuss how the Department may best accommodate their needs. The following is the listing of DCA Regional Offices and the counties they serve:

Region 1—Southeast

Bucks, Chester, Delaware, Montgomery and Philadelphia counties

Department of Community Affairs
908 State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130
(215) 560-2256

Region 2—Northeast

Berks, Bradford, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne and Wyoming counties

Department of Community Affairs
Suite 201 Samters Building
101 Penn Avenue
Scranton, PA 18503-2025
(717) 963-4571

Region 3—Southcentral and Region 4—Northcentral

Region 3—Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York counties

Region 4—Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset and Union counties.

Department of Community Affairs
402 Finance Building
Harrisburg, PA 17120
(717) 787-7347

Region 5—Southwest

Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland counties

Department of Community Affairs
413 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
(412) 565-5002

Region 6—Northwest

Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren counties

Department of Community Affairs
Third Floor—Rothrock Building
121 West 10th Street
Erie, PA 16501
(814) 871-4241

Central Office

Fifth Floor—Forum Building
Harrisburg, PA 17120
(717) 787-7156

WILLIAM C. BOSTIC,
Secretary

[Pa.B. Doc. No. 96-489. Filed for public inspection March 29, 1996, 9:00 a.m.]

Home Investment Partnerships Program; Request for Proposals for Fiscal Year 1996

The Department of Community Affairs, (DCA), or its successor, is announcing the availability of 1996 Home Investment Partnerships Program (HOME) funds. The HOME Program is the Commonwealth's primary vehicle to provide affordable housing which supports local efforts to develop economically vibrant, globally competitive communities. Beginning in the 1996 program year, Pennsylvania's HOME Program will be integrated into a comprehensive community development strategy to enhance economic growth and development. This approach recognizes that the creation of new affordable housing options and opportunities are not only essential to the health and welfare of many families, but to the economic well being of the Commonwealth as a whole.

In addition, HOME funds may be used for affordable housing disaster recovery purposes. The U. S. Department of Housing and Urban Development (HUD) has waived certain provisions of the HOME Program Rule for HOME funds used for this purpose. DCA is currently seeking clarification on the suspended provisions, and will inform those interested during the training sessions discussed within this notice.

The amount of HOME funds available for distribution is contingent upon a final appropriations by Congress. At this time, the Department has been notified it will receive \$8,353,000. This is approximately 46% of the total amount anticipated. The Department will reserve 4% of the total allocation for its administration, and award the balance. The Department expects to award all FFY 1996 funds as a result of the response to this RFP.

Pennsylvania's HOME Program is a flexible financial tool for housing activities. HOME promotes community stability, and provides a significant community impact by creating additional housing units through new construction and rehabilitation. HOME program funds can be used in a variety of ways, including market oriented approaches which offer opportunities to revitalize communities with new investment, whether it be homeownership or rental activities. Homeownership creates economic prosperity for communities and families, and acts as a dynamic generator of economic growth. Increased housing starts and home sales often times represents renewed economic confidence in communities.

HOME can also assist communities which have goals of promoting income diversity by providing support for mixed-income developments. These activities can create environments that enhance economic and social empowerment.

The Department will accept applications for any HOME eligible activity, other than rental housing activities for five and more units (see discussion of the programs offered by the Pennsylvania Housing Finance Agency below.) HOME eligible activities are assistance for: homebuyers down payment and/or closing costs and second mortgages; homeowner rehabilitation; developers undertaking single family sales housing; rental housing rehabilitation or new construction of between 1 and 4 units; single room occupancy; group home projects; and tenant based rental assistance and security deposit assistance. Projects can be designed to offer: equity investments, interest-bearing loans or advances, noninterest bearing loans or advances, deferred payment loans, grants and loan guarantee funds.

The Commonwealth's Consolidated Plan (and annual update—FFY 1996 Action Plan) states that priority for

funding will be given to projects that serve very low-income households (up to 50% of the median family income for the area). The Department will distribute the 1996 HOME Program allocation in accordance with the Action Plan. Successful applicants will be those that address the Commonwealth's priority, meet the requirements of the HOME Program, and address the issues in the Housing Goals and Action Steps. Applications for all eligible HOME activities will be accepted.

If an applicant can demonstrate that the needs of very low-income households are currently being substantively addressed within the community, the Commonwealth's priority will be considered to have been met for proposed projects that:

- Promote diversity within a community, including but not limited to, diversity of race, ethnicity, income level and disability status; or
- Are an integral part of an overall community development strategy which addresses and directs resources toward community needs such as housing, transportation, employment and infrastructure.

In addition, the following types of programs and developments also are priorities for HOME funding (the listing is not a rank ordering of priorities, but rather are, in part, identified in the Consolidated Plan).

Programs and projects submitted by nonparticipating jurisdictions

Programs and projects which maintain and improve the quality of housing

Programs and projects which build capacity of local governments and housing organizations

Programs and projects which link housing and supportive services

Programs and projects which improve rental housing opportunities

Programs and projects which assist families and individuals to become first-time home buyers

Programs and projects which address the economic, social and health problems of the homeless

Programs and projects which demonstrate a minimization of regulatory barriers to affordable housing

Programs and projects which further fair housing and minimize community opposition

Programs and projects which link lead-based paint hazard reduction with efforts to health prevention programs

Programs and projects which return program income

Overview of the Application Process

The Commonwealth will distribute the 1996 HOME Program allocation in accordance with the Action Plan. The Commonwealth's Consolidated Plan standardized the Program Year for all Federal funds received from HUD. Now the State's Community Development Block Grant, Emergency Shelter Grant, and HOME Programs run concurrently with the calendar year (January 1—December 31). Successful applicants will have until January 31, 2001 to complete the projects, conduct an audit and close out their programs.

Participating jurisdictions, as defined by the National Affordable Housing Act of 1990, will receive consideration for home funding only after nonparticipating jurisdiction

funding needs have been met. Given DCA's experience, it is unlikely that participating jurisdictions will receive home funding.

The Department is responsible for administering the HOME Program in accordance with the requirements of the National Affordable Housing Act of 1990; the Federal Regulations published in the *Federal Register* on December 16, 1991 (24 CFR Part 92 HOME Investment Partnerships Program), and revisions thereto. HOME Analysts in the regional offices are prepared to answer HOME-related affordable housing development questions.

For administrative and other practice reasons, applications for HOME funds should be submitted by a unit of local government. Units of local government are eligible to become State recipients. As a State recipient, a unit of local government will have direct access to the Federal Cash and Management Information System (CMIS). If there are unique and extenuating circumstances, entities other than units of local government may apply directly to the Commonwealth. In this case, the processing of required information in the CMIS must be accomplished through the Commonwealth.

- Applications submitted by a unit of local government may be on behalf of public agencies, nonprofit organizations or private developers. Private nonprofit housing organizations that are unable to secure their unit of local government's approval as an applicant should contact the appropriate regional office.

- Applications for CHDO Certification may be submitted by private nonprofit organizations throughout the year. Applications for CHDO Operating grants, CHDO technical assistance and site control loans and CHDO seed money loans may be submitted by local governments on behalf of certified CHDOs throughout the year.

- Applications selected for funding approval must contain all necessary documentation for immediate contracting. Applications will be reviewed on the basis of stated need and how the proposed activity will address that need, and how the proposal serves the larger mission of promoting economic and social empowerment in the region in which the project is located. Applicants selected for HOME funding will also be required to comply with the HOME Statement of Assurances on Form BHD-175, Antidisplacement/Relocation, and Affirmative Action plans and fulfill fair housing requirements. In addition, applicants selected for HOME funding will be required to adopt a Minority and Women's Business Enterprise Plan, and the Commonwealth's Affirmative Marketing Policy.

- Applicants selected for funding will be required to attend HOME State recipient training.

- All programs should be structured to maximize the return of program income to the Commonwealth. For example, in a homeowner rehab program, a deferred payment 0% loan due on sale achieves the same purpose as a grant yet returns dollars to be used by the Commonwealth for affordable housing. Locally revolving loan programs will not be permitted.

- Because of the complexity of Federal regulations and requirements associated with these programs, a minimum application amount of \$50,000 has been established.

- The Department will again reserve 30% of the HOME allocation for distribution by the Pennsylvania Housing Finance Agency (PHFA) for rental housing developments of 5 units and more.

The Department completes competitive reviews to make final funding decisions. Program design descriptions, management plans and staff capacity components are carefully evaluated to ensure that grants will be administered in a timely manner and according to program requirements. Matching funds, and other leveraged funds necessary to complete the proposed program or project should be in place at the time of application.

Other Community Development Resources

Communities of Opportunity Program—The Department is refocusing the use of funds appropriated to it under the Housing and Redevelopment Assistance Law (H&RA). The new program, entitled Communities of Opportunity Program (CoOP), is based on comprehensive community development strategies that recognize communities as a key component in contributing to rebuilding the economic strength of the Commonwealth. The Department will utilize H&RA funds to support local initiatives designed to promote the stability of its communities, and to assist communities in achieving and maintaining social and economic diversity, ensuring a productive tax base, and a good quality of life. The creation of local partnerships of municipal agencies, the financial community, not for profit, and for profit organizations is encouraged. Since H&RA funds will not be used primarily to support affordable housing activities, they will not typically be used to match HOME funds.

Pennsylvania Housing Finance Agency—The Commonwealth reserves 30% of the State's annual HOME allocation for the Pennsylvania Housing Finance Agency (PHFA) through a subrecipient agreement. PHFA offers the PennHOMES Program which provides flexible interim and permanent mortgage financing to developers of affordable rental housing (5 units and more.) Interest rates are set based on what each project can support. HOME nonparticipating jurisdictions are given priority for the HOME funds utilized with the PennHOMES Program.

The PennHOMES Program also includes the Commonwealth's Community Housing Development Organization (CHDO) set-aside. CHDOs with Market and Site Approval will be advised by PHFA of the availability of CHDO project-specific seed money loans. PHFA encourages all rental housing development applications to include Low Income Housing Tax Credits to raise equity for their projects.

In addition, PHFA receives additional HOME funds for the HOMESTEAD program. The program offers down payment and closing cost assistance to first-time homebuyers. HOMESTEAD loans are distributed through participating banks throughout the State. The program will make it easier for lower income families and single persons with disabilities to purchase homes of their own. The program is also targeted to HOME nonparticipating jurisdictions. Qualifying homebuyers can borrow between \$1,000 and \$15,000 to help with down payments and closing costs. The HOMESTEAD loans are no-interest second mortgage loans that require no repayment as long as the buyer lives in and owns that home. Borrowers are expected to pay at least 3% of the price of the house. PHFA will provide the remainder of the down payment and closing costs. More than 50 lenders are participating Statewide. For more information about the HOMESTEAD Program, including eligible areas and the names of participating lenders, call the toll-free mortgage hot line at 1 (800) 822-1174 between 8 a.m. and 4:30 p.m., Monday through Friday.

Program Changes

HUD identified the following as HOME participating jurisdictions for 1995. It is expected that changes will occur in this list as HUD completes the allocation of 1996 HOME funds.

Allegheny County
 City of Allentown
 City of Altoona
 Beaver County
 City of Bethlehem
 Berks County
 Bucks County Consortium
 Chester County
 Delaware County Consortium
 City of Erie
 City of Harrisburg
 City of Johnstown
 City of Lancaster
 Lancaster County
 Luzerne County Consortium
 Montgomery County
 City of Philadelphia
 City of Pittsburgh
 City of Reading
 City of Scranton
 Washington County
 Westmoreland County Consortium
 City of Williamsport
 City of York
 York County

HOME Regulatory Changes

On July 12, 1995, the U. S. Department of Housing and Urban Development published the Seventh Interim HOME Rule. Unlike previous Interim Rules, most of the changes clarified existing regulations. Among the more significant changes were: allowing the acquisition of existing hotels and residential structures to be used as HOME eligible single room occupancy facilities without either food preparation or sanitary facilities in each unit; allowing HOME funds to capitalize loan guarantee funds; clarifying the match credit generated by locally waived fees and charges, and those fees and charges foregone by public or private institutions; and in homebuyer programs, allowing for the reduction of the HOME amount to be recaptured based on the length of time the recipient has owned and occupied the unit. Applicants should review this edition of the HOME Interim Rule for more information.

HUD expects to finalize the HOME Rule in 1996. It is expected to include additional changes when finally published. Among the changes anticipated are: 1) addition to the types of financing eligible; 2) additions to the types of eligible match; 3) simplification of the ongoing monitoring responsibilities of participating jurisdictions; 4) adjusting the definition of what is a "project"; 5) additional options for defining income; and 6) clarifying the requirements for written agreements.

Community Housing Development Organizations

The Commonwealth, as a participating jurisdiction, is required to set-aside a minimum of 15% from its total allocation to support projects submitted by Community Housing Development Organizations (CHDOs). CHDO organizations that are pursuing rental housing development projects of five units and more are to apply directly to PHFA. The Department will accept applications for

CHDO activities submitted by local governments for rental projects of four units or less, and for homebuyer projects during the application period discussed in Section III. Applicants proposing this type of HOME CHDO set-aside funding must demonstrate that they are acting as developer, owner or sponsor of the affordable housing project.

Local governments may submit applications on behalf of CHDOs for CHDO operating support, technical assistance and site control loans and seed money loans at anytime. The application forms to be used for these requests are contained in these guidelines. Up to 5% of the Commonwealth's HOME funds may be used for CHDO Operating Expenses, defined as necessary and reasonable costs for the operation of the CHDO. For any fiscal year, a CHDO may not receive more than 50% of its total operating budget in the fiscal year, or \$50,000 annually, whichever is greater. When an application is submitted to the Department for an eligible CHDO set-aside homebuyer project, or a one to four unit rental project, operating expenses should be simultaneously requested.

Project specific technical assistance and site control loans—The purpose of these loans is to determine the feasibility of CHDO set-aside eligible projects. Loans are limited to the following purposes:

- consulting, legal, engineering and/or architectural fees
- preliminary financial applications
- initial feasibility studies
- engaging a development team
- site control and title clearance

Project specific seed money loans—The purpose of these loans is to cover eligible project expenses prior to the start of construction. Uses of the loan proceeds include, but are not limited to the following:

- firm construction loan commitment
- architectural plans and specifications
- zoning approvals
- engineering studies
- legal fees

All loans must not exceed customary and reasonable project preparation cost. The maximum loan amount is \$2,000 per unit up to \$25,000. Loans must be repaid at the construction loan closing CHDO predevelopment loans cannot be "rolled over" into the permanent financing.

For more information concerning application requirements for CHDO operating support, project specific technical assistance and site control loans and seed money loans, the Operating and Predevelopment Assistance for Pennsylvania Certified Community Housing Development Organizations guidelines should be consulted.

In order to receive CHDO set-aside funding, or CHDO operating expenses not related to a specific project, a nonprofit must first be certified by DCA as a CHDO. Applications for CHDO certification will be accepted anytime. Organizations already certified by DCA as a CHDO must update their certifications for each year in which funds are sought. Such organizations should contact the appropriate Regional Office.

Eligible Activities

HOME funds may be used for a variety of activities to develop and support affordable housing. Eligible activities include: assistance to homebuyers and existing homeowners; property acquisition; new construction; rehabilitation; site improvements; demolition; relocation expenses; tenant-based rental assistance; other reasonable and necessary expenses related to the development of modest housing; the refinancing of certain existing owner occupied units; and the purchase and placement of elder cottage housing opportunity units.

The Commonwealth's HOME program allows up to 6% of the HOME award to be used to pay for administrative costs. Staff and overhead costs attributable to a HOME assisted project may be charged to projects costs as project delivery, or to general administration. However, such costs may not be charged against project delivery if the unit or family is not assisted with HOME funds.

Applicants proposing tenant based rental assistance (TBRA) programs should be aware that HOME funds are limited to a 2-year period of assistance. These programs should include a description of how the tenant based assistance will continue after the HOME assistance period terminates; identify additional funding sources to address the limited duration of the HOME assistance; or use HOME funds as a bridge to permanent housing for families about to be self-sufficient or soon to obtain housing through another program.

Activities prohibited under the HOME Program include: public housing modernization; tenant subsidies for certain special mandated purposes under section 8; matching funds for other Federal programs; Annual Contributions Contracts (ACC); activities under the Low-Income Housing Preservation Act of 1987 and 1990; the acquisition of certain real property owned by a State recipient and operation subsidies for rental housing.

Program Income

All programs should be structured to maximize the return of program income to the Commonwealth. For example, in a homeowner rehabilitation program, a deferred payment 0% loan due on sale achieves the same purpose as a grant yet returns dollars to the Commonwealth for affordable housing. Locally revolving loan programs will not be permitted.

Matching Requirements

All activities require a 25% match. Match must be permanently contributed to HOME assisted or HOME eligible housing. Generally, match must be for HOME eligible expenses. Selected applicants for HOME funds will be required to report on the expenditure of match at the time the match can be recognized. The Department is currently seeking guidance from HUD on the reduction of the matching requirements as a result of the Presidential disaster declaration.

Submission Dates

The Department of Community Affairs will accept applications through the five DCA Regional Offices (addresses appear at the end of this notice). One original and two copies of the application must be received in the Regional Office, with one copy to the Central Office by the close of business May 31, 1996. No applications will be accepted after 5 p.m., May 31, 1996. Transmittals by facsimile (fax) machine will not be accepted.

Training Sessions

The Department will conduct a 1/2 day workshop at three locations during the month of April. The HOME session will take place from 1:30 p.m. to 4:00 p.m. at the following locations:

April 1—Holiday Inn Scranton/East Dunmore, 200 Tigie Street, I-380 Exit 1 (Tigie Street), (717) 343-4771

April 8—Holiday Inn—Harrisburg/Hershey Area, I-81 at Exit 28, (717) 469-0661

April 10—Days Inn Conference Center Butler, 139 Pittsburgh Road, PA Turnpike Exit 4 to Route 8 North, (412) 287-6761

Application Forms

Application forms and instructions may be obtained by contacting the Department's regional offices. Persons with a disability who wish to submit an application in accordance with the provisions stated herein and who require assistance with that application and persons who require copies of this notice in an alternative format (large type, braille, and the like) should contact David Chittister, Room 507 Forum Building, Harrisburg, PA 17120, telephone (717) 787-7156 to discuss how the Department may best accommodate their needs. The following is the listing of DCA Regional Offices and the counties they serve:

Region 1—Southeast

Bucks, Chester, Delaware, Montgomery and Philadelphia counties

Department of Community Affairs
908 State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130
(215) 560-2256

Region 2—Northeast

Berks, Bradford, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne and Wyoming counties

Department of Community Affairs
201 Samters Building
101 Penn Avenue
Scranton, PA 18503-2025
(717) 963-4571

Region 3—Southcentral and Region 4—Northcentral

Region 3—Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York counties

Region 4—Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset and Union counties.

Department of Community Affairs
402 Finance Building
Harrisburg, PA 17120
(717) 787-7347

Region 5—Southwest

Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland counties

Department of Community Affairs
413 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
(412) 565-5002

Region 6—Northwest

Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren counties

Department of Community Affairs
Third Floor—Rothrock Building
121 West 10th Street
Erie, PA 16501
(814) 871-4241

Central Office

505 Forum Building
Harrisburg, PA 17120
(717) 787-7156

WILLIAM C. BOSTIC,
Secretary

[Pa.B. Doc. No. 96-490. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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 applications of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to this office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible official 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 Community Relations Coordinator at (717) 657-4585. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Application for National Pollutant Discharge Elimination System (NPDES) Permit to discharge to State waters.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

PA 0008281. Industrial waste, SIC: 4911, **Pennsylvania Power and Light Company** (Brunner Island Station), Two North Ninth Street, Allentown, PA 18101.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to the Susquehanna River, in East Manchester Township, **York County**.

The receiving stream is classified for recreation, water supply and aquatic life.

The proposed effluent limits for Outfall 040—condenser cooling water are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|--------------------------------|-----------------------------|-------------------------------------|
| Flow | monitor and report | | |
| pH | 6—9 s.u. at all times | | |
| Heat Rejection Rate | 6.960 x 10 ⁶ BTU/hr | | |
| Total Residual Chlorine | 0.2 | | |

The proposed effluent limits for Outfall 044—sewage treatment plant are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-------------------------------|-------------------------------------|
| CBOD ₅ | 25 | 50 |
| Suspended Solids | 30 | 60 |
| Total Phosphorus | 2 | 4 |
| Total Residual Chlorine | 1.0 | 2.0 |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|---------------------------------------|---|
| Dissolved Oxygen | minimum of 5.0 at all times | |
| pH | 6.0—9.0 | |
| Fecal Coliforms | | |
| (5-1 to 9-30) | 200/100 ml as a geometric average | |
| (10-1 to 4-30) | 100,000/100 ml as a geometric average | |

The proposed effluent limits for Outfalls 043 (industrial waste treatment facility), 047 (Ash Basin No. 6), and 049 (Ash Basin No. 7) are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|-----------------------------------|---|
| Oil and Grease | 15 | 30 |
| Total Suspended Solids | | 50 |
| Total Copper | monitor and report | |
| Total Nickel | monitor and report | |
| Total Zinc | monitor and report | |
| Total Iron | monitor and report | |

Stormwater Outfalls 041, 042, 045 and 401 through 420 will be monitored yearly for copper, nickel, zinc, iron, suspended solids, oil and grease and pH.

Outfalls 046 and 048 are Spring discharges from the site which are monitored yearly for copper, nickel, zinc, iron and pH.

The EPA waiver is not in effect.

PA 0008893. Industrial waste, SIC: 2621, **Westvaco Corporation**, 1600 Pennsylvania Avenue, Tyrone, PA 16686.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Bald Eagle Creek, in Tyrone Borough, **Blair County**.

The receiving stream is classified for trout stocking fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was United Water Company located near Harrisburg. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 10.1 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------------------|--|---------------------------------|---|
| Flow (mgd) | monitor and report | | |
| pH | within limits of 6—9 (s.u.) at all times | | |
| Instream Temperature ⁽¹⁾ | monitor and report | | |
| Temperature ⁽²⁾ | | 87°F | |

⁽¹⁾ Monitor at S. R. 4027 Bridge.

⁽²⁾ Part C requirement not to increase temperature by more than 5°F and change temperature by more than 2°F per hour at a point within the confluence of Bald Eagle Creek and Little Juniata River.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------------|--|---------------------------------|---|
| Flow (mgd) | monitor and report | | |
| pH | within limits of 6—9 (s.u.) at all times | | |
| Background Temperature | monitor and report | | |
| Temperature °F ⁽¹⁾ | | | |
| January | | 40 | |
| February | | 40 | |
| March | | 46 | |
| April 1—15 | | 52 | |
| April 16—30 | | 58 | |
| May 1—15 | | 64 | |
| May 16—31 | | 68 | |
| June 1—15 | | 70 | |
| June 16—30 | | 72 | |
| July | | 74 | |
| August 1—15 | | 80 | |
| August 16—31 | | 87 | |
| September 1—15 | | 84 | |
| September 16—30 | | 78 | |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|-----------------------------------|---------------------------------|---|
| October 1—15 | | 72 | |
| October 16—31 | | 66 | |
| November 1—15 | | 58 | |
| November 16—30 | | 50 | |
| December | | 42 | |

⁽¹⁾ Thermal limits to be monitored at S. R. 4027 Bridge.
Part C requirements for compliance with thermal limits.

PA 0026808. Sewage, SIC: 4952, **Springettsbury Township**, 1501 Mount Zion Road, York, PA 17402.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Codorus Creek, in Springettsbury Township, **York County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. The existing downstream potable water supply intake considered during the evaluation was Wrightsville Water Supply Company located just north of Wrightsville Borough, York County on the west side of the Susquehanna River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 15 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-------------------------------------|----------------------------------|---------------------------------|---|
| CBOD ₅ | 25 | 40 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| NH ₃ -N | | | | |
| (5-1 to 10-31) | 2 | | | 4 |
| (11-1 to 4-30) | 3 | | | 6 |
| Total Phosphorus | 2 | | | 4 |
| Total Residual Chlorine | .25 | | | .8 |
| Dissolved Oxygen | minimum of 5.0 at all times | | | |
| pH | 6.0—9.0 | | | |
| 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 not in effect.

PA 0026263. Sewage, SIC: 4952, **York City Sewer Authority**, c/o Blakey, Yost, Bupp & Schaumann, 17 East Main Street, York, PA 17401.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Codorus Creek, in Manchester Township, **York County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. The existing downstream potable water supply intake considered during the evaluation was Wrightsville Water Supply Company located just north of Wrightsville Borough, York County on the west side of the Susquehanna River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 002 for a design flow of 26 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------|-------------------------------------|----------------------------------|---------------------------------|---|
| CBOD ₅ | | | | |
| (5-1 to 10-31) | 15 | 22.5 | | 30 |
| (11-1 to 4-30) | 20 | 30 | | 40 |
| Suspended Solids | 30 | 45 | | 60 |
| NH ₃ -N | | | | |
| (5-1 to 10-31) | 1.7 | 2.6 | | 3.4 |
| (11-1 to 4-30) | 2.1 | 3.2 | | 4.2 |
| Total Phosphorus | 2 | 3 | | 4 |
| Dissolved Oxygen | minimum of 5.0 at all times | | | |
| pH | 6.0—9.0 | | | |
| 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 not in effect.

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

PA 0003549. Industrial waste, SIC: 4922, **CNG Transmission Corporation**, P. O. Box 2450, 445 West Main Street, Clarksburg, WV 26302-2450.

This application is for issuance of an NPDES permit to discharge treated process water, sewage and stormwater from their Oakford Compression Station, in Salem Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters Beaver Run classified as high quality, cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is located on the Beaver Run Reservoir approximately 3.4 miles below the discharge point.

Outfall 002: existing discharge, design flow of 0.0015 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|--|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | monitor and report | | | | |
| CBOD ₅ | | | 25 | | 50 |
| TSS | | | 30 | | 60 |
| Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30) | 200/100 ml (as a geometric average) 2,000/100 ml (as a geometric average) | | | | |
| TRC | | | 1.4 | | 3.3 |
| Total Phosphorus (as P)* | | | 2.0 | | 4.0 |
| pH | 6.0—9.0 | | | | |

*Interim limits specified as "monitor and report" (1 year from issued date).

Outfall 003: existing discharge, design flow of 0.01 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|---------------------|------------------------|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | monitor and report | | | | |
| CBOD ₅ * | | | 80 | | 160 |
| TSS | | | 30 | | 60 |
| Oil and Grease | | | 15 | | 30 |
| Dissolved Iron | | | | | 7.0 |
| BTEX* | | | 0.1 | | 0.25 |
| TRC | | | 0.5 | | 1.25 |
| pH | 6.0—9.0 | | | | |

*Interim limits added as "monitor and report" (1 year from issued date).

Outfalls 001, 004, 005 and 006:

Discharge consists solely of uncontaminated stormwater runoff.

The EPA waiver is in effect.

PA 0093882. Industrial waste, SIC: 4111, **Port Authority of Allegheny County**, Transit Division, 2235 Beaver Avenue, Pittsburgh, PA 15233.

This application is for renewal of an NPDES permit to discharge treated stormwater and untreated stormwater from West Mifflin Garage in West Mifflin Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters of unnamed tributary of Thompson Run and unnamed tributary to Monongahela River, both classified as warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is PA American Water Company, located at Beck Run, 11.7 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.45 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------------|------------------------|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | monitor and report | | | | |
| Total Suspended Solids | | | 30 | | 60 |
| Oil and Grease | | | 15 | | 30 |
| Iron | | | 3.5 | | 7.0 |
| Benzene | | | monitor and report | | |
| Ethylbenzene | | | monitor and report | | |
| Xylene | | | monitor and report | | |

Outfall 002: existing 0.2 mgd discharge to unnamed tributary to Monongahela River.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------------------|--------------------|------------------|----------------------|------------------|--------------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | monitor and report | | | | |
| Total Suspended Solids | | | 30 | | 60 |
| Oil and Grease | | | 15 | | 30 |
| Iron | | | 3.5 | | 7.0 |
| Benzene | | | monitor and report | | |
| Ethylbenzene | | | monitor and report | | |
| Xylene | | | monitor and report | | |

The EPA waiver is in effect.

PA 0217018. Industrial waste, SIC: 5541, **BP Exploration and Oil, Inc.**, 200 Public Square Building, Cleveland, OH 44114-2375.

This application is for issuance of an NPDES permit to discharge treated groundwater from the former BP Station 07718 in Monroeville Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters Piersons Run classified as trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is PA American Water Company, located at Becks Run, over 15 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.004 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------------------|--------------------|------------------|----------------------|------------------|--------------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | | | | | 0.0072 (5 gpm) |
| Total Suspended Solids | | | 30 | | 75 |
| Oil and Grease | | | 15 | | 30 |
| Benzene | | | 0.001 | | 0.0025 |
| Total BTEX | | | 0.100 | | 0.250 |
| Ethylbenzene | | | monitor and report | | |
| Toluene | | | monitor and report | | |
| Xylenes | | | monitor and report | | |
| Dissolved Iron | | | 1.2 | | 2.5 |
| Lead | | | 0.010 | | 0.025 |
| pH | 6.0—9.0 | | | | |

Other Conditions: Special Conditions for petroleum-contaminated groundwater remediation dischargers are included.

The EPA waiver is in effect.

PA 215988. Sewage, **Kelly Chico**, R. D. 6, Box 304, Uniontown, PA 15401.

This application is for amendment of an NPDES permit to discharge treated sewage from the Chico Mobile Home Plan Sewage Treatment Plant in Menallen Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Saltlick Run, 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 California Water Company located on the Monongahela River.

Outfall 001: expanded discharge to a design flow of 0.055125 mgd.

| Parameter | Concentration (mg/l) | | | |
|------------------------------------|----------------------------------|-------------------|------------------|--------------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 3 | | | 6 |
| (11-1 to 4-30) | 9 | | | 18 |
| Fecal Coliforms (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|-----------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Total Residual Chlorine | 0.14 | | | 0.33 |
| Dissolved Oxygen | not less than 5.0 mg/l | | | |
| pH | 6.0—9.0 | | | |

The EPA waiver is in effect.

PA 0205249. Sewage, **Dollar Bank**, 3 Gateway Center 10 North, Pittsburgh, PA 15222.

This application is for renewal of an NPDES permit to discharge treated sewage from the Timber Creek Farms Sewage Treatment Plant in Marshall Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Big Sewickley Creek, which are classified as a 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 on the Ohio River.

Outfall 001: existing discharge, design flow of 0.00665 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 ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 2 | | | 4 |
| (11-1 to 4-30) | 3 | | | 6 |
| Fecal Coliforms | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | | | | |
| 1st month—36th month | monitor and report | | | |
| 37th month—expiration | 0.04 | | | 0.09 |
| Dissolved Oxygen | not less than 6 mg/l | | | |
| pH | 6.0—9.0 | | | |

The EPA waiver is in effect.

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

PA 0054917. Sewage, **Uwchlan Township**, P. O. Box 255, Lionville, PA 19353.

This application is for revocation and reissuance of an NPDES permit to discharge treated sewage from the Uwchlan Township STP in Uwchlan Township, **Chester County**. This is an existing discharge to Shamona Creek.

The receiving stream is classified for warm water fish, trout stocking, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports, high quality waters and esthetics.

The proposed effluent limits for Outfall 001, based on an initial average flow of 50,000 gpd, an interim flow of 150,000 gpd and an ultimate flow of 475,000 gpd 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 ₅ | | | |
| (5-1 to 10-31) | 7.0 | 10.5 | 14.0 |
| (11-1 to 4-30) | 14.0 | 21.0 | 28.0 |
| Suspended Solids | 20.0 | 30.0 | 40.0 |
| Ammonia (as N) | | | |
| (5-1 to 10-31) | 1.0 | | 2.0 |
| (11-1 to 4-30) | 3.0 | | 6.0 |
| Phosphorus (as P) | 1.0 | | 2.0 |
| Fecal Coliforms | 200 colonies/100 ml as a geometric average | | |
| Dissolved Oxygen | minimum of 6.0 mg/l at all times | | |
| pH | within limits of 6.0—9.0 standard units at all times | | |
| Total Residual Chlorine (0.05 mgd) | | | |
| (years 1 and 2) | 0.7 | | 1.4 |
| (years 3, 4 and 5) | 0.16 | | 0.5 |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------------------|-----------------------------------|----------------------------------|---|
| Total Residual Chlorine (0.15 mgd) | 0.06 | | 0.2 |
| Total Residual Chlorine (0.475 mgd) | 0.03 | | 0.08 |

PA 0050431. Industrial waste, **Concord Beverage Company**, Conchester Road and Aldan Avenue, Concordville, PA 19331.

This application is for renewal of an NPDES permit to discharge treated process wastewater from a wastewater treatment facility in Concord Township, **Delaware County**. This is an existing discharge to an unnamed tributary to West Branch Chester Creek.

The receiving stream is classified for warm water fish, trout stocking, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Monitoring Point 101 before IWTP expansion, based on an average flow of 24,000 gpd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------|-----------------------------------|---------------------------------|---|
| CBOD ₅ | 25 | 50 | 63 |
| Suspended Solids | 30 | 60 | 75 |
| Dissolved Oxygen | minimum of 5.0 mg/l at all times | | |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 2.0 | 4.0 | 5.0 |
| (11-1 to 4-30) | 6.0 | 12 | 15 |

The proposed effluent limits for Monitoring Point 101 after treatment plant expansion based on an average flow of 70,000 gpd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------|-----------------------------------|---------------------------------|---|
| CBOD ₅ | 25 | 50 | 63 |
| Suspended Solids | 30 | 60 | 75 |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 2.0 | 4.0 | 5.0 |
| (11-1 to 4-30) | 6.0 | 12 | 15 |
| Dissolved Oxygen | minimum of 5.0 mg/l at all times | | |

The proposed effluent limits for Outfall 001 from the IWTP and rinsewater are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|--|---------------------------------|---|
| Oil and Grease | 15 | | 30 |
| Temperature | | 87°F | 110°F |
| pH | within the limits of 6—9 standard units at all times | | |
| Total Dissolved Solids | 1,000 | 2,000 | 2,500 |

The proposed effluent limits for Outfall 002 consisting of stormwater are as follows:

| <i>Parameter</i> | <i>Average Annual</i> |
|-------------------------|---------------------------|
| CBOD ₅ | report |
| COD | report |
| Oil and Grease | report |
| pH | report |
| Total Suspended Solids | report |
| Total Kjeldahl Nitrogen | report |
| Total Phosphorus | report |
| Iron (Dissolved) | report |

Other Conditions:

Thermal Requirements.

The EPA waiver is in effect.

PA 0011363. Amendment No. 2, Industrial waste, **NGK Metals Corporation**, Tuckertown Road, P. O. Box 13367, Reading, PA 19612-3367.

This application is for amendment of an NPDES permit to discharge treated process wastewater from NGK Metals Corporation in Muhlenberg Township, **Berks County**. This is an existing discharge to Laurel Run.

This draft permit amendment provides notice of a site-specific criteria modification. Based on the results of a Water Effect Ratio Study and a hardness of 100 mg/l as CaCO₃, the Department proposes the site specific chronic and acute life criteria for total recoverable copper of 0.043 mg/l and 0.064 mg/l, respectively.

The proposed revised effluent limits for total recoverable copper for the period from issuance of the permit amendment to expiration based on an average flow of 0.123 mgd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|-----------------------------------|---------------------------------|---|
| Total Copper | 0.31 | 0.62 | 0.78 |

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

PA 0209783. Sewage, **Jerry Novosel**, 41 Gearhart Road, Pulaski, PA 16143.

This application is for a renewal of a Part I NPDES permit to discharge treated sewage to an unnamed tributary to Buchanan Run in Shenango Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Shenango River and is used by the Pennsylvania-American Water New Castle District which is 12 miles below the discharge.

The proposed discharge limits, based on a design flow of 0.000350 mgd are:

Outfall No. 001

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|----------------------------------|-------------------------------------|---|
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| 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 | |
| Total Residual Chlorine | monitor and report | |
| pH | 6.0—9.0 at all times | |

The EPA waiver is in effect.

PA 0209902. Sewage, **James A. and Jeanette B. Pavlicek**, R. D. 2, Box 242-A, Cochranon, PA 16314.

This application is for a renewal of a Part I NPDES permit to discharge treated sewage to an unnamed tributary to the Sandy Creek in Greenwood Township, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Allegheny River and is used by the Emlenton Water Company which is 42 miles below the discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.000450 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|----------------------------------|-------------------------------------|---|
| CBOD ₅ | 10 | 20 |
| Total Suspended Solids | 20 | 40 |
| 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 | |
| Total Residual Chlorine | monitor and report when used | |
| Intensity | monitor and report | |
| pH | 6.0—9.0 at all times | |

The EPA waiver is in effect.

PA 0103926. Industrial waste, SIC: 3674. **Component InterTechnologies, Inc.**, 2426 Perry Highway, Hadley, PA 16130-8815.

This application is for a redraft for a new NPDES permit, to discharge treated sewage, treated industrial waste, noncontact cooling water and stormwater to an unnamed tributary to Little Shenango River in Perry Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: trout stocking fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Shenango River and Greenville Water Company located at Greenville, approximately 18.4 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of .06005 mgd are:

| <i>Parameter Flow</i> | <i>Average Monthly (mg/l) monitor and report</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------|--|---------------------------------|---|
| pH | 6.0—9.0 at all times | | |

The proposed discharge limits for Outfall No. 101 based on a design flow of .036 mgd are:

| <i>Parameter Flow</i> | <i>Average Monthly (mg/l) monitor and report</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------|--|---------------------------------|---|
| TCE | .047 | .094 | .12 |
| 1,1,1 TCA | 1.5 | 3.0 | 3.8 |
| 1,1 DCE | .26 | .52 | .65 |
| 1,1 DCA | monitor and report | monitor and report | monitor and report |
| 1,2 DCE | 1.7 | 3.4 | 4.3 |
| 1,2 DCA | 1.703 | 3.4 | 4.3 |

The proposed discharge limits for Outfall No. 001 based on a design flow of .00215 mgd are:

| <i>Parameter Flow</i> | <i>Average Monthly (mg/l) monitor and report</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------------------------|--|---------------------------------|---|
| CBOD ₅ | 25 | | 50 |
| Total Suspended Solids | 30 | | 60 |
| Total Residual Chlorine (Interim) | monitor and report | | monitor and report |
| Total Residual Chlorine (Final) | .5 | | 1.2 |
| Fecal Coliforms (5-1 to 9-30) | 200/100 ml as a geometric average | | |
| (10-1 to 4-30) | 50,600/100 ml as a geometric average | | |
| pH | 6.0—9.0 at all times | | |

The proposed discharge limits for Outfall No. 301 based on a design flow of .001 mgd are:

| <i>Parameter Flow</i> | <i>Average Monthly (mg/l) monitor and report</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---------------------------|--|---------------------------------|---|
| Copper (Final) | .61 | 1.2 | 1.5 |
| Lead (Final) | .17 | .34 | .43 |
| Total Suspended Solids | 31 | 60 | 78 |
| Oil and Grease | 15 | | 30 |
| pH | 6.0—9.0 at all times | | |

The EPA waiver is in effect.

PA 0103209. Amendment No. 1. Sewage, **Wattsburg Area School District**, P. O. Box 219, Wattsburg, PA 16442.

This application is for Amendment No. 1 to an existing NPDES permit to discharge treated sanitary sewage from a middle school, a high school and a proposed elementary school to an unnamed tributary to LeBoeuf Creek in Greene Township, **Erie County**. This is an existing discharge.

The receiving water is classified for trout stocking fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Borough Cambridge Springs, located on French Creek in the Borough of Cambridge Springs, Crawford County, which is approximately 39 miles downstream from the point of discharge.

The proposed interim effluent limits for Outfall 001 based on average design flow of 0.021 mgd and the proposed final effluent limits based on average design flow of 0.0296 mgd are:

| <i>Parameter</i> | <i>Effluent Concentration (mg/l)</i> | |
|--------------------------------------|--------------------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| NH ₃ -N (5-1 to 10-31) | 2.5 | 5 |
| (11-1 to 4-30) | 7.5 | 15 |

| <i>Parameter</i> | <i>Effluent Concentration (mg/l)</i> | |
|--------------------------------------|---|------------------------------|
| | <i>Average Monthly</i> | <i>Instantaneous Maximum</i> |
| Fecal Coliforms (5-1 to 9-30) | 200 MPN/100 ml as a geometric average | |
| (10-1 to 4-30) | 4,300 MPN/100 ml as a geometric average | |
| Dissolved Oxygen | minimum of 5.0 mg/l at all times | |
| Total Residual Chlorine (interim) | monitor and report | |
| (final) | 0.21 | 1.2 |
| pH | 6.0—9.0 standard units at all times | |

The EPA waiver is in effect.

PA 0104442. Sewage. **Breakneck Creek Regional Authority**, 1166 Mars-Evans City Road, Mars, PA 16046.

This application is a renewal of a Part I NPDES permit to discharge treated sewage to Breakneck Creek in Adams Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Zelienople Municipal Waterworks on Connoquenessing Creek located at Zelienople, approximately 10 miles below point of discharge.

The proposed effluent limits for Outfall no. 001 (after chlorination) based on a design flow of 2.0 mgd are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---|-------------------------------------|------------------------------|-------------------------------------|
| CBOD ₅ (5-1 to 10-31) | 10 | 15 | 20 |
| (11-1 to 4-30) | 20 | 30 | 40 |
| Total Suspended Solids | 30 | 45 | 60 |
| Phosphorus as P (4-1 to 10-31) | 2 | | 4 |
| Ammonia-Nitrogen (5-1 to 10-31) | 1.5 | | 3 |
| (11-1 to 4-30) | 4.5 | | 9 |
| 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 | | |
| Total Residual Chlorine (Interim Limits) | monitor and report | | |
| (Final Limits) | 0.03 | | 0.1 |
| Nitrate-Nitrite | monitor and report | | |
| Dissolved Oxygen | minimum of 5.0 mg/l at all times | | |
| pH | 6.0—9.0 at all times | | |

The EPA waiver is not in effect.

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

PA 0050351. Sewage, **Avonwheel Mobile Home Park**, 310 North High Street, West Chester, PA 19380.

This application is for renewal of an NPDES permit to discharge treated sewage from Avonwheel Estates sewage treatment plant in London Grove Township, **Chester County**. This is a new discharge to an unnamed tributary to East Branch White Clay Creek.

The receiving stream is classified for cold water fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001 based on an average flow of 0.017 mgd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------------------|-------------------------------|-------------------------------------|
| CBOD ₅ (5-1 to 10-31) | 15 | 30 |
| (11-1 to 4-30) | 25 | 50 |
| Suspended Solids | 30 | 60 |
| Ammonia (as N) (5-1 to 10-31) | 3 | 6 |
| (11-1 to 4-30) | 9 | 18 |
| Total Residual Chlorine | 0.5 | 1.6 |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|-----------------------------------|--|
| Fecal Coliforms | | 200 colonies/100 ml as a geometric average |
| Dissolved Oxygen | | minimum of 5.0 mg/l at all times |
| pH | | within limits of 6.0—9.0 standard units at all times |

The EPA waiver is in effect.

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of the Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection 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 Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

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

Southwest Regional Office: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222, telephone (412) 442-4028.

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

Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Ste. 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6131.

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 825-2511.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.

Allegheny County Conservation District, District Manager, 875 Greentree Road, Pittsburgh, PA 15220, telephone (412) 921-1999.

NPDES Permit PAS10A057-1. Stormwater. **Abele Associates IV**, 2559 Washington Road, Pittsburgh, PA 15241 has applied to discharge stormwater from a construction activity located in South Fayette Township, **Allegheny County**, to Millers Run.

NPDES Permit PAS10A082. Stormwater. **Abele Associates IV**, 2559 Washington Road, Pittsburgh, PA 15241 has applied to discharge stormwater from a construction activity located in South Fayette Township, **Allegheny County**, to Millers Run.

NPDES Permit PAS10A060-2. Stormwater. **Port Authority of Allegheny County**, 2235 Beaver Avenue, Pittsburgh, PA 15223 has applied to discharge stormwater from a construction activity located in the City of Pittsburgh, Crafton, Ingram and Rosslyn Farms Borough, **Allegheny County**, to Chartiers Creek.

NPDES Permit PAS10A086. Stormwater. **Southersby Development Corporation**, 15 McMichael Road, Carnegie, PA 15106 has applied to discharge stormwater from a construction activity located in Bell Acres Borough, **Allegheny County**, to Big and Little Sewickley Creeks.

Beaver County Conservation District, District Manager, 1000 3rd Street, Beaver, PA 15009, telephone (412) 774-7090.

NPDES Permit PAS100234. Stormwater. **JDN Development Company**, 3340 Peachtree Road, 1530 Tower Place, Atlanta, GA 30326 has applied to discharge stormwater from a construction activity located in Center Township, **Beaver County**, to the Ohio River.

Chester County Conservation District, District Manager, 601 Westtown Road, West Chester, PA 19382, telephone (610) 696-5126.

NPDES Permit PAS10G198. Stormwater. **University of Pennsylvania**, 382 W. Street Road, Kennett Square, PA 19348 has applied to discharge stormwater from a construction activity located in Marlboro Township, **Chester County**, to Red and White Clay Creeks.

Cumberland County Conservation District, District Manager, 43 Brookwood Avenue, Carlisle, PA 17013, telephone (717) 249-8632.

NPDES Permit PAS10H053. Stormwater. **Forgedale Associates**, 643 Forge Road, Carlisle, PA 17013 has applied to discharge stormwater from a construction activity located in South Middleton Township, **Cumberland County**, to Letort Spring Run.

NPDES Permit PAS10H054. Stormwater. **North Middleton Township Supervisors**, 211 N. Middleton Road, Carlisle, PA 17013 has applied to discharge stormwater from a construction activity located in North Middleton Township, **Cumberland County**, to Conodoguinet Creek.

Elk County Conservation District, District Manager, P. O. Box 448, Ridgeway, PA 15853, telephone (814) 776-5373.

NPDES Permit PAS102506. Stormwater. **Milton and Mary Ellen Badeau**, P. O. Box 231, Kersey, PA 15846 has applied to discharge stormwater from a construction activity located in Fox Township, **Elk County**, to Byrnes Run.

NPDES Permit PAS102507. Stormwater. **National Fuel Gas**, P. O. Box 2081, Erie, PA 16512 has applied to discharge stormwater from a construction activity located in Highland Township, **Elk County**, to Maple Run.

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

NPDES Permit PAS10U050. Stormwater. **Triple Net Investments LP**, 171 Route 173, Asbury, NJ 08802 has applied to discharge stormwater from a construction activity located in Hanover Township, **Northampton County**, to Monocacy Creek.

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

Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.

A. 0696403. Sewage, **Municipal Authority of the Township of Spring/Berks County**, 2800 Shillington Road, Sinking Spring, PA 19608 in Spring Township, **Berks County** to construct the sanitary sewer interceptor from the Borough of Sinking Spring Sewage Treatment Plant to the Spring Township Sewage Treatment Plant was received in the Southcentral Region on March 1, 1996.

A. 0674405(96-1). Sewage, Amendment, **Union Township Municipal Authority**, 177 Center Road, Douglassville, PA 19518 in Union Township, **Berks County** to replace two old and inefficient sanitary sewer pumps in existing pump station with two new pumps of higher capacity to prevent overflow of sewerage from high inflow/infiltration during extreme precipitation was received in the Southcentral Region on March 4, 1996.

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

0996403. Sewerage. **Michael G. Nekoranik** (1330 Maple Road, Kintnersville, PA 18930). Construction of a sewage treatment plant to serve the Nekoranik residence located in Springfield Township, **Bucks County**.

0996404. Sewerage. **Florence Coleman** (168 Cheese Factory Road, Doylestown, PA 18901). Upgrade and expansion of wastewater treatment plant to serve the Coleman property located in Plumstead Township, **Bucks County**.

1596402. Sewerage. **West Brandywine Township Municipal Authority** (199 Lafayette Road, Coatesville, PA 19320). Construction of a sanitary sewer extension

and pump station to serve West Brandywine Township Municipal Authority located in West Brandywine Township, **Chester County**.

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

A. 0496402. Sewerage, **Center Township Sewer Authority**, 224 Center Grange Road, Aliquippa, PA 15001. Application for the construction of a relief sewer for the Elkhorn Run Interceptor to relieve surcharging conditions upstream along East Shaffer Road to serve the East Shaffer Road Relief Sewer located in the Township of Center, **Beaver County**.

A. 3096401. Sewerage, **PA Department of Corrections**, P. O. Box 598, Camp Hill, PA 17011. Application for the construction of a sewage treatment plant to serve the Waynesburg State Correctional Institution Interim Sewage Treatment Facility located in the Township of Morgan, **Greene County**.

A. 3296401. Sewerage, **Marion Center Area School District**, Box 156, Route 403, Marion Center, PA 15759. Application for the construction and operation of a sewage treatment plant to serve the Creekside Washington Elementary School located in the Township of Washington, **Indiana County**.

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

WQM Permit No. 2096403. Sewage, **William H. Thomas, SRSTP**, R. R. 2, Box 278, Holsopple, PA 15935. This project is for the construction of a single residence sewage treatment plant in East Fallowfield Township, **Crawford County**.

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

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

A. 2196501. Public water supply. **Pennsylvania-American Water Company**, Municipality: Mechanicsburg Borough, **Cumberland County**, (Cynthia G. Hitz—Water Quality Supervisor, PA-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055), feed Potassium Permanganate at Yellow Breeches and Silver Spring Water Treatment Facilities to lower THM levels and enhance iron and manganese removal, (Bradley Shiflett, PA-American Water Company, 800 West Hersheypark Drive, Hershey, PA 17033).

Northwest Regional Office: Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.

A. 4396504. **South Pymatuning Township**, 3483 Tamarack Drive, Sharpsville, PA 16150. This proposal involves the construction of approximately 13,000 l. f. of 12" water main and a 650,000 gallon water storage tank in South Pymatuning Township, **Mercer County**.

A. 4396505. **Skyline Development, Inc.**, 69 Summit Road, Greenville, PA 16125. This proposal involves permitting an existing water system (Summit Road Mobile Home Park) in West Salem Township, **Mercer County**.

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

5296501. Public water supply. **Lehman-Pike Development**, Saw Creek System, c/o Bryan Fisk, V. P., P. O. Box 447, Bushkill, PA 18324. This proposal involves addition of caustic soda at entry point 101 and 109 to reduce lead and copper corrosion in the system. It is located in Lehman/Middle Smithfield Townships, **Pike/Monroe Counties**.

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

A. 0996503. Public water supply. **Warminster Municipal Authority**, 415 Gibson Avenue, Warminster, PA 18974. This proposal involves the construction of an interconnection between the water systems of Warminster Municipal Authority and Warminster Heights Development. This proposal also involves the reconstruction of Warminster Heights Development's well no. 1 pumping facility in Warminster Township, **Bucks County**.

Acknowledgment of Notices of Intent to Remediate

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (the Act) require the Department of Environmental Protection 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 below, 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 below. During this comment period, a municipality may request that the person identified below, 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 of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact Steve Curcio at (814) 332-6816. TDD users may

telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department of Environmental Protection has received the following Notice of Intent to Remediate.

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

The Borough of Ellwood City/Former USX Ellwood City Facility, Casey Park Site, Ellwood City/Robert Casey Enterprise Park, Borough of Ellwood City, **Lawrence County**, has submitted a Notice of Intent to Remediate site soils and groundwater. The site has been found to be contaminated with Heavy Metals, Solvents, BTEX and PHCs. The applicant proposes to remediate the site to meet the Special Industrial Areas standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Ellwood City Ledger* on March 12, and March 15, 1996.

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

Burroughs Fuels, Inc., Kidder Township, **Carbon County**. Dr. Samuel Harrison, hydrogeologist with Harrison Hydrosciences, P. O. Box 908, 435 Main Street, Saegertown, PA has submitted a Notice of Intent to Remediate (on behalf of his client, Richard S. Burroughs) site soils and groundwater contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) and petroleum hydrocarbon components. The applicant proposes to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was published in *The Times News* on February 3, 1996.

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (the Act) require the Department of Environmental Protection 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 of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

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

Lancaster County Fireman's Association Training School, West Lampeter Township, **Lancaster County**. Lancaster County Fireman's Association, 630 Oregon Pike, Lancaster, PA 17601 has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. 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 *Conestoga and Pequea Valleys Penny Saver* and the *Willow Street-Strasburg Advertiser* on March 13, 1996.

Pennsylvania Power and Light Pole 24869S34513, Susquehanna Township, **Dauphin County**. Pennsylvania Power and Light Company, 2 North Ninth Street, Allentown, PA 18101 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 *Harrisburg Patriot* and *Evening News* on or about March 12, 1996.

Pennsylvania Power and Light Hershey Service Center, Derry Township, **Dauphin County**. Pennsylvania Power and Light Company, 2 North Ninth Street, Allentown, PA 18101 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 *Harrisburg Patriot News* on March 7, 1996.

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

Preferred Real Estate Investments, Plymouth Township, **Montgomery County**. James Burnett-Herkes, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate site soils contaminated with lead. The applicant proposes to remediate the site to meet the Statewide health standard.

Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.

A. 101539. Dauphin Meadows Landfill, Dauphin Meadows Inc., (310 Leger Road, North Huntingdon, PA 15642). Application for modification for an expansion to the west and trash relocation plan for a site in Upper Paxton and Washington Townships, **Dauphin County**. Application determined to be administratively complete in the Regional Office March 8, 1996.

Applications received for operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources.

Regional Office: Northwest Regional Office, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

42-302-016B. The Department intends to issue an air quality operating permit to **Witco Corporation** (77

North Kendall Avenue, Bradford, PA 16701) for the operation of an extraction raffinate heater at Bradford, **McKean County**.

43-307-049. The Department intends to issue an air quality operating permit to **Cooper-Bessemer Reciprocating** (150 Lincoln Avenue, Grove City, PA 16127) for the operation of a metal spray booth in Grove City Borough, **Mercer County**.

43-311-002. The Department intends to issue an air quality operating permit to **R. W. Sidley, Inc.** (P. O. Box 150, Painesville, OH 44077) for the operation of a portable concrete batch plant in Shenango Township, **Mercer County**.

25-313-051. The Department intends to issue an air quality operating permit to **Mallinckrodt Chemical, Calcicat Division** (1707 Gaskell Avenue, Erie, PA 16503) for the operation of a nickel carbonate dryer in Erie, **Erie County**.

The Department intends to issue air quality operating permits to **International Metals Reclamation Company** (INMETCO), (P. O. Box 720, Ellwood City, PA 16117) for the operation of the following sources in Ellwood City, **Lawrence County**.

37-345-007A. Rotary hearth furnace

37-345-008. Distillation furnaces

33-399-009A. The Department intends to issue an air quality operating permit to **Huntington Foam Corporation** (P. O. Box 248, Brockway, PA 15824) for the operation of an expander and molding press at 11 Industrial Park Drive, Brockway, **Jefferson County**.

General Plan Approval and General Operating Permit

BAQ-GPA/GP-2

Storage Tanks for Volatile Organic Liquids

The Department of Environmental Protection (Department) proposes to issue general plan approvals and operating permits for storage tanks for volatile organic liquids Storage Tank General Permit). This general plan approval and operating permit, authorized under section 6.1(f) of the Air Pollution Control Act, will apply to certain stationary storage tanks with a rated capacity of 2,000 gallons or greater which store volatile organic liquids as defined in 40 CFR 60.111b with a storage vapor pressure of 11.1 psia or less. The general plan approval and operating permit was designed for many of the storage tanks found in gasoline distribution facilities, petroleum refineries and petrochemical facilities in the synthetic organic chemical manufacturing industry (SOCMI). It allows for quick approval of standard above ground tank replacement. It does not attempt to cover every possible tank installation or regulatory requirement.

The proposed general plan approval and operating permit contains conditions which prescribe applicable performance standards, emission limits, monitoring, recordkeeping and reporting requirements. It is based largely on Pennsylvania storage tank regulations, 25 Pa. Code §§ 129.56 and 127.57, and on Federal New Source Performance Standards for tanks, 40 CFR 60, Subparts K, Ka and Kb. It does not attempt to reproduce those standards in all cases. It does not exempt an applicant from obtaining all other necessary tank permits from Federal, State or local authorities.

The general plan approval and operating permit considers the application of best available technology (BAT) for the distant future. In general, small storage tanks larger than 2,000 gallons in capacity will be expected to use conservation vests regardless of the vapor pressure of the stored liquid. Tanks larger than 40,000 gallons will be expected to employ a floating roof, either internal or external. If an applicant does not agree with the implied BAT in the general plan approval and operating permit, the regular plan approval application can be filed as required under 25 Pa. Code § 127.11. The regular application allows for case by case BAT determinations with the only penalty being that of a longer processing time.

Vapor recovery systems are sophisticated control devices compared to conservation vents and floating roofs. The Department will still require a regular plan approval for the installation of a vapor recovery systems. The only exemption is for replacement tanks where the Department had previously approved the control and its installation.

Many tanks store hazardous organic compounds. Major facilities which emit 10 tons per year of a hazardous air pollutant or 25 tons per year of combined hazardous air pollutants, compounds are subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP). At this time, the Environmental Protection Agency (EPA) has not written standards for all the major sources of hazardous air pollutants. This general plan approval and operating permit has therefore been limited to facilities which are not major emitters of hazardous air pollutants or who are regulated under the provisions of the National Emission Standards for Hazardous Air Pollutants for Source Categories established under section 112 of the Federal Clean Air Act and promulgated under 40 CFR 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, Subparts F, G and CC. These Subparts are for the synthetic organic chemical manufacturing industry and for petroleum refineries.

Any tank approved under this general plan approval and operating permit is required to employ maximum achievable control technology (MACT). Existing tanks using this general plan approval and operating permit must meet the implementation schedules included under the appropriate Subparts listed above.

Other source categories not covered above must still file regular plan approvals and operating permit applications until such time as the Department revises this general permit or develops new a general plan approval and operating permit for other source categories.

Prior to constructing or operating storage tanks under the Storage Tank General Permit, the owner or operator must notify the Department and receive prior written approval from the Department before commencing construction or operation of the affected storage tank. Notification of the facility's intent to use the general permit and plan approval must be submitted on a form provided by the Department. Storage tanks operating under this general permit shall comply with the terms and conditions of the general plan approval and general operating permit.

The Storage Tank General Permit may not be used to construct a source that would be subject to the requirements of 25 Pa. Code Chapter 127, Subchapter D (relating to prevention of significant deterioration) and 25 Pa. Code Chapter 127, Subchapter E (relating to new source review).

The Storage Tank General Permit will be issued for a term of 5 years. The Department proposes to establish application and permit renewal fees as follows:

- (a) \$250 during the 1995-1999 calendar years.
- (b) \$300 during the 2000-2004 calendar years.
- (c) \$375 beginning in the calendar year 2005.

Annual administrative fees will not be charged. Within 30 days of the expiration date of the general plan approval and general operating permit, the permittee must renew the general permit if the facility intends to continue to operate tanks under the Storage Tank General Permit.

A complete copy of the Storage Tank General Permit for storage tanks may be obtained by contacting Kimberly Maneval, Division of Permits, Bureau of Air Quality Control, 12th Floor Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, telephone (717) 787-9256. TDD users may telephone the Department through the AT&T Relay Service, 1 (800) 654-5984. Internet users can access a copy of the general permit at <http://www.dep.state.pa.us>.

The Department requests written comments on the proposed general plan approval and operating permit. Notice and opportunity for comment will also be provided to the U. S. Environmental Protection Agency and the States of Delaware, Maryland, New Jersey, New York, Ohio, Virginia and West Virginia. Interested persons may submit written comments, suggestions or objections to John F. Slade, Chief, Division of Permits, Bureau of Air Quality Control, 12th Floor Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9256. The Department will also consider written requests that a public hearing be held concerning this proposed general plan approval and operating permit. Public comments must be submitted to the Department within 45 days of the date of this notice in the *Pennsylvania Bulletin*. Comments received by facsimile will not be accepted.

Registered and Certified Emission Reduction Credits

The following emission reduction credits (ERCs) have been approved, registered and certified by the Department of Environmental Protection (Department), Commonwealth of Pennsylvania. An ERC is a surplus, permanent, quantifiable and Federally enforceable emissions reduction used to offset emission increases of the following criteria pollutants: oxides of nitrogen (NO_x), volatile organic compounds (VOCs), particulate matter (PM), PM-10, particulate, carbon monoxide (CO), lead (Pb) and oxides of sulfur (SO_x).

Under 25 Pa. Code § 127.209, the Department has established a computerized registry system to provide for the registration, certification and tracking of ERCs. Prior to registration of the credits, the Department reviews and approves ERC registry applications which meet the requirements of 25 Pa. Code §§ 127.206—208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. Certified ERCs may be used for the following purposes: (1) To satisfy new source review (NSR) offset ratio requirements; (2) To "net-out" of NSR at ERC-generating facilities; or (3) To sell or trade the ERCs to major facilities to offset proposed increases in emissions of criteria pollutants from proposed new or modified major facilities.

The ERCs shown below expressed in tons per year (tpy) satisfy the applicable requirements contained in 25 Pa. Code §§ 127.206—127.208. For additional information concerning this listing of certified ERCs, contact Division of Permits, Department of Environmental Protection, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

| <i>Facility information</i> | <i>Criteria Pollutant</i> | <i>Certified ERC amount (tpy)</i> | <i>Expiration date</i> | <i>Intended use of ERCs</i> |
|--|---------------------------|-----------------------------------|------------------------|-----------------------------|
| National Fuel Gas Supply Corp. Roystone Compressor Station County: Warren, PA Nonattainment status: Moderate | NOx | 103.3 | 12/28/2002 | Internal Use |
| National Fuel Gas Supply Corp. Knox Compressor Station County: Jefferson, PA Nonattainment status: Moderate | NOx | 145.7 | 06/30/2002 | Internal Use |
| American National Can Company Contact Person: R. M. Rivetna Telephone Number: 312-399-3392 County: Lehigh, PA Nonattainment status: Moderate | VOCs | 166.7 | 11/06/2002 | Trading |

Status Report for Emission Reduction Credit (ERC) Applications

The following Emission Reduction Credit (ERC) Applications and requests to generate ERCs have been received by the Department of Environmental Protection (Department), Commonwealth of Pennsylvania. These applications are currently under review by the Department unless otherwise indicated in the Status column.

Allegheny County Health Department, Allegheny County

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| Graphic Controls Corporation Recipient: RIDC Southwestern Pennsylvania Growth Fund. Ozone nonattainment status: Moderate Contact Person: F. Brooks Robinson Telephone Number: (412) 471-3939 | VOCs | 104 | Technical review completed | Trading |
| Graphic Controls Corporation Ozone nonattainment status: Moderate Contact Person: Harry F. Klodowski Telephone Number: (412) 281-7997 | NOx | 5 | Technical review completed | Trading |
| Package Service Co. Inc. Ozone nonattainment status: Moderate Contact Person: Harry F. Klodowski Telephone Number: (412) 281-7997 | VOCs | 39.6 | Technical review completed | Trading |

Department of Public Health, Air Management Services, Philadelphia County

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| Chevron USA Products Co. Ozone nonattainment status: Severe Contact Person: D. E. Tormey Telephone Number: (215) 339-7167 | VOCs | 41.8 | Pending federally enforceability | Trading |
| Crown Cork & Seal Co. Inc. Ozone nonattainment status: Severe Contact Person: Michael A. Antry Telephone Number: (215) 698-5308 | VOCs | 115.34 | Pending federally enforceability | Trading |

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|---|---------------------------|-----------------------------|---|-----------------------------|
| Progress Lighting, Inc. Ozone nonattainment status: Severe Contact Person: John A. Miller Telephone Number: (215) 289-1200 | VOCs | 31.5 | Pending federally enforceability | Trading |
| Region 1: Southeast (Bucks, Chester, Delaware and Montgomery Counties) | | | | |
| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
| 3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Ozone nonattainment status: Severe Contact Person: Belinda Wirth Telephone Number: (612) 778-6014 | VOCs | 641.95 | Currently under review | Trading |
| Fasson Div. of Avery Dennison Corp. Source Location: Quakertown Ozone nonattainment status: Severe Contact Person: Roy R. Getz Telephone Number: (215) 538-6271 | VOCs | 360 | Technical review completed | Trading |
| Rohm and Haas DVI Source Location: Bristol Ozone nonattainment status: Severe Contact Person: Robert J. O'Larnic Telephone Number: (215) 785-8219 | VOCs | 38.46 | Currently under review | Trading |
| United States Steel Group Source Location: Fairless, Buck Co. County: Bucks Ozone nonattainment status: Severe Contact Person: Roy Weiskircher Telephone Number: (412) 433-5914 | NOx VOCs | 1420 18.1 | Pending EPA's approval of RACT | Trading |
| Quebecor Printing Atglen Inc. Source Location: Atglen County: Chester Ozone nonattainment status: Severe Contact Person: Diane E. Potts Telephone Number: (610) 593-5173 | VOCs | 270 | Currently under review | Internal Use |
| Wyeth-Ayerst Laboratories, Inc. Source Location: Radnor County: Chester Ozone nonattainment status: Severe Contact Person: W. Fink Telephone Number: (610) 341-2635 | NOx | 10.75 | Currently under review | Trading |
| Wyeth-Ayerst Laboratories, Inc. Source Location: West Chester County: Chester Ozone nonattainment status: Severe Contact Person: Glenn Miller Telephone Number: (610) 344-2557 | NOx | 7.8 | Currently under review | Trading |
| BP Oil Company Source Location: Marcus Hook County: Delaware Ozone nonattainment status: Severe Contact Person: A. P. DaVinci Telephone Number: (610) 499-7313 | VOCs NOx | 144.24 4.2 | Currently under review | Trading |
| Congoleum Corporation Source Location: Marcus Hook County: Delaware Ozone nonattainment status: Severe Contact Person: Robert G. Rucker Telephone Number: (609) 584-3271 | VOCs NOx | 194.6 9.7 | Currently under review | Trading |

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| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| Sun Refining and Marketing Company Source Location: Marcus Hook County: Delaware Ozone nonattainment status: Severe Contact Person: Heather Chelpaty Telephone Number: (610) 859-1175 | NOx VOCs | 215.58 63.75 | Pending EPA's approval of RACT | Internal Use |
| Brown Printing Company Source Location: East Greenville County: Montgomery Ozone nonattainment status: Severe Contact Person: William Booth Telephone Number: (215) 679-4451 | VOCs | 100.84 | Currently under review | Trading |
| Merck & Co., Inc. Source Location: West Point County: Montgomery Ozone nonattainment status: Severe Contact Person: Stacey L. Weaver Telephone Number: (215) 653-7712 | NOx VOCs | 0.21 0.02 | Currently under review | Internal Use |
| Martin Marietta Astro Space Source Location: King of Prussia County: Montgomery Ozone nonattainment status: Severe Contact Person: Eileen Wisser Telephone Number: (215) 354-1085 | NOx | 6.78 | Currently under review | Trading |

Region 2: Northeast Region (Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties)

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|---|---------------------------|-----------------------------|---|-----------------------------|
| American National Can Co. Source Location: Lehigh Valley County: Lehigh Ozone nonattainment status: Moderate Contact Person: Rohinton Rivetna Telephone Number: (312) 399-3392 | VOCs | 166.7 | ERCs approved and certified | Trading |
| Lafarge Corporation Source Location: Whitehall Plant County: Lehigh Ozone nonattainment status: Moderate Contact Person: Terry Dengler Telephone Number: (610) 261-3424 | NOx VOCs | 298.1 3.7 | Technical review completed | Internal Use |
| Bethlehem Structural Products Corp. Source Location: Bethlehem County: Northampton Ozone nonattainment status: Moderate Contact Person: T. E. Kreichelt Telephone Number: (610) 694-7450 | VOCs | 507 | Needs SIP revision for revised RACT | Trading |

Region 3: Southcentral Region (Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York Counties)

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|---|---------------------------|-----------------------------|---|-----------------------------|
| Pennsylvania Electric Company (Penelec) Source Location: Williamsburg Station County: Blair Ozone nonattainment status: Moderate Contact Person: Tim McKenzie Telephone Number: (814) 533-8670 | NOx VOCs | 867 3 | Pending EPA's approval of RACT | Trading |

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| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| Bethlehem Steel Corporation Source Location: Steelton Plant County: Dauphin Ozone nonattainment status: Moderate Contact Person: James R. Hernjak Telephone Number: (717) 986-2454 | NOx VOCs | 26.47 2.91 | Currently under review | Trading |
| DMi Furniture Inc. Source Location: Gettysburg County: Adams Ozone nonattainment status: Moderate Contact Person: Terry L. Black Telephone Number: (717) 394-3721 | VOCs | 85 | Currently under review | Trading |
| Mercersburg Tanning Company Source Location: Mercersburg County: Franklin Ozone nonattainment status: Moderate Contact Person: David W. Warne Telephone Number: (717) 765-0746 | VOCs | 20 | Pending EPA's approval of RACT | Trading |
| Armstrong World Industries, Inc. Source Location: Lancaster County: Lancaster Ozone nonattainment status: Moderate Contact Person: Martha Loeffler Telephone Number: (717) 396-3608 | VOCs | 248 | Currently under review | Internal Use |
| Ford New Holland, Inc Source Location: Mountville County: Lancaster Ozone nonattainment status: Moderate Contact Person: William E. Knight Telephone Number: (717) 355-4903 | NOx VOCs | 3.515 77.9 | Currently under review | Trading |
| R. R. Donnelley & Sons Co. Source Location: Lancaster County: Lancaster Ozone nonattainment status: Moderate Contact Person: David A. York Telephone Number: (717) 293-2056 | VOCs | 147 | Currently under review | Internal Use |
| Standard Steel, Division of Freedom Forge Source Location: Burnham County: Mifflin Ozone nonattainment status: Moderate Contact Person: Blair Echard Telephone Number: (717) 248-4911 | NOx VOCs | 66.06 0.52 | Currently under review | Trading |
| C-P Converters, Inc. Source Location: York County: York Ozone nonattainment status: Moderate Contact Person: Mark Paules Telephone Number: (717) 764-1193 | NOx | 33.9 | Currently under review | Trading |

Region 4: Northcentral Region (Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties)

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|---|---------------------------|-----------------------------|--|-----------------------------|
| Merck & Co. Inc. Source Location: MMD Cherokee Plant County: Northumberland Ozone nonattainment status: Moderate | VOCs | 16.6 | Emission reduction approved for internal use | Internal Use |

Region 5: Southwest Region (Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington, and Westmoreland Counties)

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|---|---------------------------|-----------------------------|---|-----------------------------|
| PPG Industries Source Location: Ford City County: Armstrong Ozone nonattainment status: Moderate Contact Person: Jerome Osheka Telephone Number: (412) 434-4149 | NOx VOCs | 13 9 | Currently under review | Trading |
| Arco Chemical Source Location: Beaver Falls County: Beaver Ozone nonattainment status: Moderate Contact Person: Joseph McCay Telephone Number: (412) 773-2470 | NOx VOCs | 54 40 | Technical review completed | Trading |
| Armstrong World Industries Source Location: Beaver Falls County: Beaver Ozone nonattainment status: Moderate Contact Person: Wayne Pease Telephone Number: (412) 843-5700 | VOCs | 5.28 | Currently under review | Trading |
| Bethlehem Steel Corp. Source Location: Ebensburg County: Cambria Ozone nonattainment status: Moderate Contact Person: David R. Layman Telephone Number: (814) 533-7113 | NOx VOCs | 163.3 0.8 | Currently under review | Trading |
| Commercial Stone Company Inc. Source Location: Connellsville County: Fayette Ozone nonattainment status: Moderate Contact Person: Joseph Pfohl Telephone Number: (412) 626-0080 | NOx | 1.1 | Currently under review | Trading |
| Penelec Source Location: Homer City County: Indiana Ozone nonattainment status: Moderate Contact Person: Tim McKenzie Telephone Number: (814) 533-8670 | NOx | 54 | Technical review completed | Trading |
| Corning Inc. Source Location: Charleroi Plant County: Washington Ozone nonattainment status: Moderate Contact Person: Joe Kane Telephone Number: (607) 974-6568 | NOx | 500 | Currently under review | Trading |
| Standard Steel Source Location: Latrobe County: Washington Ozone nonattainment status: Moderate Contact Person: John Frye Telephone Number: (412) 828-7338 | NOx VOCs | 14 0.04 | Technical review completed | Trading |
| Allegheny Ludlum Corp. Source Location: Vandergrift Plant County: Westmoreland Ozone nonattainment status: Moderate Contact Person: John Tishok Telephone Number: (412) 226-5030 | NOx | 9.2 | Technical review completed | Trading |
| General Glass Industrial Corp. Source Location: Westmoreland County: Westmoreland Ozone nonattainment status: Moderate Contact Person: Harry F. Klodowski Telephone Number: (412) 281-7997 | NOx | 518 | Pending EPA's approval of RACT | Trading |

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Region 6: Northwest Region (Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren Counties)

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| General Electric Company Source Location: Lawrence Park County: Erie Ozone nonattainment status: Moderate Contact Person: Scott Gowdy Telephone Number: (814) 875-2427 | VOCs | 76 | Currently under review | Trading |
| Penelec Source Location: Front St. Station County: Erie Ozone nonattainment status: Moderate Contact Person: Tim McKenzie Telephone Number: (814) 533-8670 | NOx VOCs | 2160 8.4 | Pending EPA's approval of RACT | Trading |
| National Fuel Gas Supply Corp. Source Location: Knox Station County: Jefferson Ozone nonattainment status: Moderate Contact Person: Gary A. Young Telephone Number: (814) 871-8657 | NOx | 145.7 | ERCs approved and certified | Internal Use |
| Penn Power Source Location: New Castle Plant County: Lawrence Ozone nonattainment status: Moderate Contact Person: Dale W. Corfman | NOx VOCs | 882 2.39 | Pending EPA's approval of RACT | Trading |
| Rockwell International Source Location: New Castle County: Lawrence Ozone nonattainment status: Moderate Contact Person: Harry Klodowski Telephone Number: (412) 288-4014 | NOx VOCs | 61.5 13.1 | Currently under review | Trading |
| Caparo Steel Source Location: Mercer County County: Mercer Ozone nonattainment status: Moderate Contact Person: Richard Herman Telephone Number: (412) 983-6330 | NOx VOCs | 868.6 1.84 | Currently under review | Trading |
| Sharon Steel Source Location: Mercer County County: Mercer Ozone nonattainment status: Moderate Contact Person: Richard Herman Telephone Number: (412) 983-6330 | NOx VOCs | 469.6 215.7 | Currently under review | Trading |
| Pennzoil Source Location: Rouseville Refinery County: Venango Ozone nonattainment status: Moderate Contact Person: Lee E. Wilson Telephone Number: (814) 678-4649 | NOx | 131.6 | Currently under review | Trading |
| National Fuel Gas Supply Corp. Source Location: Heath Station County: Jefferson Ozone nonattainment status: Moderate Contact Person: Gary A. Young Telephone Number: (814) 871-8657 | NOx VOCs | 122.8 5.8 | Currently under review | Internal Use |
| Witco Corporation Source Location: Petrolia Facility County: Butler Ozone nonattainment status: Moderate Contact Person: R. G. Fleeger Telephone Number: (412) 756-2210 | VOCs | 52.3 | Currently under review | Internal Use |

| <i>Facility Information</i> | <i>Criteria Pollutant</i> | <i>ERCs requested (tpy)</i> | <i>Status of ERC Registry Application</i> | <i>Intended Use of ERCs</i> |
|--|---------------------------|-----------------------------|---|-----------------------------|
| INDSPEC Chemical Corp. Source Location: Petrolia County: Butler Ozone nonattainment status: Moderate Contact Person: Terry Melis Telephone Number: (412) 756-2376 | NOx | 231.4 | Currently under review | Trading |
| Hammermill Papers Source Location: Erie Mill County: Erie Ozone nonattainment status: Moderate Contact Person: Gary Morrow Telephone Number: (814) 870-6782 | VOCs | 21.3 | Currently under review | Trading |
| Lord Corporation Source Location: Erie facility County: Erie Ozone nonattainment status: Moderate Contact Person: Matthew Comi Telephone Number: (814) 868-0924 | NOx VOCs | 43 8.45 | Currently under review | Trading |
| National Fuel Gas Supply Corp. Source Location: Roystone Station County: Warren Ozone nonattainment status: Moderate Contact Person: Gary A. Young Telephone Number: (814) 871-8657 | NOx | 103.3 | ERCs approved and certified | Internal Use |

Applications received for operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.

Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

There is a 30-day comment period from this date of publication.

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described below for the specified companies.

Permit: **09-399-037**
Source: Portable Crusher
Company: **Naceville Materials**
Location: West Rockhill
County: **Bucks**

Permit: **09-303-026**
Source: Asphalt Plant No. 1
Company: **Eureka Stone Quarry, Inc.**
Location: Wrightstown
County: **Bucks**

Applications received for operating permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an operating permit to comply with 25 Pa. Code § 129.91 for Reasonably Available Control Technology.

Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

There is a 30-day comment period from this date of publication.

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described for:

Permit: **OP-09-0031**
Source: Facility Synthetic Minor NOx & VOC
Company: **Eureka Stone Quarry, Inc.**
Location: Wrightstown
County: **Bucks**

Permit: **OP-09-0032**
Source: Facility Synthetic Minor NOx & VOC
Company: **Eureka Stone Quarry, Inc.**
Location: Warrington
County: **Bucks**

Applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.

Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

12-399-007G. Construction of a powdered metal parts sintering furnace (PF51) to be controlled by an existing air cleaning device (a fabric collector) by **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834-9740) in Emporium Borough, **Cameron County**.

49-313-032F. Installation of air cleaning devices (condensers) on a solvent recovery module and a tank incorporated in a pharmaceutical process facility (Avermectin) by **Merck & Co., Inc.** (P. O. Box 600, Danville, PA 17821) in Riverside Borough, **Northumberland County**.

60-318-009B. Construction of two surface coating dip tanks (short span tanks) by **The New Columbia Joist Company** (P. O. Box 31, New Columbia, PA 17856) in White Deer Township, **Union County**. The company proposes to use emission reduction credits (ERCs) gener-

ated from the shutdown of existing surface coating dip tanks (long span tanks) to avoid the applicability of the Department's new source review (NSR) requirements to the new short span tanks.

59-305-005. Construction of a bituminous coal railcar loading operation by **Fisher Mining Company** (150 Market Street, Williamsport, PA 17701) in Delmar Township, **Tioga County**.

Reasonably Available Control Technology; Public Hearings

Approval of Reasonably Available Control Technology (RACT) Plans for:

Metropolitan Edison Company, Portland Generating Station, Upper Mt. Bethel Township, Northampton County.

Bethlehem Structural Products Corporation, Bethlehem Plant, City of Bethlehem, Northampton County.

The Department of Environmental Protection has made a preliminary determination to approve RACT plans and amendments to the State Implementation Plan (SIP) for the above listed facilities.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and require-

ments contained in the RACT approvals for the facilities to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into operating permits and plan approvals for the facilities and will be submitted to the U. S. Environmental Protection Agency (EPA) as revisions to Pennsylvania's State Implementation Plan.

Metropolitan Edison Company, Portland Generating Station

Metropolitan Edison Company operates a stream generating station identified as the Portland Generating Station. The main sources, Units 1 and 2 have been previously issued RACT Plan Approval No. 48-0006A. The proposed RACT plans serve as a revision to the RACT Plan Approval No. 48-0006A. The revisions to the RACT are to delete the daily and annual heat input limitations for both Units 1 and 2 along with the daily NOx emission limits for both units due to the purchase of Emission Reduction Credits (ERCs) for the operation of Unit 5 at the Portland Generating Station. The following is the summary of the preliminary nitrogen oxides (NOx) RACT determination for these sources as the result of the RACT Plan Approval No. 48-0006A:

| Source | NOx RACT Limit 30-day rolling average | Control Device | Implementation Schedule |
|--------|--|-----------------|-------------------------|
| Unit 1 | 0.37 lb/MMBtu | LNCFS Level III | Implemented |
| Unit 2 | 0.43 lb/MMBtu | LNCFS Level III | Implemented |

Bethlehem Structural Products Corporation, Bethlehem Plant

Bethlehem Structural Products Corporation operates sources known as Coke Making. These sources have previously been issued RACT Operating Permit No. 48-0013. The proposed RACT plans serve as a revision to the RACT Operating Permit No. 48-0013. The revisions are to delete the NOx continuous emission monitor for the Battery "A" combustion stack since the Department has determined the source is a process and does not require a continuous emission monitor; and, a revised RACT for volatile organic compounds (VOCs) for coke pushing operations and for the coal chemical process sources. The revised RACT for the coal chemical process sources will result in the approval of Emission Reduction Credits (ERCs) of VOCs from these sources. The following is the summary of the preliminary nitrogen oxides (NOx) RACT determination for the Coke Making sources as the result of the RACT Operating Permit No. 48-0013:

| Source Name | NOx RACT Limit | Control Device | Compliance Schedule |
|-------------|-----------------|----------------|---------------------|
| Coke Making | 1,079 Tons/Year | None | Implemented |

The following is a summary of the preliminary volatile organic compounds (VOCs) RACT determination for these sources:

| Source Name | VOCs RACT Limit | Control Device | Compliance Schedule |
|--------------|-----------------|----------------|---------------------|
| Coke Pushing | 438 Tons/Year | None | Implemented |

One public hearing will be held for the purpose of receiving comments on the above described SIP revisions. The hearing will be held on May 7, 1996, at 1 p.m. at the DEP Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Thomas A. DiLazaro at (610) 861-2070 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Richard Shudak of DEP at (717) 826-2060 or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to Thomas A. DiLazaro, Air Quality Program Manager, DEP, 4530 Bath Pike, Bethlehem, PA 18017. Comments should be submitted within 30 days of this publication in the *Pennsylvania Bulletin*.

All pertinent documents are available for review from 8 a.m. to 4 p.m. in the DEP Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA 18017. Appointments for scheduling a review must be made by calling (610) 861-2070.

Approval of Reasonably Available Control Technology (RACT) Plans for:
 Continental Energy Associates, LP, Hazle Township, Luzerne County, PA
 Allsteel INC., Hazle Township, Luzerne County, PA
 Pope & Talbot, INC., Pittston Township, Luzerne County, PA
 Pope & Talbot, INC., Ransom Township, Lackawanna County, PA

The Department of Environmental Protection has made a preliminary determination to approve RACT plans and amendments to the State Implementation Plan (SIP) for the above listed facilities.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for this facility to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Operating Permit(s) for the facilities and will be submitted to the U. S. Environmental Protection Agency (EPA) as a revisions to Pennsylvania's State Implementation Plan.

The following is the summary of the preliminary RACT determination for the main source at each facility which is subject to operating permit:

| <i>Facility</i> | <i>Source</i> | <i>VOC/NO_x RACT Limit</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|---------------------------------------|--|--------------------------------------|--|----------------------------|
| Continental Energy Associates, LP | Combustion Turbine | Meets 129.93(c)(7) | Stream Injection | May 31, 1996 |
| Allsteel INC. | Metal Furniture Coating Equipment Clean-Up | Meets 129.57—129.72, 129.81—129.82 | Compliance Coating | May 31, 1996 |
| Pope & Talbot, INC. Pittston Township | Flexographic Printing | Meets 129.57—129.72, 129.81—129.82 | Low VOC Coatings and Cleaning Solvents | May 31, 1996 |
| Pope & Talbot, INC. Ransom Township | Felt Washing Defoamer | 188 TPY VOC | Low VOC Cleaning Solvents | May 31, 1996 |

For the above facilities, public hearing will be held for the purpose of receiving comments on the above proposed Operating Permit and the proposed SIP revisions. This public hearing is scheduled as follows:

| <i>Facility Name</i> | <i>Location of Hearing</i> | <i>Date and Time</i> |
|---------------------------------------|--|--------------------------|
| Continental Energy Associates, LP | Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711 Luzerne County | April 24, 1996 1 p.m. |
| Allsteel INC. | Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711 Luzerne County | April 24, 1996 1 p.m. |
| Pope & Talbot, INC. Pittston Township | Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711 Luzerne County | April 24, 1996 1 p.m. |
| Pope & Talbot, INC. Ransom Township | Department of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711 Luzerne County | April 24, 1996 1 p.m. |

Persons wishing to present testimony at the hearing for the above listed facilities should contact Mark Carmon, Community Relations Coordinator, (717) 826-2511, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations, should do so by contacting Richard Shudak (717) 826-2060, or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to Babu H. Patel, Engineering Services Chief, DEP, Air Quality Control Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Comments should be submitted within 30 days of the date of this publication notice.

All the pertinent documents are also available for review from 8 a.m. to 4 p.m. at the DEP Regional Office address noted above. Appointments for scheduling a review must be made by calling the DEP contact person noted previously.

Approval of Reasonably Available Control Technology (RACT) Plans for:

Air Products & Chemicals, Inc., Upper Macungie Township, Lehigh County, PA

Berwick Industries, Inc., Salem Township, Luzerne County, PA

Connaught Laboratories, Inc., Pocono Township, Monroe County, PA

Harcros Pigments, Inc., Wilson Borough, Northampton County, PA

Allentown State Hospital, City of Allentown, Lehigh County, PA

Mallinckrodt Chemical, Inc., South Whitehall Twp., Lehigh County, PA

CertainTeed Corporation, Wright Twp., Luzerne County, PA

Renner Films, Inc., West Brunswick Twp., Schuylkill County, PA

The Department of Environmental Protection has made a preliminary determination to approve RACT plans and amendments to the State Implementation Plan (SIP) for the above listed facilities.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for these facilities to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Plan Approval(s) and/or Operating Permit(s) for the facilities and will be submitted to the U. S. Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

Air Products & Chemicals, Inc:

The following are the main sources at Air Products & Chemicals, Inc. subject to operating permit requirements. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>VOC RACT Limit (TPY)</i> | <i>NOx RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|---------------|-------------------------------------|-------------------------------------|-----------------------|----------------------------|
| Boilers | — | 33.0 | Synthetic Minor | May 31, 1996 |
| Generators | — | 14.0 | Synthetic Minor | May 31, 1996 |
| Space Heaters | — | 1.0 | Synthetic Minor | May 31, 1996 |
| R & D | 45.0 | 10.0 | Synthetic Minor | May 31, 1996 |
| Spray Booths | 1.50 | — | Synthetic Minor | May 31, 1996 |

Berwick Industries, Inc.:

The following are the main sources at Berwick Industries, Inc. subject to plan approval and/or operating permit. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>VOC RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|-----------------------|---------------------------------|-----------------------|----------------------------|
| Extruders | 19.4 | Synthetic Minor | May 31, 1996 |
| Printing Presses | 25.0 | Synthetic Minor | May 31, 1996 |
| Solvent Wash Stations | 2.8 | Synthetic Minor | May 31, 1996 |
| Miscellaneous | 1.9 | Synthetic Minor | May 31, 1996 |

Facility is not subject to NOX RACT requirements.

Connaught Laboratories, Inc.:

The following are the main sources at Connaught Laboratories, Inc. subject to plan approval and/or operating permit. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>NOx RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|---------------------------|---------------------------------|-----------------------|----------------------------|
| Boiler A | 33.61 | Presumptive RACT | May 31, 1995 |
| Boiler B | 33.61 | Presumptive RACT | May 31, 1995 |
| Emergency Generators | 294.2 | Presumptive RACT | May 31, 1995 |
| Propane Boiler | 0.78 | Presumptive RACT | May 31, 1995 |
| Propane Fired Air Heaters | 0.35 | Presumptive RACT | May 31, 1995 |

Facility is not subject to VOC RACT requirements.

Harcros Pigments, Inc.:

The following are the main sources at Harcros Pigments, Inc. subject to plan approval and/or operating permit. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>NOx RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|----------------------|-----------------------------|-----------------------|----------------------------|
| Numerous NOx Sources | 207.0 | Presumptive RACT | May 31, 1996 |

Facility is not subject to VOC RACT requirements.

Allentown State Hospital:

The following are the main sources at the Allentown State Hospital subject to plan approval and/or operating permit. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>NOx RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|------------------|-----------------------------|-----------------------|----------------------------|
| Four (4) Boilers | < 100.0 | Synthetic Minor | May 31, 1996 |

Facility is not subject to VOC RACT requirements.

Mallinckrodt Chemical Inc.:

The following is the main source at the Mallinckrodt Chemical, Inc. (Trimet Technical Products Division) subject to plan approval and/or operating permit. The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>NOx RACT Limit (TPY)</i> | <i>Control Device/Regulation</i> | <i>Implementation Date</i> |
|-----------------|-----------------------------|----------------------------------|----------------------------|
| #3 Wicks Boiler | 177.2 | Presumptive RACT | Installed |
| #4 Wicks Boiler | 177.2 | Presumptive RACT | Installed |
| #5 C. B. Boiler | 106.5 | Presumptive RACT | Installed |

CertainTeed Corporation:

The following is a modification of the facility RACT operating permit #40-0010. The modification consists of an increase of 10 MTPD (70 MTPD to 80MTPD) to the M-1 line.

| <i>Source</i> | <i>VOC RACT Limit (#/ton product)</i> | <i>NOx RACT Limit (#/ton product)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|------------------------------|---------------------------------------|---------------------------------------|----------------------------|----------------------------|
| M-1 Line | — | 3.05 | Electrostatic Precipitator | May 31, 1996 |
| M-1 Forming, Curing, Cooling | 1.84 | — | Electrostatic Precipitator | May 31, 1996 |

Reneer Films Corporation:

The following describes a modification to the facility RACT Operating Permit #54-0009. The modification consists of an increase in the potential emissions from the Ink Mixing Room and a decrease in the potential emissions from Calenders #1, #2, #3, and #4 as listed below:

| <i>Source</i> | <i>VOC RACT Limit (TPY)</i> | <i>Control Device</i> | <i>Implementation Date</i> |
|----------------|-----------------------------|----------------------------|----------------------------|
| Ink Print Room | 28.03 | — | May 31, 1996 |
| Calender #1 | 26.55 | Cyclone/Demister | May 31, 1996 |
| Calender #2 | 32.24 | Electrostatic Precipitator | May 31, 1996 |
| Calender #3 | 32.71 | Cyclone/Demister | May 31, 1996 |
| Calender #4 | 32.24 | Electrostatic Precipitator | May 31, 1996 |

For each of the above facilities, public hearing will be held for the purpose of receiving comments on the above proposed Plan Approval(s) and/or Operating Permit(s) and the proposed SIP revisions. These public hearings are scheduled as follows:

| <i>Facility Name</i> | <i>Location of Hearing</i> | <i>Date and Time</i> |
|--------------------------------|--|--------------------------|
| Air Products & Chemicals, Inc. | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| Berwick Industries, Inc. | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| Connaught Laboratories, Inc. | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| Harcros Pigments, Inc. | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| Allentown State Hospital | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |

| <i>Facility Name</i> | <i>Location of Hearing</i> | <i>Date and Time</i> |
|-----------------------------|--|--------------------------|
| Mallinckrodt Chemical, Inc. | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| CertainTeed Corporation | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |
| Reneer Films | DEP Regional Office 2 Public Square, Wilkes-Barre | April 24, 1996 1 p.m. |

Persons wishing to present testimony at any hearing listed above should contact Mark Carmon, Community Relations Coordinator, (717) 826-2511, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service, or other accommodations, should do so by contacting the person listed below, or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Persons wishing to present testimony at the hearing should contact Richard Shudak, (717) 826-2060, or Pennsylvania AT&T Relay Service, 1 (800) 654-5984 (TDD).

Those unable to attend the hearing, but wishing to comment, should provide written comments to Babu H. Patel, Engineering Services Chief, DEP, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Comments should be submitted within 30 days of the date of this publication notice.

All the pertinent documents are also available for review from 8 a.m. to 4 p.m. at the DEP Regional Office address noted above. Appointments for scheduling a review must be made by calling the DEP contact person noted previously.

MINING ACTIVITY APPLICATIONS

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 such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. 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 such 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 below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. Such 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 Chs. 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.

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

Coal Applications Received

56900115. Permit renewal, **Pennsylvania Coal Company, Inc.** (One Riverfront Center, Suite 530, 20 Stanwix Street, Pittsburgh, PA 15222), commencement, operation and restoration of bituminous strip mine in Shade Township, **Somerset County**, affecting 39.9 acres, receiving stream unnamed tributary to Oven Run, and unnamed tributary to Lambert Run, application received March 11, 1996.

11960104. **L & J Energy Company, Inc.** (P. O. Box 247, Barnesboro, PA 15714), commencement, operation and restoration of bituminous strip-auger mine in Susquehanna Township, **Cambria County**, affecting 108.2 acres, receiving stream unnamed tributary to Moss Creek and unnamed tributary to west branch Susquehanna River to west branch Susquehanna River, application received March 8, 1996.

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

65960105. M. B. Energy, Inc. (P. O. Box 1319, Indiana, PA 15701-1319). Application received for commencement, operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, proposed to affect 165.6 acres. Receiving streams unnamed tributary to Stony Run and Stony Run. Application received March 5, 1996.

65960106. V. P. Smith Company, Inc. (P. O. Box 242, Ligonier, PA 15658). Application received for commencement, operation and reclamation of a bituminous surface mine located in East Huntingdon Township, **Westmoreland County**, proposed to affect 82.6 acres. Receiving streams unnamed tributary to Buffalo Run to Buffalo Run to Sewickley Creek and unnamed tributary to Stauffer Run to Stauffer Run to Jacobs Creek. Application received March 5, 1996.

63960101. Twilight Industries (Division of U. S. Natural Resources, Inc., 212 State Street, Belle Vernon, PA 15012). Application received for commencement, operation and reclamation of a bituminous surface mine located in Somerset Township, **Washington County**, proposed to affect 155.5 acres. Receiving streams unnamed runs to North Branch of Pigeon Creek to Pigeon Creek to the Monongahela River. Application received March 6, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54860102R2. Gale Coal Company, Inc. (1441 Oak Road, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 122.0 acres, receiving stream Silver Creek. Renewal received March 11, 1996.

54743007C2. Continental Energy Associates (R. D. 1, Box 381B, Hazleton, PA 18201), correction to an existing anthracite surface mine operation in Branch and Cass Townships, **Schuylkill County** affecting 326.0 acres, receiving stream West Creek. Application received March 11, 1996.

40850102C. Northeast Energy Company (254 Johnson Street, Wilkes-Barre, PA 18702), correction to existing SMP Operation to include a fly ash disposal source in Laurel Run Borough, **Luzerne County**, affecting 12.5 acres, receiving stream none. Application received March 1, 1996.

District Mining Operations, P. O. Box 669, Knox, PA 16232.

33850123. Starr Coal Company (P. O. Box 245, Brockport, PA 15823). Renewal of an existing bituminous surface mine operation in Washington Township, **Jefferson County**, affecting 203.2 acres. Receiving streams unnamed tributary to Mill Creek to Little Mill Creek to Redbank Creek to the Allegheny River; unnamed tributary to Rattlesnake Run and Rattlesnake Run to Toby Creek to the Clarion River to the Allegheny River. Application received March 11, 1996.

33840125. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface strip and auger operation in Snyder and Washington Townships, **Jefferson County** affecting 344.0 acres. Receiving streams Rattlesnake Creek and McEwen Run. Renewal to include a post-mining land use change from "Pastureland" to "Recreational Land for use as a Golf Course". Application received March 11, 1996.

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

Small Noncoal Applications Received

56960802. William V. Miller, Jr. (P. O. Box 152, Eilerslie, MD 21529), in Greenville Township, **Somerset County**, affecting 4.2 acres, receiving stream Shunck Run tributary to Little Piney Creek, application received March 8, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Applications Received

5278SM3A1C3. Pocono Excavators, Inc. (55 Mud Pond Road, Blairstown, NJ 07825), renewal of NPDES Permit #PA0594865 in Paradise Township, **Monroe County**, receiving stream tributary to Paradise Creek. Application received March 8, 1996.

8275SM1C5. J. Miller Eshleman & Son, Inc. (P. O. Box 295, Landisville, PA 17538), renewal of NPDES Permit #PA0594601 in West Hempfield Township, **Lancaster County**, receiving stream Chickies Creek. Application received March 12, 1996.

36910302C3. J. Miller Eshleman & Son, Inc. (P. O. Box 295, Landisville, PA 17538), renewal of NPDES Permit #PA0595331 in West Hempfield Township, **Lancaster County**, receiving stream Chickies Creek. Application received March 12, 1996.

District Mining Operations, P. O. Box 669, Knox, PA 16232.

10960302. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Commencement, operation and restoration of a limestone and clay operation in Marion Township, **Butler County** affecting 1,151.0 acres. Receiving streams three unnamed tributaries to north branch Slippery Rock Creek; three unnamed tributaries to Black Creek. Application received March 4, 1996.

302551-10960302-E-1. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to construct a sedimentation control facility in the headwaters of an unnamed tributary to Blacks Creek in Marion Township, **Butler County**. Application received March 4, 1996.

302551-10960302-E-2. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to construct a sedimentation control facility within 100 feet but no closer than 50 feet of an unnamed tributary to north branch Slippery Rock Creek in Marion Township, **Butler County**. Application received March 4, 1996.

302551-10960302-E-3. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to construct two ditches above the headwaters of an unnamed tributary to north branch of Slippery Rock Creek to intercept upslope runoff and convey it to sedimentation control facilities in Marion Township, **Butler County**. Application received March 4, 1996.

302551-10960302-E-4. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to construct and maintain an access road to and from the site across an unnamed tributary to Black Creek in Marion Township, **Butler County**. Application received March 4, 1996.

302551-10960302-E-5. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to construct a sediment control facility within 100 feet but no closer than 50 feet of an unnamed tributary to Black Creek in Marion Township, **Butler County**. Application received March 4, 1996.

302511-10960302-E-6. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201). An application for a wetland mitigation to mitigate 0.69 acre of wetland that is not serving as spawning or resting area for aquatic species nor does it prove significant food chain production. This wetland area is located in Marion Township, **Butler County** within the proposed permit application area. Application received March 4, 1996.

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

Noncoal NPDES Permit Renewals

05910301. New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664), renewal of NPDES Permit #PA0599085, Napier and West St. Clair Townships, **Bedford County**, receiving streams two unnamed tributaries to Dunning Creek, Dunning Creek, NPDES Renewal Application received March 11, 1996.

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

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

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

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

E07-253. Encroachment. The Pennsylvania State University, Physical Plant Building, University Park, PA 16802-1118. To place fill in 0.38 acre of wetlands for the purpose of constructing a new residence hall at the Penn

State University—Altoona Campus located at the Altoona campus along Juniata Gap Road (Altoona, PA Quadrangle N: 10.81 inches; W: 7.4 inches) in Logan Township, **Blair County**.

E21-246. Encroachment. DCNR, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove an existing bridge and to construct and maintain a new concrete box culvert having an effective waterway opening of 12 feet × 4 feet on a 80 degree skew across Long Pine Run on Miles Burn Road (Caledonia Park, PA Quadrangle N: 14.15 inches; W: 12.15 inches) in Southampton Township, **Cumberland County**.

E31-127. Encroachment. U. S. Silica Co., R. R. 1, Box 1885, Mapleton Depot, PA 17052. To construct and maintain a single span bridge having a clear span of 33.5 feet and an underclearance of about 6.5 feet across Hares Valley Creek to provide access to existing farm buildings located about 200 feet west of S. R. 0665 and about 2.5 miles south of Mapleton Borough (Butler Knob, PA Quadrangle N: 19.9 inches; W: 12.9 inches) in Union Township, **Huntingdon County**.

E44-076. Encroachment. DCNR, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove an existing structure and to construct and maintain a single span bridge having a clear span of 23 feet and an underclearance of about 8.7 feet in East Licking Creek for maintenance purposes located on Spectacle Gap Road about 400 feet east of its intersection with Vincent Tram Road (McCoysville, PA Quadrangle N: 21.25 inches; W: 16.9 inches) in Bratton Township, **Mifflin County**.

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

E63-409. Encroachment. Meadowlands Sportsmen, Box 498, Meadowlands, PA 15347-0498. To remove existing structure and to construct and maintain a bridge having a span of 52 feet with an underclearance of 5 feet across Dutch Fork, to remove gravel bars from the channel of said stream and to place and maintain riprap along the banks of said stream. The project is located just downstream from the confluence of Ralston Run and Dutch Fork (West Middleton, PA Quadrangle N: 4.7 inches; W: 13.8 inches) in Donegal Township, **Washington County**.

E04-234. Encroachment. Joseph J. Brunner Landfill, Inc., 278 Brunner Road, Zelienople, PA 16063. To construct and maintain twin 72-inch, 65-foot long corrugated metal pipes in an unnamed tributary to Brush Creek for the purpose of accessing a proposed leachate treatment plant located at the existing Brunner Landfill located 1.5 miles from intersection of Brunner Road and Klein Road (Baden, PA Quadrangle N: 18.2 inches; W: 7.0 inches) in New Sewickley Township, **Beaver County**.

DEP Central Office: Bureau of Dams, Waterways and Wetlands, 400 Market Street, Floor 6, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

E53-049A. Dam. Bureau of State Parks, The Department of Conservation and Natural Resources, P. O. Box 8551, Harrisburg, PA 17105-8551. To modify, operate and maintain the Lyman Run State Park Dam by constructing a new concrete spillway at the South end of the dam in West Branch Township, **Potter County**.

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

E46-736. Encroachment. **Peter C. Collins, Inc.**, 1232 Horsham Road, Ambler, PA 19002. To construct and maintain 60 linear feet of 8-foot, 7-inch by 5-foot, 11-inch arch CMP stream enclosure which will connect a downstream existing 1,120 foot long stream enclosure to an upstream existing 860 foot long stream enclosure to facilitate the construction of a parking lot over Tannery Run Creek, an intermittent tributary to the Wissahickon Creek (TSF), located approximately 220 feet upstream of the segment of the enclosures which extends under Lindenwold Avenue (Ambler, PA Quadrangle N: 5.6 inches; W: 12.95 inches) in Ambler Borough, **Montgomery County**.

Northcentral Regional Office: Soils and Waterways Section, 208 W. Third St., Suite 101, Williamsport, PA 17701, telephone (717) 327-3574.

E17-301. Water obstruction and encroachment. **Department of Transportation**, District 2-0, P. O. Box 342, Clearfield, PA 16830. To remove the existing structure and to construct and maintain a single span prestressed concrete I-beam bridge with a clear span normal to the channel of 69 feet and average underclearance of 11 feet at a 45 degree skew right ahead over Anderson Creek on SR 322 (Luthersburg, PA Quadrangle N: 13.3 inches; W: 2.5 inches) in Union Township, **Clearfield County**. .01 acre of low value wetland will be permanently affected by this project. The stream is classified as CWF and the disturbance will be approximately 100 feet.

E19-150. Water obstruction and encroachment. **Department of Environmental Protection**, Bureau of Abandoned Reclamation, 93 North State St., Wilkes-Barre, PA 18701-3195. To displace 2.8 acres of water to fill four abandoned strip mine pits for the reclamation of a 125.8 acre site. The proposed work shall consist of pumping water, filling, regrading, seeding and mulching within 61.4 acres of drainage to Beaver Run and 64.4 acres of drainage to Scotch Run: cold water fisheries. The project is located along the southern right-of-way of SR 2022 approximately 1.2 miles east of the intersection of T-399 and SR 2022 (Shumans, PA Quadrangle N: 17.8 inches; W: 4.5 inches) in Beaver Township, **Columbia County**.

E41-358. Water obstruction and encroachment. **Watson Township Supervisors**, R. R. 4, Box 236C, Jersey Shore, PA 17740. To remove the existing structure and to construct and maintain a 91-inch by 58-inch corrugated metal pipe culvert in Furnace Run, an HQ-CWF stream. This project impacts about 70 feet of stream with no wetland impacts and is located at TR 631 about 0.5 mile north of SR 444 (Jersey Shore, PA Quadrangle N: 18.2 inches; W: 8.4 inches) in Watson Township, **Lycoming County**.

E41-359. Water obstruction and encroachment. **David J. and Karen S. Eiswerth**, 1901 Sheridan St., Williamsport, PA 17701. To construct and maintain (1) a single lane driveway in the floodway of Millers Run and (2) a single span steel I-beam bridge across Millers Run for private property access. The proposed work shall consist of placing a maximum of 193.0 cubic yards of fill in the floodway of Millers Run for driveway and approach construction; constructing a bridge with a single span of 350 feet, a wooden deck and reinforced concrete abut-

ments that will not impact any wetlands, while impacting 60.0 linear feet of Millers Run, a warm water fishery. The project is located in the western right-of-way of SR 2029 approximately 4,000.0 feet north of the intersection of SR 2018 and SR 2029 (Montoursville, PA Quadrangle N: 4.1 inches; W: 14.1 inches) in Loyalsock Township, **Lycoming County**.

E53-285. Water obstruction and encroachment. **Robert and Helen Rhines**, P. O. Box 88, St. Marys, PA 15857. To construct and maintain a private road crossing the right branch of Bark Shanty Hollow Run, a high quality-cold water fishery. The work shall consist of placing three 48 inch CMP culvert pipes in 16 linear feet of stream channel which does not impact any wetlands. The project is located along the southern right-of-way of T-309 approximately 3,700 feet west of the intersection of T-307 and T-309 (Keating Summit, PA Quadrangle N: 11.9 inches; W: 0.0 inches) in Keating Township, **Potter County**.

E40-438. Encroachment. **Weis Markets, Inc.**, 1000 S. Second Street, Sunbury, PA 17801. To place fill in 0.88 acre of isolated PFO wetlands within the Black Creek drainage basin (CWF) for the purpose of preparing two building lots for commercial construction. The project is located on Lots 1 and 2 of the Candid Estates Parcel, on the south side of Susquehanna Boulevard (S. R. 0093) (Conyngham, PA Quadrangle N: 16.7 inches; W: 1.0 inch) in West Hazleton Borough and Hazle Township, **Luzerne County** (Baltimore District, Army Corps of Engineers).

E45-293. Encroachment. **Robert B. and Lydia C. Boileau**, R. R. 1, Box 1493, Saylorsburg, PA 18353. To maintain a private road crossing in Princess Run (CWF) which consists of two 48-inch diameter C.M.P. culverts. The project is located 130 feet south of T369 (Beagle Run Road), approximately 0.15 mile southeast of the intersection of T369 and T361 (Kunkletown, PA Quadrangle N: 22.30 inches; W: 7.25 inches) in Eldred Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

E45-294. Encroachment. **DCNR—State Forest Bureau of Facilities Design**, Box 8451, Harrisburg, PA 17105-8451. To remove the existing structure and to construct and maintain a single-span vehicular bridge across Poplar Run (EV) having a normal span of 25.0 feet with an underclearance of approximately 3.5 feet. The project is located in Delaware State Forest along Laurel Run Road (also known as State Forest Road #5), approximately 0.5 mile upstream from the confluence of Poplar Run and Brodhead Creek (East Stroudsburg, PA Quadrangle N: 21.8 inches; W: 12.9 inches) in Price Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

E52-137. Encroachment. **Kittatinny Canoes, Inc.**, HC 67, Box 360, Dingmans Ferry, PA 18328-9516. To repair and maintain a boat launching ramp and parking lot along the right bank of the Delaware River, with work including the following: placement of precast concrete slabs to key in the paved launch area, replacement of damaged pavement, filling of eroded areas in the grass parking lot, and removal of debris and gravel along approximately a 100-foot reach of channel adjacent to the launch ramp. The project is located at the Kittatinny Canoes Matamoras Base, along the east side of S. R. 1017 (Delaware Drive), approximately 2 miles northwest of S. R. 6 (Port Jervis North, NY-PA Quadrangle N: 3.3 inches; W: 13.0 inches), in Westfall Township, **Pike County** (Philadelphia District, Army Corps of Engineers).

ACTIONS

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 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 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 under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Permits Issued

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

NPDES Permit No. PA0056758. Sewerage. **The Cutler Group**, 5 Sentry Parkway West, Suite 100, Walton Road, Blue Bell, PA 19422 is authorized to discharge from a facility located in Warrington Township, **Bucks County** into Mill Creek.

NPDES Permit No. PA0056740. Industrial waste. **The Woodbridge Group**, 4240 Sherwoodtowne Boulevard, Suite 300, Mississauga, Ontario, Canada L4Z2G6 is authorized to discharge from a facility located in Doyles-town Borough, **Bucks County** into an unnamed tributary leading to Cooks Run Creek.

NPDES Permit No. PA0053635. Industrial waste. **Mobil Oil Corporation**, 8 Malin Road, Frazer, PA 19406 is authorized to discharge from a facility located in East Whiteland Township, **Chester County** into an unnamed tributary to Little Valley Creek.

NPDES Permit No. PA0053651. Sewerage. **Johnson Matthey**, 1401 King Street, West Chester, PA 19380 is authorized to discharge from a facility located in West Whiteland Township, **Chester County** into an unnamed tributary to Valley Creek.

NPDES Permit No. PA0052451. Sewerage. **Francis L. Hamilton Oates**, P. O. Box 426, Landenberg, PA 19350 is authorized to discharge from a facility located in New Garden Township, **Chester County** into the east branch of White Clay Creek.

NPDES Permit No. PA0011444. Industrial waste. **Congoleum Corporation**, Ridge and Yates Avenue, Marcus Hook, PA 19061 is authorized to discharge from a facility located in Trainer Borough, **Delaware County** into Marcus Hook Creek.

NPDES Permit No. PA0056669. Sewerage. **Charles H. Long**, 679 West Ridge Pike, Royersford, PA 19492 is

authorized to discharge from a facility located in Limerick Township, **Montgomery County** into an unnamed tributary to Poison Hollow Run.

NPDES Permit No. PA0056529. Sewerage. **Hatboro Borough Authority**, 414 South York Road, Hatboro, PA 19040 is authorized to discharge from a facility located in Hatboro Borough, **Montgomery County** into Pennypack Creek.

NPDES Permit No. PA0020397. Amendment No. 1. Sewerage. **Bridgeport Borough**, P. O. Box 148, Bridgeport, PA 19405 is authorized to discharge from a facility located in Upper Merion Township, **Montgomery County** into the Schuylkill River.

NPDES Permit No. PA0026247. Amendment No. 1. Sewerage. **Hatfield Township Municipal Authority**, 3200 Advance Lane, Colmar, PA 18915 is authorized to discharge from a facility located in Hatfield Township, **Montgomery County** into the west branch of Neshaminy Creek.

NPDES Permit No. PA0026182. Amendment No. 2. Sewerage. **Borough of Lansdale**, One Vine Street, Lansdale, PA 19446 is authorized to discharge from a facility located in Lansdale Borough, **Montgomery County** into an unnamed tributary to west branch of Neshaminy Creek.

NPDES Permit No. PA0024121. Sewerage. **Borough of Media**, 301 North Jackson Street, P. O. Box A, Media, PA 19063 is authorized to discharge from a facility located in Upper Providence Township, **Delaware County** into Ridley Creek.

NPDES Permit No. PA0050466. Sewerage. **East Vincent Township Municipal Authority**, 262 Ridge Road, Spring City, PA 19475. Approval for renewal of a NPDES permit to discharge monthly flow of 500,000 gpd of treated sewage from treatment plant serving East Vincent Township, **Chester County** to a drainage swale tributary to the Schuylkill River.

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

NPDES Permit No. PA0001716. Industrial waste, **BRW Steel Corporation**, 227 Franklin Street, Suite 300, Johnstown, PA 15901 is authorized to discharge from a facility located at Johnstown Plant, City of Johnstown, **Cambria County** to Little Conemaugh River (Outfalls 001, 101, 002, 003, 114, 122, 900-903) Conemaugh River (302A-C, 303, 303A, 304/334, 305A, B, 306, 307 and 307A-C).

NPDES Permit No. PA0032212. Sewage, **Lawrence J. Nelson and Pamela K. Nelson**, 140 Silver Lake Lane, Fombell, PA 16123 is authorized to discharge from a facility located at Camp Silver Lake STP, Marion Township, **Beaver County** to unnamed tributary of Connoquenessing Creek.

NPDES Permit No. PA0204650. Sewage, **Michael L. and Francine L. Paluso**, 7032 Leechburg Road, New Kensington, PA 15068 is authorized to discharge from a facility located at Paluso Single Residence Sewage Treatment Plant, 7032 Leechburg Road, Plum Borough, **Allegheny County** to unnamed tributary to Bodies Run.

NPDES Permit No. PA0093785. Amendment No. 1. Sewage, **Williamhouse Regency**, 1 Wedding Lane, Scottdale, PA 15683 is authorized to discharge from a facility located at Williamhouse Sewage Treatment Plant, Upper Tyrone Township, **Fayette County** to unnamed tributary to Jacobs Creek.

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

NPDES Permit No. PA 0001449. Industrial waste. **Barnsteel Abrasives**, 110 Etna Street, P. O. Box 869, Butler, PA 16003 is authorized to discharge from a facility located in Butler Township, **Butler County** to Connoquenessing Creek.

NPDES Permit No. PA 0103926. Industrial waste. **Component InterTechnologies, Inc.**, 2426 Perry Highway, Hadley, PA 16130-8815 is authorized to discharge from a facility located in Perry Township, **Mercer County** to an unnamed tributary to Little Shenango River.

NPDES Permit No. PA 0102130. Industrial waste. **Evans City Borough Water Treatment Plant**, 220 Wahl Avenue, Evans City, PA 16033 is authorized to discharge from a facility located in Jackson Township, **Butler County** to Likens Run.

NPDES Permit No. PA 0035289. Sewage. **Glen Lakes Estates**, 6315 Forbes Avenue #123, Pittsburgh, PA 15217 is authorized to discharge from a facility located in Pine Township, **Mercer County** an unnamed tributary to Wolf Creek.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (DEP) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit

conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management, and total residual chlorine control (TRC). Any major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

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

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

Following the 30-day comment period, the Water Management Program Managers will make a final determination regarding the proposed permit action. 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 permit renewal application and related documents, proposed effluent limitations and special conditions, comments received and other information are on DEP's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

Southcentral Regional Office: Water Management Program, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.

| <i>NPDES No.</i> | <i>Facility Name and Address</i> | <i>County and Municipality</i> | <i>Tributary Stream</i> | <i>New Permit Reqmts.</i> |
|------------------|---|----------------------------------|-------------------------|---------------------------|
| PA0052400 | Irish Creek Village Harold Spatz—owner R. D. 1, Box 97A Mohrsville, PA 19541 | Berks Centre Twp. | Irish Creek | TRC |
| PA0030597 | Letterkenny Army Depot ATTN: SDSLE-ENE Chambersburg, PA 17201-4150 | Franklin Letterkenny Township | Rocky Spring Creek | TRC |
| PA0044521 | Letterkenny Army Depot ATTN: SDSLE-ENE Chambersburg, PA 17120-4150 | Franklin Letterkenny Township | UNT to Dennis Creek | TRC |

Notices of Intent for Coverage Under NPDES General Permit For Construction Activities and Department Final Actions

Allegheny County Conservation District: District Manager, 875 Greentree Rd., Rm. 208, Acacia Bldg., Pittsburgh, PA 15220, telephone (412) 921-1999.

Berks County Conservation District: District Manager, P. O. Box 520, Ag. Ctr., Leesport, PA 19533, telephone (610) 372-4657.

Cambria County Conservation District: District Manager, P. O. Box 187, Ebensburg, PA 15931, telephone (814) 472-2120.

Chester County Conservation District, District Manager, Gov. Serv. Ctr. Ste. 395, 601 Westtown Rd., West Chester, PA 19382, telephone (610) 696-5126.

Cumberland County Conservation District: District Manager, 43 Brookwood Ave., Ste. 4, Carlisle, PA 17013, telephone (717) 249-8632.

Dauphin County Conservation District: District Manager, 1451 Peters Mtn. Rd., Dauphin, PA 17018, telephone (717) 921-8100.

Lancaster County Conservation District: District Manager, 1383 Arcadia Rd., Rm. 6, Farm and Home Ctr., Lancaster, PA 17601, telephone (717) 299-5361.

Lehigh County Conservation District: District Manager, Lehigh Ag. Ctr. Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, telephone (610) 820-3398.

Montgomery County Conservation District: District Manager, 1015 Bridge Rd., Ste. B, Collegetown, PA 19426, telephone (610) 489-4506.

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

Snyder County Conservation District: District Manager, 403 W. Market St., Middleburg, PA 17842, telephone (717) 837-0085.

Washington County Conservation District: District Manager, 602 Courthouse Sq., Washington, PA 15301, telephone (412) 228-6774.

York County Conservation District: District Manager, 118 Pleasant Acres Rd., York, PA 17402, telephone (717) 840-7430.

The following parties have submitted Notices of Intent for coverage under NPDES General Permit PAG-2, General Permit for Discharges of Stormwater From Construction Activities. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection will authorize, subject to the terms and conditions contained in the general permit, the discharge of stormwater from eligible new and existing discharges.

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.

| <i>NPDES Permit</i> | <i>Name and Address</i> | <i>County and Municipality</i> | <i>Receiving Stream</i> |
|---------------------|---|--|-------------------------------|
| PAR10A152 | Fawn Township R. D. 2, Box 365C Tarentum, PA 25084 | Allegheny Co. Fawn Twp. | Bull Crk. |
| PAR10C135 | Jeffrey Auman 24 Warwick Ct. Reading, PA 19606 | Berks Co. Brecknock Twp. | Allegheny Crk./ Muddy Crk. |
| PAR10C146 | Pottstown Trap Rock Quarries Inc. 394 Sanatoga Road Pottstown, PA 19464 | Berks Co. Douglass Twp. | UNT to Schuylkill River |
| PAR10I025 | Pegasus Sewer Authority 104 Janie St. Johnstown, PA 15902 | Cambria Co. Conemaugh Twp. | Solomon Run/ Strong Crk. |
| PAR10G166 | George Lownes 140 Wagontown Rd. Coatesville, PA 19320 | Chester Co. W. Caln Twp. | W. Branch Brandywine |
| PAR10G170 | County of Chester 2 N. High St. West Chester, PA 19380 | Chester Co. W. Goshen Twp. | Chester Crk. UNT |
| PAR10G171 | R M L Enterprises P. O. Box 7958 Newark, DE 19714 | Chester Co. New Garden/Franklin Twps. | N. Br. White Clay Crk. |
| PAR10H093 | Troy Beam 401 Shippensburg Rd. Shippensburg, PA 17257 | Cumberland Co. Shippensburg Twp. | Burd Run |
| PAR10I078 | Barode Corporation 1517 Cedar Cliff Dr. Camp Hill, PA 17011 | Dauphin Co. L. Paxton Twp. | Spring Crk. |
| PAR10-O-182 | Crown Properties 1910 Fruitville Pke. Lancaster, PA 17601 | Lancaster Co. Warwick Twp. | Santo Domingo |
| PAR10-O-186 | Charlan Group 1085 Manheim Pike Lancaster, PA 17601 | Lancaster Co. W. Lampeter Twp. | UNT Mill Crk. |

| <i>NPDES Permit</i> | <i>Name and Address</i> | <i>County and Municipality</i> | <i>Receiving Stream</i> |
|---------------------|---|------------------------------------|-------------------------|
| PAR10-O-188 | Buckwalter Enterprises 235 N. Duke St. Lancaster, PA 17601 | Lancaster Co. Manheim Twp. | Bachman Run |
| PAR10Q073 | Cara Nino LTD P. O. Box 4300 Allentown, PA 18105 | Lehigh Co. U. Saucon Twp. | Saucon Crk. |
| PAR10Q072 | Mcquiddy Family Ptnr. 250 Millwood Dr. E. Greenville, PA | Lehigh Co. L. Milford Twp. | Hosensack Crk. |
| PAR10T253 | Moulton Builder Inc. 301 N. Broad St. Lansdale, PA 19446 | Montgomery Co. Hatfield Twp. | Neshaminy Crk. |
| PAR10T268 | Lapio Partners 104 Mill Rd. Sellersville, PA 18960 | Montgomery Co. U. Merion Twp. | Schuylkill Rvr. |
| PAR10U051 | Alan Kunsman 1615 Easton Rd. Hellertown, PA 18055 | Northampton Co. L. Saucon Twp. | Saucon Crk. |
| PAR105906 | Eastern Development & Planning Inc. 5520 Derry St. Harrisburg, PA 17111 | Snyder Co. Penn Twp. | UNT to Penns Crk. |
| PAR10W063 | Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106 | Washington Co. S. Park Twp. | Peters Crk. |
| PAR10W064 | Reservation Devel. Corp. P. O. Box 395 Meadowlands, PA 15347 | Washington Co. S. Strabane Twp. | Chartiers Crk. |
| PAR10Y199 | Jack Short 1225 Valley Green Rd. Etters, PA 17319 | York Co. Newberry Twp. | UNT to Susquehanna |
| PAR10Y202 | Robert Diller 1110 E. Princess St. York, PA | York Co. Manchester Twp. | Codorus Crk. |
| PAR10Y148 | Mike McKinney 625 Whitetail Dr. Lewisberry, PA 17339 | York Co. Fairview Twp. | Fishing Crk. |

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

Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County and Municipality</i> | <i>Receiving Streams</i> |
|-------------------------|--|---|--------------------------|
| PAS103909 | Warrior Run Development Corp. R. R. 2, Box 181 Turbotville, PA 17772 | City of Williamsport Lycoming County | Daugherty's Run |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County and Municipality</i> | <i>Receiving Stream</i> |
|-------------------------|--|--|-------------------------|
| PAS10A017-1 | Dept. of Transportation 45 Thoms Run Rd. Bridgeville, PA 15017-2853 and Stout Group Limited P. O. Box 787 Washington, PA 15301 | Robinson Twp. N. Fayette Twp. Allegheny County | UNT Montour Run |

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County and Municipality</i> | <i>Receiving Stream</i> |
|-------------------------|---|--|--|
| PAS10A060-2 | Port Authority of Allegheny County 2235 Beaver Avenue Pittsburgh, PA 15233-1080 | Pittsburgh, City Boroughs of Crafton, Ingram Rosslyn Farms, Carnegie Allegheny County | Oakwood Run Chartiers Creek Campbells Run Ohio River Mononagahela River |
| PAS10X056 | R.W.S. Development Co. Inc. R. R. 1, Box 61 Rillton, PA 15678 | Hempfield Twp. | UNT Little Sewickley Creek |

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

Permits Issued

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

Permit No. 0275217. Amendment No. 2. Industrial waste, **Shenango, Inc.**, 200 Neville Road, Neville Island, PA 15225. Construction of coke plant located in Neville Township, **Allegheny County** to serve the Coke Division.

Permit No. 0496201. Industrial waste, **BASF Corporation**, 370 Frankfort Road, Monaca, PA 15061. Construction of industrial waste—latex manufacturer located in Potter Township, **Beaver County** to serve the Monaca Plant/Primary Wastewater Treatment Plant.

Permit No. 1195201. Industrial waste, **BRW Steel Corporation**, 227 Franklin Street, Suite 300, Johnstown, PA 15901. Construction of steel manufacturing—continuous casting located in the City of Johnstown, **Cambria County** to serve the Johnstown Plant.

Permit No. 0295406. Sewerage, **McCandless Township Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237. Construction of trunk sewer located in McCandless Township, **Allegheny County** to serve the Hazlett Pump Station to Busch Pump Station.

Permit No. 566S019. Amendment No. 1. Sewerage, **Carrolltown Municipal Authority**, P. O. Box 37, Carrolltown, PA 15722. Construction of sewage treatment plant improvements located in Carrolltown Borough, **Cambria County** to serve the Carrolltown Borough Wastewater Treatment Plant.

Permit No. 6396402. Sewerage, **Walter Morris**, 180 McAdams Avenue, Washington, PA 15301. Construction of single residence sewage treatment plant located in Mt. Pleasant Township, **Washington County** to serve the Morris residence.

Permit No. 6396403. Sewerage, **South Strabane Township Sanitary Authority**, 550 Washington Road, Washington, PA 15301. Construction of pump station located in South Strabane Township, **Washington County** to serve the Manifold Pump Station.

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

Permit No. 0993405. Sewerage, **Milford-Trumbauersville Area Sewer Authority**, P. O. Box 126, Spinnerstown, PA 18968. Installation of a new channel grinder in the influent pump station of the wastewater treatment plant located in Milford Township, **Bucks County** to serve Milford-Trumbauersville Area Sewer Authority.

Permit No. 0996424. Sewerage, **Chalfont-New Britain Township Joint Sewer Authority**, 1645 Upper State Road, Doylestown, PA 18901. Construction and operation of an 18" relief and a 36" replacement sewer located in Chalfont Borough/New Britain Township, **Bucks County** to serve Chalfont Borough and portions of New Britain Township.

Permit No. 4695431. Sewerage, **Ernest and Donna Gehman**, 720 Morwood Road, Morwood, PA 18969. Construction of a single residence sewage treatment plant located in Franconia Township, **Montgomery County** to serve the Gehman residence.

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

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

Permit No. 2895502. **New Guilford Brethren in Christ Church**, Guilford Twp., **Franklin County**, (Richard Nowell, Operations Manager, 2038 Lincoln Way East, Suite B, Chambersburg, PA 17201), installation of Anion Exchange Nitrate Removal Equipment at an existing noncommunity water supply).

Permit No. 6795504. **Rutter's Dairy, Inc.**, Newberry Twp., **York County**, (Michael N. Rutter, 2100 N. George Street, Manchester Twp., PA 17404-1898), hauling of finished York Water Company Water in a 2,700 gallon stainless steel tanker by Rutter's Dairy to its farm stores or other customers.

Permit No. 0696501. **Friedens Lutheran Church**, Albany Twp., **Berks County**, (Mark D. Bernecker, Pastor, P. O. Box 70, Stony Run, PA 19557), nitrate treatment by anion resin and calcium carbonate filter for pH control.

Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

Permit No. 1794-T1. Public water supply, **Pennsylvania-American Water Company**—Brownsville, 300 Galley Road, P. O. Box 1290, McMurray, PA 15317.

Type of Facility: Transfer of Brownsville Water Company Plant and distribution system.

Permit to Operate Issued: February 28, 1996.

Permit No. 1794-A1-T1. Public water supply, **Pennsylvania-American Water Company**—Brownsville, 300 Galley Road, P. O. Box 1290, McMurray, PA 15317.

Type of Facility: Revisions and improvements to the Brownsville System of the Pennsylvania-American Water Company.

Permit to Operate Issued: February 28, 1996.

Permit No. 0294504. Public water supply. **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 200, Moon Township, PA 15108.

Type of Facility: 1.5 MG Elevated Water Storage Tank.

Consulting Engineer: Nichols & Slagle Engineering, Inc., 980 Beaver Grade Road, Suite 101, Westmark Building, Moon Township, PA 15108.

Permit to Operate Issued: February 27, 1996.

Permit No. 5691504-A1. Public water supply. **Meyersdale Municipal Authority**, 229 Center Street, Meyersdale, PA 15552.

Type of Facility: Relocation of Crystal Lake Wells #1 and #2 discharge points.

Consulting Engineer: EADS Group, 1065 Tayman Avenue, P. O. Box 837, Somerset, PA 15501.

Permit to Operate Issued: February 27, 1996.

Permit No. 8821W-A1. Public water supply. **Heinz USA**, Pittsburgh Factory, P. O. Box 57, 1062 Progress Street, Pittsburgh, PA 15230-0057.

Type of Facility: Replacement and upgrade of existing pressure filtration vessels and chlorination system.

Consulting Engineer: Ground Water Associates, Inc., 1011 Route 22, Bridgewater, New Jersey 08807.

Permit to Construct Issued: March 4, 1996.

Permit No. 0394502. Public water supply. **West Kittanning Municipal Authority**, 204 Arthur Street, West Kittanning, PA 16201.

Type of Facility: 398,000 gallon water storage tank and telemetering equipment, water line and valve replacement.

Consulting Engineer: Bankson Engineers Inc., 100 Blue Run Road, P. O. Box 200, Indianola, PA 15051.

Permit to Operate Issued: March 4, 1996.

Permit No. 0383502-A1. Public water supply. **Worthington Municipal Authority**, P. O. Box O, Worthington, PA 16262.

Type of Facility: Cherry Street Water Treatment Plant rehabilitation.

Consulting Engineer: Bankson Engineers Inc., 100 Blue Run Road, P. O. Box 200, Indianola, PA 15051.

Permit to Operate Issued: March 6, 1996.

Permit No. 0488503-A1. Public water supply. **David J. D'Atri**, Forest Brook Mobile Home Park, R. D. 1, Big Knob Road, Rochester, PA 15074.

Type of Facility: Three 3,000 gallon water storage tanks.

Permit to Operate Issued: February 29, 1996.

Permit No. 3290503. Public water supply. **Indiana County Municipal Services Authority**, P. O. Box 351, Indiana, PA 15701.

Type of Facility: Sylvan Acres—Kuntz Mobile Home Park.

Consulting Engineer: Gibson-Thomas Engineering Company, P. O. Box 853, Latrobe, PA 15235.

Permit to Operate Issued: February 27, 1996.

Permit No. 5688509-A1. Public water supply. **Meyersdale Municipal Authority**, 229 Center Street, Meyersdale, PA 15552.

Type of Facility: Meyersdale Municipal Authority Water Treatment Plant.

Consulting Engineer: Bankson Engineers Inc., 100 Blue Run Road, P. O. Box 200, Indianola, PA 15051.

Permit to Operate Issued: February 27, 1996.

Permit No. 1195501. Public water supply. **Elder Township Water Authority**, P. O. Box 23, St. Boniface, PA 16675.

Type of Facility: Pump Station, interconnection with Hastings Borough.

Consulting Engineer: Minetech Engineers, P. O. Box 791, Altoona, PA 16603.

Permit to Operate Issued: February 27, 1996.

Permit No. 3292503. Public water supply. **Indiana County Municipal Services Authority**, P. O. Box 351, Indiana, PA 15701.

Type of Facility: Jacksonville Storage Tank and water-line extension.

Consulting Engineer: Gibson-Thomas Engineering Company, P. O. Box 853, Latrobe, PA 15235.

Permit to Operate Issued: February 29, 1996.

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

3589501. Public water supply. A permit was issued on February 28, 1996, to **Hi-View Terrace Mobile Home Park**, c/o Robert Goodling, Investment Management Services, 722 Limekiln Road, New Cumberland, PA 17070. This proposal involves the permitting of an existing public water supply system serving the Hi-View Terrace Mobile Home Park. The application contains three existing wells, a proposed 1,200 gallon chlorine contact tank, metering valving, additional 2" PVC piping and an existing polyethylene distribution system. It is located in Jefferson Township, **Lackawanna County**.

4088523. Public water supply. A permit was issued on February 22, 1996, to the **Laurel Personal Care Center**, c/o Dr. K. A. Swami, R. R. 2, Box 7C, Shickshinny, PA 18655. This proposal involves the modification and permitting of an existing water supply serving a personal care center. The system includes 1 well, storage and inspection station. It is located in Union Township, **Luzerne County**.

4092511. Public water supply. A permit was issued on February 20, 1996, to **Pennsylvania Gas & Water Company**, Watres Water Treatment Plant, c/o David Kaufman, Vice President, Water Resources, Wilkes-Barre Center Building, 39 Public Square, Wilkes-Barre, PA 18711. This proposal involves a new raw water transmission main connecting the proposed Watres Water Treatment Plant to existing distribution lines serving the Gardner Creek Reservoir to the proposed Watres Water Treatment Plant; new finished water transmission main from the existing Gardner Creek Water Pumping Station to the Old Boston and Suscon Road distribution systems; and two new 750,000 gal. finished water storage tanks serving the Old Boston Distribution System. It is located in Jenkins and Pittston Townships, **Luzerne County**.

4095501. Public water supply. A permit was issued on February 22, 1996, to **Conyngham Borough Authority**,

c/o Lawrence Houseknecht, Manager, P. O. Box 469, 90 East Butler Avenue, Conyngham, PA 18219. This proposal involves the construction of a new 125,000 gallon storage tank, 700 water meters, and corrosion control treatment. It is located in Conyngham Borough, **Luzerne County**.

4589523. Public water supply. A permit was issued on January 30, 1996, to **Maple Rock Trailer Court**, c/o Steve Carbonara, R. D. 1, Box 122, Henryville, PA 19332. This proposal involves the permitting of a public water supply system consisting of one well, disinfection facilities, distribution storage and a distribution system serving the Maple Rock Trailer Court. It is located in Pocono Township, **Monroe County**.

5289518. Public water supply. A permit was issued on February 9, 1996, to **Paupack Water Company, Motor Lodge Phase I and II**, c/o Harold A. Gumble, Manager, P. O. Box 257, Hawley, PA 18428. This proposal involves the permitting of an existing public water supply system consisting of two wells, disinfection facilities, distribution storage and a distribution system. It is located in Palmyra Township, **Pike County**.

5290506. Public water supply. A permit was issued on March 6, 1996, to **Circle Green Condominiums**, c/o William Smith, President, Circle Green Condominiums Homeowner's Association, P. O. Box 984, Honesdale, PA 18431. This proposal involves the permitting of an existing community water system serving the Circle Green Condominiums in Palmyra Township, **Pike County**. The system contains two wells with separate houses and storage facilities that will be chlorinated and metered.

5494506. Public water supply. A permit was issued on February 26, 1996, to **Egg Harbor Spring**, c/o James M. Rodichok, 200 Wiconisco Avenue, Tower City, PA 17980. This proposal provides for the development of a spring and bulk hauling station to provide an additional source of supply for an existing permitted bottling plant. Stream crossing is expected. It is located in Porter Township, **Schuylkill County**.

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

Permit No. 1595511. Public water supply. **Spring Run Water Company**, P. O. Box 309, Exton, PA 19341. This proposal involves the construction of a pumping station and a 12" transmission main interconnection for transfer finished water from Embreeville State Hospital facilities to Spring Run Water Company in West Bradford Township, **Chester County**.

Type of Facility: Water supply system.

Consulting Engineer: Gannett Fleming, Inc., 207 Senate Avenue, Camp Hill, PA 17011.

Permit to Construct Issued: March 7, 1996.

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, 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 Richard Shudak at (717) 826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1(800) 654-5984.

Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.1—750.20).

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2553.

Location:

Blue Mountain Ski Area, on the east side of S. R. 2009, 1,800 feet south of intersection with S. R. 2006. Lower Towamensing Township, **Carbon County**.

Project Description:

This proposal modifies the approval granted for this project by the Department on March 3, 1995. The scope of the project remains the same, however, the location of the sewage treatment plant and discharge point have been changed.

Blue Mountain Ski Area is proposing to construct a ski lodge at the base of Blue Mountain, Lower Towamensing Township, Carbon County, PA. The total property area is approximately 1,050 acres.

The ski area has an existing top of the mountain ski lodge which is served by an existing in-ground septic system. The highest daily recorded flow meter reading for the top of the mountain ski lodge is 25,000 gpd. The National Ski Patrol building is served by an in-ground septic system with a capacity of 1,000 gpd. The ski area operates from December to April.

The proposed ski lodge is to be located on the east side of S. R. 2009, 1,800 feet south of the intersection with S. R. 2006. The ski lodge will have a ski rental area, ticket sales area, offices, bathrooms, changing areas, kitchen and dining area, bar, club rooms, ski supplies store and ski school lounge. The proposed commercial facility is expected to generate sewage flows of 23,000 gpd or 57.5 EDUs. The flow for the proposed ski lodge is projected to be 22,582 gpd.

Sewers will be installed to collect sewage from the existing ski lodge and National Ski Patrol building at the top of the mountain and from the proposed base of the mountain ski lodge. The existing in-ground septic systems will be abandoned. The total flow for the property is estimated to be 50,000 gpd. The proposed sewage treatment plant will be designed to accommodate 50,000 gpd or 125 EDUs.

The proposed discharge point for the treatment plant will be the Buckwa Creek, approximately 1,500 feet upstream from its confluence with the Aquashicola Creek.

Water supply will be provided by wells on-site.

Plan revision approval granted March 13, 1996 under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.1—750.20).

Regional Office: Water Management Program Manager, Southcentral Region, One Ararat Boulevard, Harrisburg, PA 17110.

Location: Juniata House—Tuscarora Forest District #3 STP. On the south side of Route 103, 3 miles east of intersection of Route 103 and U. S. Route 522.

The approved plan revision provided for:

Approval of a revision to the Official Sewage Plan of Shirley Township, Huntingdon County. Project involves construction of a small flow sewage treatment facility to serve an existing dwelling located on the south side of Route 103. Treated effluent is to be discharged to the perennial Juniata River located across Route 103 from the Juniata House.

Any required NPDES Permits or Water Management Permits must be obtained in the name of the Bureau of Forestry.

Notice of Settlement

In the matter of: Stonebank Property, Exton, Chester County, PA

Relating to: Foote Mineral Site, Exton, Chester County, PA

The Department of Environmental Protection, under the authority of the Hazardous Sites Cleanup Act (HSCA), (35 P. S. §§ 6020.101—6020.1304), hereby gives notice that it has entered into a Prospective Purchaser Agreement (PPA) with the Key West Connection Corp. (KWCC) associated with the purchase of the Stonebank Property in Exton, Chester County, PA.

The Stonebank Property is located across Swedesford Road from the Foote Mineral Site, a National Priority List Superfund Site in Exton, PA. Environmental investigations have revealed that groundwater contamination from the Foote Mineral Site has migrated beneath the Stonebank Property. KWCC, the prospective purchaser of the Stonebank Property, is not presently a responsible person with regard to contamination from the Foote Mineral Site. KWCC has resolved any potential liability to the United States which may be associated with the purchase of the Stonebank Property through a similar prospective purchaser agreement.

Through the PPA, KWCC would resolve any potential liability to the Department and become eligible for protection from contribution claims relating to the Foote Mineral Site that may stem from the purchase and ownership of the Stonebank Property. Under the terms of the PPA, KWCC will remit certain response costs to the Department, provide access to the Department, cooperate with any response actions, and agree not to exacerbate any contamination from the Foote Mineral Site.

This Notice is being provided under section 1113 of HSCA (35 P. S. § 6020.1113). The Department will provide for a 60 day public comment period on the proposed PPA from the date of publication of this Notice. Under section 1113 of HSCA, the PPA will become final when the Department files its response to any significant public comments received during the comment period. The PPA may be examined from 8 a.m. to 4 p.m. in the Department's Southeast Field Office at Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Interested

persons may contact Thomas Sheehan at (610) 832-6149 or Anderson Lee Hartzell at (610) 832-6300. Persons may submit written comments to Thomas Sheehan at the above address.

Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Albert Einstein Medical Center, 5501 Old York Road, Philadelphia, PA 19141; License No. **PA-HC 0146**; license issued March 15, 1996.

Health Care Waste Services Corp., 3446 Rombouts Avenue, Bronx, NY 10475; License No. **PA-HC 0184**; license issued March 15, 1996.

Waste Management of Delaware Valley-South, a Division of Waste Management of PA, Inc., 408 South Oak Avenue, Primos, PA 19018; License No. **PA-AH 0066**; license issued March 15, 1996.

Waste Management of Maryland, Inc., WMI Medical Waste Services of Baltimore, 6333 Macaw Street, Elkridge, MD 21227; License No. **PA-AH 0167**; license issued March 15, 1996.

Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Allwaste Environmental Services of Atlanta, Inc., P. O. Box 517, Forest Park, GA 30051-0517; License No. **PA-AH 0406**; license issued March 15, 1996.

C. J. Langenfelder & Son, Inc., 8427 Pulaski Highway, Baltimore, MD 21237; License No. **PA-AH 0405**; license issued March 15, 1996.

Price Trucking Corp., 67 Beacon Street, Buffalo, NY 14220; License No. **PA-AH 0371**; license issued March 8, 1996.

Amended license issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

C. J. Langenfelder & Son, Inc., 8427 Pulaski Highway, Baltimore, MD 21237; License No. **PA-AH 0405**; amended license issued March 15, 1996.

Price Trucking Corp., 67 Beacon Street, Buffalo, NY 14220; License No. **PA-AH 0371**; amended license issued March 8, 1996.

Hazardous waste transporter license reinstated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Price Trucking Corp., 67 Beacon Street, Buffalo, NY 14220; License No. **PA-AH 0371**; license reinstated March 8, 1996.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Southcentral Regional Office: Regional Solid Waste Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4588.

Permit No. 301230. E. J. Breneman, Inc. (State Hill Road, P. O. Box 2126, Sinking Springs, PA 19608). Application for repermitting of a fuel contaminated soil burner for a site in Spring Township, **Berks County**. Permit issued in the Regional Office March 11, 1996.

Permits revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

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

Permit No. 101166. Glasgow, Inc., Ivy Rock Demolition Waste Landfill, P. O. Box 248, Glenside, PA 19038-0248. This permit was revoked in response to a letter received January 11, 1996 in the Southeast Regional Office requesting permit revocation for the Ivy Rock Demolition Waste Landfill located in Plymouth Township, **Montgomery County**. Permit revoked in the Southeast Regional Office on March 8, 1996.

Permit No. 400437. North Penn Hospital, 100 Medical Campus Drive, Lansdale, PA 19446-1200. This permit was revoked because the facility indicated they are no longer operating their incinerator unit located in Hatfield Township, **Montgomery County**. Permit revoked in the Southeast Regional Office on March 8, 1996.

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

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

Permit No. PAD049791098. Sun Company, Inc. (R&M), 3144 Passyunk Avenue, Philadelphia, PA 19145-5299. This permit for the storage of hazardous waste in containers, the storage of hazardous waste in tanks and the incineration of the hazardous waste has been re-issued to Sun Company, Inc. (R&M). The permit was formerly held by Chevron USA. Facility located in the City of Philadelphia. Permit was issued in the Southeast Regional Office on March 7, 1996.

Applications withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.

Permit No. 400592. Resource Recovery Facility, Lancaster County Solid Waste Management Authority, (P. O. Box 4425, Lancaster, PA 17604). Application for modification for the Resource Recovery Facility to allow processing of municipal wastewater sludge for a site in Conoy Township, **Lancaster County**. Application withdrawn from the Regional Office.

Closure approvals issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to close a solid waste processing or disposal area or site.

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

Permit ID No. 100590, Mon Valley Landfill, BFI Industries, P. O. Box 3151, Houston, TX 77253, for the closure of a municipal waste landfill in Fallowfield Township, **Washington County**. Closure plan approved in the Regional Office on March 7, 1996.

Operating permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an operating permit to comply with 25 Pa. Code § 129.91 for Reasonably Available Control Technology and when required 25 Pa. Code § 127.445.

Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

The Department has issued the following air quality compliance permit for the operation of the Major NOx and Major VOC emitting facilities described below:

Permit: **CP-15-0029**
Source: Control VOC from Solvent Clean-up
Issued: March 6, 1996
Company: **Dopaco, Inc.**
Location: Downingtown
County: **Chester**

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

Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

12-399-005D. The Department intends to issue an operating permit to **Sinter Metals, Inc.** for the operation of 12 sintering furnaces and associated air cleaning devices (burnoff units and a fabric collector) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Shippen Township, **Cameron County**.

12-399-006A. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of two heat treat furnaces, associated equipment and associated air cleaning devices (2 electrostatic precipitators) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Shippen Township, **Cameron County**.

12-399-007F. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of 13 sintering furnaces and associated air cleaning devices (burnoff units and a fabric collector) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Emporium Borough, **Cameron County**.

12-399-009. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of powdered metal parts oil impregnation systems and associated air cleaning device (an electrostatic precipitator) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Shippen Township, **Cameron County**.

12-399-010. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of a powdered metal parts oil impregnation system and associated air cleaning device (an electrostatic precipitator) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Emporium Borough, **Cameron County**.

12-399-011. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of a sintered metal parts steam treating operation and associated air cleaning device (an electrostatic precipitator) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Emporium Borough, **Cameron County**.

12-399-013. The Department intends to issue an operating permit to **Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834) for the operation of an induction furnace, draw furnace, quench tank and associated air cleaning device (an electrostatic precipitator) previously owned and operated by Pennsylvania Pressed Metals, Inc. in Emporium Borough, **Cameron County**.

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

Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

The Department has issued the following air quality plan approvals for the specified companies described below:

Permit: **46-320-006A**
Source: Flexographic Press No. 3
Issued: February 28, 1996
Company: **BABN Technologies, Inc.**
Location: Upper Dublin
County: **Montgomery**

Permit: **46-313-117A**
Source: 3 Glatt Columns
Issued: February 28, 1996
Company: **Merck & Company, Inc.**
Location: Upper Gwynedd
County: **Montgomery**

Permit: **23-399-027**
Source: Two Converting Lines
Issued: March 5, 1996
Company: **Scott Paper**
Location: Chester
County: **Delaware**

Permit: **46-399-104**
Source: Five I. C. Diesel Engines
Issued: March 6, 1996
Company: **O'Brien (standby) Power Energy, Inc.**
Location: Upper Merion
County: **Montgomery**

Permit: **15-399-044**
Source: Hard Chrome Electroplating Baths Tanks #265 and #266
Issued: March 7, 1996
Company: **Quebecor Printing Atglen, Inc.**
Location: West Sadsbury
County: **Chester**

Permit: **46-318-045**
Source: Paint Spray Booth
Issued: March 7, 1996
Company: **Department of the Air Force**
Location: Horsham
County: **Montgomery**

The Department has transferred the following air quality plan approval extensions for the specified companies described below:

Permit: **09-311-006**
Source: Ready-Mix Concrete Plant
Company: **Naceville Materials**
Change of ownership: formerly, Miller & Son Paving, Inc.
Location: Plumstead
County: **Bucks**

Permit: **09-303-024**
Source: Bituminous Concrete Plant
Company: **Naceville Materials**
Change of ownership: formerly, Miller & Son Paving, Inc.
Location: Plumstead
County: **Bucks**

Permit: **09-310-042**
Source: Quarry and Crushing Plant
Company: **Naceville Materials**
Change of ownership: formerly, Miller & Son Paving, Inc.
Location: Plumstead
County: **Bucks**

The Department has extended the following air quality plan approvals for the specified companies described below:

Permit: **46-399-095**
Source: Manufacturing Process
Issued: February 28, 1996
Extended: June 30, 1996
Company: **Ortho-McNeil Pharmaceutical**
Location: Lower Gwynedd
County: **Montgomery**

Permit: **46-301-266**
Source: Pathological Incinerator
Issued: February 28, 1996
Extended: June 30, 1996
Company: **Rhone-Poulenc Rorer Pharm., Inc.**
Location: Upper Providence
County: **Montgomery**

Permit: **15-313-052**
Source: Pharmaceutical Sciences Pilot Plant
Issued: February 29, 1996
Extended: June 30, 1996
Company: **Sanofi Winthrop, Inc.**
Location: East Whiteland
County: **Chester**

Permit: **15-307-024**
 Source: Slab Caster Cut-Off Torch
 Issued: March 1, 1996
 Extended: July 1, 1996
 Company: **Lukens Steel Company**
 Location: Coatesville
 County: **Chester**

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

10-313-047. On March 13, 1996, a plan approval was issued to **Mine Safety Appliances Co., Callery Chemical Company** (P. O. Box 429, Pittsburgh, PA 15230) for the modification of an existing dust scrubbing system at the batch alkali metal organic production facility located in Forward Township, **Butler County**.

MINING ACTIVITY ACTIONS

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 such 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).

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

Coal Applications Issued

56900115. Permit renewal, **Pennsylvania Coal Company, Inc.** (One Riverfront Center, Suite 530, 20 Stanwix Street, Pittsburgh, PA 15222), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Shade Township, **Somerset County**, affecting 39.9 acres, receiving stream unnamed tributary to Oven Run and unnamed tributary to Lambert Run, application received March 11, 1996, permit issued March 12, 1996.

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

65840119R. **Buchinsky Brothers Coal** (R. D. 3, Box 94-A, Saltsburg, PA 15681). Renewal permit issued for continued reclamation only of a bituminous surface mine located in Loyalhanna Township, **Westmoreland County**, affecting 30.6 acres. Receiving streams unnamed tributary to the Conemaugh River. Application received August 29, 1995. Renewal issued March 6, 1996.

03940112. **Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mine located in Bradys Bend and Sugar Creek Townships, **Armstrong County**, affecting 44.9 acres. Receiving streams unnamed tributary to the Allegheny River. Application received October 3, 1995. Permit issued March 7, 1996.

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

17850109. **Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 52 acres, receiving streams unnamed tributaries of Morgan Run to Morgan Run to Clearfield Creek, application received January 4, 1996, permit issued March 1, 1996.

17820151. **Junior Coal Contracting, Inc.** (R. D. 3, Box 225-A, Philipsburg, PA 16866), renewal of an existing bituminous surface mine-auger permit in Bradford Township, **Clearfield County** affecting 250.2 acres, receiving streams Millstone and Valley Fork Run; to west branch of Susquehanna, application received December 26, 1995, permit issued March 4, 1996.

17910103. **Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine-auger permit in Jordan and Knox Townships, **Clearfield County** affecting 87 acres, receiving streams Potts Run, an unnamed tributary of Potts Run, and McNeel Run, application received January 4, 1996, permit issued March 1, 1996.

17900145. **L. T. Contracting, Inc.** (P. O. Box 147, West Decatur, PA 16878), renewal of an existing bituminous surface mine permit in Cooper and Morris Townships, **Clearfield County** affecting 22.5 acres, receiving streams two unnamed tributaries to Moshannon Creek, application received January 9, 1996, permit issued March 4, 1996.

17850143. **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine permit in Lawrence Township, **Clearfield County** affecting 148.7 acres, receiving streams Wolf Run and west branch Susquehanna River, Wolf Run to west branch Susquehanna River, application received December 27, 1995, permit issued March 8, 1996.

Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.

30841317. **Consol Pennsylvania Coal Company**, (450 Racetrack Road, Washington, PA 15301), to revise the permit for the Enlow Fork bituminous deep mine in Richhill Township, **Greene County** to add 21 vent boreholes, no additional discharge. Permit issued March 8, 1996.

30841317. **Consol Pennsylvania Coal Company**, (450 Racetrack Road, Washington, PA 15301), to transfer the Enlow Fork bituminous deep mine in Richhill Township, **Greene County** from Enlow Fork Mining Company, no additional discharge. Permit issued March 8, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54693047R2. **Pagnotti Coal Company**, (800 Exeter Avenue, West Pittston, PA 18643), renewal of an existing anthracite surface mine operation in Mahanoy Township, **Schuylkill County** affecting 698.0 acres, receiving stream none. Renewal issued March 11, 1996.

40663029R2. **Pagnotti Coal Company**, (800 Exeter Avenue, West Pittston, PA 18643), renewal of an existing anthracite surface mine operation in Foster Township, **Luzerne County** affecting 521.0 acres, receiving stream none. Renewal issued March 12, 1996.

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

Noncoal Permits Issued

26950401. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a large noncoal surface/underground mining operation located in Springfield Township, **Fayette County**, affecting 570 acres. Receiving streams unnamed tributary to Clay Run, Clay Run to Mill Run to Indian Creek to Youghiogheny River; unnamed tributary to Buck Run to Buck Run to Laurel Run to Indian Creek to Youghiogheny River. Application received June 23, 1995. Permit issued March 12, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

7975SM4T. Edison Quarry, Inc., (25 Quarry Road, Doylestown, PA 18901), transfer of an existing quarry operation in Doylestown Township, **Bucks County** affecting 18.2 acres, receiving stream Neshaminy Creek. Transfer issued March 15, 1996.

64950301. Eureka Stone Quarry, Inc., (Lower State and Pickertown Roads, Chalfont, PA 18914), commencement, operation and restoration of a quarry operation in Sterling Township, **Wayne County** affecting 162.0 acres, receiving stream Uban Creek, tributary to Wallenpaupack. Permit issued March 15, 1996.

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

Small Noncoal Authorizations Granted

08950804. Myron Bristol (R. D. 3, Box 336, Troy, PA 16947), commencement, operation and restoration of a Small Noncoal (Flagstone) permit in West Burlington Township, **Bradford County** affecting 1 acre, application received November 27, 1995, authorization granted March 12, 1996.

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

General Small Noncoal Authorizations Granted

65952303. Buckeye Wrecking & Transfer, Inc. (1800 19th Street NE, Canton, OH 44714). Permit issued for commencement, operation and reclamation of a small noncoal surface mining operation located in Vandergrift Borough, **Westmoreland County**, affecting 4.5 acres. Receiving streams Kiskiminetas River to the Allegheny River. Application received November 15, 1995. Permit issued March 12, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

58960801. Timothy Mark Smith, (R. D. 3, Box 329E, Montrose, PA 18801), commencement, operation and restoration of a small noncoal quarry operation in Middleton Township, **Susquehanna County** affecting 5.0 acres, receiving stream none. Authorization granted March 11, 1996.

Field Operations—Mining and Reclamation, 5 West Laurel Boulevard, Pottsville, PA 17901.

Coal Applications Returned

49910203. Empire Coal Mining & Development Co., (230 South Vine Street, Mt. Carmel, PA 17851), application for an anthracite surface mine operation in West Cameron Township, **Northumberland County** affecting 441.5, application received April 19, 1991. Application returned March 13, 1996.

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market St., P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 1 (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of the act of June 22, 1937 (P. L. 1987, No. 394) (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).

Permits Issued and Actions on 401 Certification

DEP Central Office, Bureau of Dams, Waterways and Wetlands, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

D04-059. Dam. Pennsylvania Power Company, Bruce Mansfield Plant, P. O. Box 128, Shippingport, PA 15077-0128. To operate and maintain the existing North Low Dissolved Solids Impoundment, an offstream impoundment at the Bruce Mansfield Power Plant located in Shippingport Borough, **Beaver County**.

D04-060. Dam. Pennsylvania Power Company, Bruce Mansfield Plant, P. O. Box 128, Shippingport, PA 15077-0128. To operate and maintain the existing South Low Dissolved Solids Impoundment, an offstream impoundment at the Bruce Mansfield Power Plant located in Shippingport Borough, **Beaver County**.

D04-061. Dam. Pennsylvania Power Company, Bruce Mansfield Plant, P. O. Box 128, Shippingport, PA 15077-0128. To operate and maintain the existing East High Dissolved Solids Impoundment, an offstream impoundment at the Bruce Mansfield Power Plant located in Shippingport Borough, **Beaver County**.

D04-062. Dam. Pennsylvania Power Company, Bruce Mansfield Plant, P. O. Box 128, Shippingport, PA 15077-0128. To operate and maintain the existing West High Dissolved Solids Impoundment, an offstream impoundment at the Bruce Mansfield Power Plant located in Shippingport Borough, **Beaver County**.

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

E09-702. Encroachment. **Northampton, Bucks County Municipal Authority**, 111 Township Road, Richboro, PA 18954. To remove a partially collapsed steel sheetpiling retaining wall, and to construct and maintain an approximately 150-foot long × 9-foot high gabion retaining wall along the eastern bank of Mill Creek (TSF, MF) for the purpose of protecting a 30-inch sanitary sewer line from stream bank erosion. The site is located approximately 1,200 feet upstream of where Bridgetown Pike (S. R. 2010) spans Mill Creek (Langhorne, PA Quadrangle N: 9.5 inches; W: 12.9 inches) in Northampton Township, **Bucks County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

E46-728. Encroachment. **Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To remove an existing deteriorated single span concrete encased I-beam bridge carrying Church Road (S. R. 4011) over the north branch of Schoolhouse Run (TSF), and to construct and maintain a precast R. C. box culvert having a 9-foot clear span, 6-foot underclearance and a length of 54.3 feet. The culvert invert will be depressed 1 foot below the streambed elevation. Precast concrete endwall sections, 16.5-foot long, will be constructed at both ends of the culvert and a rock lined energy dissipater will be provided. This site is located approximately 2,500 feet south of the intersection of S. R. 4012 (Wartman Road) and S. R. 4011 (Greenwood Avenue) (Collegetown, PA Quadrangle N: 16.2 inches; W: 15.2 inches) in Upper Providence Township, **Montgomery County**.

Northcentral Region: Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.

E41-360. Water obstruction and encroachment. **Charles L. and Bobbie A. Whelchel**, 250 Cottage Ave., Williamsport, PA 17701. Replace and maintain a trailer in the floodway of Lycoming Creek located on Cottage Avenue about 0.2 mile north of Sweeney Avenue (Cogan Station, PA Quadrangle N: 2.8 inches; W: 5.8 inches) in Old Lycoming Township, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects".

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

E43-247. Encroachment. **Tennessee Gas Pipeline Company**, 2000 Corporate Drive, Suite 200, Wexford, PA 15090. To rehabilitate, operate and maintain a 24-inch diameter (300-1) and a 30-inch diameter (300-2) high pressure natural gas pipelines across the impoundment of Lake Latonka Dam (DEP File No. D43-049) on Cool Spring Creek approximately 3,500 feet upstream of the dam (Jackson Center, PA Quadrangle N: 5.25 inches; W: 7.8 inches) in Cool Spring and Jackson Townships, **Mercer County**.

E61-200. Encroachment. **Tennessee Gas Pipeline Company**, Suite 200, 2000 Corporate Drive, Wexford, PA 15090. To rehabilitate, operate and maintain a 24-inch diameter (300-1) and a 30-inch diameter (300-2) high pressure natural gas pipelines across the following: 1) a 1.38-acre wetland approximately 3,500 feet north of S. R. 0157 at the Village of Hampton Station (President, PA Quadrangle N: 3.9 inches; W: 9.05 inches); 2) Porcupine Creek and associated wetlands approximately 1 mile downstream of S. R. 0157 (President, PA Quadrangle N: 4.6 inches; W: 7.85 inches); 3) an unnamed tributary to Porcupine Creek and associated wetlands approximately

2,500 feet northwest of the Village of Clapp Lease (President, PA Quadrangle N: 5.1 inches; W: 5.05 inches); and 4) Reese Run and associated wetlands approximately 1 mile northeast of the Village of Clapp Lease (President, PA Quadrangle N: 5.85 inches; W: 1.7 inches) in Pinegrove Township, **Venango County**.

Notice of Final Action on Request for Certification under section 401 of the Federal Water Pollution Control Act

Except as otherwise noted below, the Department of Environmental Protection, under § 401(a) of the Federal Clean Water Act, (33 U.S.C.A. § 1341(a)), certifies that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of that act, and that the construction will not violate applicable Federal and State water quality standards, provided the listed conditions are met:

These actions of the Department may be appealable to the Environmental Hearing Board, 101 South Second Street, Suites 3-5, Harrisburg, PA 17101, (717) 787-3483 by any aggrieved person 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). 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 regulations governing practice and procedure before the Board may be obtained from the Board. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Regional Office: Regional Manager, Water Management, Northwest Region, 230 Chestnut Street, Meadville, PA 16335.

Certification Request Initiated By: U. S. Army Corps of Engineers, Buffalo District.

Date of Initial Pa. Bulletin Notice: December 2, 1995.

Location: East Canal Basin of Erie Harbor, Erie County.

Project Description: This certification request is for the discharges associated with the construction of the historic Brig Niagara permanent berthing facilities at the East Canal Basin of Erie Harbor, Erie County. Approximately 30,400 cubic yard of shale sandstone bedrock plus large armor stone units (approximately 250 tons) will be excavated from the East Canal Basin and discharged at the open-lake site in the form of three reef modules (Erie North, PA Quadrangle N: 11.7 inches; W: 9.7 inches). Approximately 45,700 cubic yards of sediments and fill material will be dredged and excavated from the East Canal Basin and will be placed in the Lake Erie Harbor Confined Disposal Facility (CDF) (Erie North, PA Quadrangle N: 4.6 inches; W: 10.2 inches).

Final Action on Request: Certification Granted. This one time certification applies only to discharges associated with the construction of the Brig Niagara's permanent berthing facilities. Furthermore, this certification, as it relates to the use of the CDF, is subject to the following conditions:

1. Prior to the placement of dredged or fill material in the CDF, the Corps shall submit a water quality monitoring plan for the CDF and adjacent areas to the Department for review and approval.

2. Sediments and soil placed in the CDF shall be limited to those removed from those areas of the East Canal Basin, the Grain Elevator Pier and the proposed berthing area that have been sampled by the Corps as identified in the Corps' October 16, 1995 Environmental Assessment and Findings of No Significant Impact/Section 404 Public Notice and Preliminary Evaluation.

3. Placement of the dredged material within the CDF shall be limited to the eastern half of the facility.

4. Any subsequent use of the CDF will require separate 401 Water Quality Certifications from the Department.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of the act of June 22, 1937 (P. L. 1987, No. 394) (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).

Permits Issued and Actions on 401 Certification

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

E54-209. Encroachment. **Schuylkill County Commissioners**, Courthouse, Second Street and Laurel Boulevard, Pottsville, PA 17901. To remove the existing structure (County Bridge No. 78) and to construct and maintain twin 13.5 foot × 5.5 foot prestressed concrete box culverts in the channel of Mahanoy Creek. This project is located along Bridge Street, approximately 60 feet south of the intersection with Water Street (Shenandoah, PA Quadrangle N: 8.0 inches; W: 16.2 inches) in Gilberton Borough, **Schuylkill County**.

E66-089. Encroachment. **Tunkhannock Borough Council**, 126 Warren Street, Tunkhannock, PA 18657. To remove an existing bridge and to construct and maintain a 14-foot by 4-foot, 7 1/2-inch arch culvert in Swale Brook located on McCord Street near the intersection with Harrison Street (Tunkhannock, PA Quadrangle N: 7.2 inches; W: 9.1 inches) in Tunkhannock Borough, **Wyoming County**.

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

E46-735. Encroachment. **Three Tower Bridge Associates**, 100 West Front Street, West Conshohocken, PA 19428. To excavate, construct and maintain a portion of a parking area and a 10 foot riverside walkway within the floodway of the Schuylkill River located approximately 1,400 feet downstream of the Fayette Street Bridge at the terminus of Ash Street (Norristown, PA Quadrangle N: 12.4 inches; W: 7.65 inches) in Conshohocken Borough, **Montgomery County**. This permit was issued under section 105.13(e) "Small Projects".

E46-719. Encroachment. **Mellon Bank NA** as Trustee for the Westinghouse Master Fund, Equitable Real Estate Investment Management, Inc., Mellon Bank Center, Philadelphia, PA 19103. To remove an existing roadway culvert consisting of two 76-inch by 39-inch CMP and one 48-inch CMP and to construct and maintain a 25-foot by

3.5-foot concrete box culvert at the same location in and along Frog Run. Work also includes sediment removal and channel regrading for a total linear impact of 130 feet. This site is located at the western end of King Manor Boulevard, approximately 6,200 feet north from the intersection of Henderson Road and Gulph Road, (Norristown, PA Quadrangle N: 16.4 inches; W: 14.2 inches) in Upper Merion Township, **Montgomery County**.

E09-699. Encroachment. **Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To remove an existing deteriorated three-span reinforced concrete bridge structure which carries Constitution Avenue (S. R. 0152) over the Pleasant Spring Creek, and to construct and maintain a replacement bridge, consisting of a 71.2-foot long, single-span steel I-beam superstructure with a minimum underclearance of 8.7 feet. This project also includes the following:

1. Placement of fill material in the 100-year floodway of the Pleasant Spring Creek which is associated with the proposed reconstruction of bridge approaches and roadway realignment, for 650 feet to the west and 450 feet to the east of the bridge.

2. Placement of stone scour protection at the abutment footing within the streambed.

3. Channel cleaning and sediment removal for approximately 70 feet above and below the bridge.

4. Construction and maintenance of 27-inch and 24-inch R.C.P. stormwater outfall structures located along the western bank of Pleasant Spring Creek.

This site is located near the confluence between Pleasant Spring Creek and the east branch of Perkiomen Creek (Telford, PA Quadrangle N: 21.25 inches; W: 6.3 inches) in Perkasio Borough, **Bucks County**.

E15-403. Encroachment. **Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To reissue Permit No. E15-403 which authorized removal of the existing structure, and to construct and maintain a twin-celled 14-foot × 5-foot R. C. box culvert (culvert bottom depressed 6 inches and a 12-inch concrete weir in east cell) in Crum Creek (HQ,CWF) located at S. R. 1005, Section 30M, Station 12+92 (Valley Forge, PA Quadrangle N: 1.4 inches; W: 12.7 inches) in Willistown Township, **Chester County**.

E15-502. Encroachment. **Spring Run Water Company**, P. O. Box 309, Exton, PA 19341. To install and maintain a 12-inch water main line under the bed and across the channel of Broad Run (EV) to provide interconnection between a proposed pump station, which will be constructed south of the Embreeville State Hospital water storage tanks, to the Spring Run Water Company's Glenside Tank. This site is located approximately 200 feet west of the intersection of Broad Run Road (T-385) and Lieds Road (T-376) and situated (Unionville, PA Quadrangle N: 13.9 inches; W: 14.1 inches) in West Bradford Township, **Chester County**.

E23-327. Encroachment. **Delaware County Commissioners**, Government Center Building, Media, PA 19063. To remove an existing pedestrian bridge located approximately 1,500 feet northwest of the intersection of Baltimore Pike and Paper Mill Road and to construct and maintain two 65-foot span prefabricated truss pedestrian bridges across Crum Creek (WWF) located in Smedley Park at points 1,500 feet and 2,300 feet northwest of the intersection of Baltimore Pike and Paper Mill Road and

to construct and maintain a footpath within the floodplain of Crum Creek impacting a de minimus amount of wetland (Lansdowne, PA Quadrangle N: 7.5 inches; W: 15.4 inches and N: 7.95 inches; W: 15.5 inches respectively) in Nether Providence and Springfield Townships, **Delaware County**.

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

E32-370. Encroachment. **CKE, Inc.**, P. O. Box 211, Lucernes Mines, PA 15754. To place and maintain fill in 0.3 acre of wetlands for the purpose of expanding an existing parking lot to accommodate increased employee parking area caused by the relocation of employees. This project is located on the south side of Route 422, 1 mile west of the intersection of Route 422 and Benjamin Franklin Road (Indiana, PA Quadrangle N: 22.1 inches; W: 11.75 inches) in White Township, **Indiana County**. The permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

E32-372. Encroachment. **Homer City Borough**, 30 East Wiley Street, Homer City, PA 15748. To construct and maintain five light poles, wiring around the walking trail and a modular play structure in the 100-year floodway of Yellow Creek as part of the upgrade to the recreational facilities in the Borough of Floodway Park. The project is located at North Main Street (Indiana, PA Quadrangle N: 8.0 inches; W: 5.0 inches) in Homer City Borough, **Indiana County**.

E56-258. Encroachment. **Department of Transportation**, 1620 North Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a bridge having a normal span of 55 feet and a minimum underclearance of 8.65 across Buffalo Creek. This permit also authorizes the placement and maintenance of fill in 0.1 acre of wetlands and the construction of 0.278 acre of replacement wetlands. The bridge is located on S. R. 0219, Section 006, Segment 0310, Offset 0000 (Murdock, PA Quadrangle N: 5.1 inches; W: 0.15 inch) in Brothers Valley Township, **Somerset County**. The permit also authorizes the construction of a temporary roadway on the downstream side of the existing bridge.

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

E06-456. Encroachment. **Bern Township**, R. R. 9, Box 9276, Reading, PA 19605-9632. To construct and maintain a sanitary sewer system and a storm sewer system and several outfalls in the floodplain of the Schuylkill River and Tulpehocken Creek at a point upstream of the junction of the Schuylkill River and Tulpehocken Creek (Reading, PA Quadrangle N: 20.5 inches; W: 12.1 inches) in Bern Township, **Berks County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

Actions taken on 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 this Commonwealth.

Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

Permits issued on March 6, 1996.

WA 32-782B. Water allocation. **Indiana County Municipal Services Authority, Indiana County, PA**. The right to purchase a maximum of 108,000 gallons per day (gpd) of water (408,780 liters per day of water), as a 30-day average, from the Pennsylvania-American Water Company, Indiana District, Indiana, PA.

SPECIAL NOTICES

Conservation and Natural Resources Advisory Council Meeting Notice

A meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will be held on Monday, April 8, 1996. The meeting will be held at 10 a.m. in the 1st Floor Meeting Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Glenda Miller at (717) 772-9087.

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 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Small Water Systems Regionalization Grant Program

The Department of Environmental Protection's Technical Assistance Center for Small Water Systems is accepting applications under the Small Water Systems Regionalization Grant Program. This grant program provides grants to eligible applicants to assess the feasibility of the formation of a regionalized water system. The proposed regionalized water system must involve at least one small water system (a system serving 3,300 people or fewer).

Eligible applicants include any community water supplier, county, township, borough or authority to which a small water system has issued a letter of intent to develop a water system regionalization study.

Grant awards are limited to 75% of all approved project costs related to the water system regionalization study or \$75,000, whichever is less. The grantee must provide local share in the form of matching funds or in-kind services at a minimum of 25% of the total project costs.

The application period runs from May 1 to July 31, 1996. Based on the availability of funding, applicants that submit a final work plan and budget which are approved by DEP will be given preference to receive a grant based on a first-come, first-served basis.

For more information or to obtain a grant application, contact the Department of Environmental Protection, Bureau of Water Supply and Community Health, Division of Drinking Water Management, Technical Assistance Center for Small Water System, P. O. Box 8467, Harrisburg, PA 17105-8467, or call Donna L. Green at (717) 787-0125.

[Pa.B. Doc. No. 96-491. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Request for Bids

The University of Pittsburgh, Facilities Management Division will receive sealed bids for the Campus Safety Systems Upgrade on our Oakland Campus, Pittsburgh, Allegheny County, PA, on Thursday, April 25, 1996 at 3 p.m. at the Facilities Management Office, 3400 Forbes Avenue, Pittsburgh, PA 15260 for the Commonwealth of Pennsylvania, Department of General Services Project No. 1103-56, .6—Fire Protection (Re-bid). The Bids will be publicly opened in the First Floor Conference Room, 3400 Forbes Avenue, shortly after the bid due time indicated herein.

Plans and specifications have been prepared by Baker & Associates, Airport Office Park, Building 3, 420 Rouser Road, Coraopolis, PA 15108, (412) 269-6200.

Plans and specifications can be obtained by prime contractors from Reprographics Resource, Inc., Building #7, Vista Industrial Park, 700 Vista Park Drive, Pittsburgh, PA 15205, (412) 788-0640, for a nonrefundable deposit of \$250. Checks and money orders shall be made payable to Baker and Associates and payments shall be made on receipt of documents.

A prebid conference and site walk-through have been scheduled for Wednesday, April 10, 1996, at 9 a.m. at the University of Pittsburgh, First Floor Conference Room, 3400 Forbes Avenue, Pittsburgh, PA 15206. Contractors who have secured documents are invited and urged to attend.

The University of Pittsburgh is an affirmative action, equal opportunity employer.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 96-492. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF HEALTH

Hamilton Health Center; Certificate of Authority

On February 21, 1996, Hamilton Health Center filed with the Departments of Health and Insurance, an application for a Certificate of Authority to establish, operate and maintain a health maintenance organization in accordance with the provisions of the Health Maintenance Organization Act (40 P. S. §§ 1551—1567), Department of Health HMO Regulations (28 Pa. Code §§ 9.1—9.97) and the Insurance Department HMO Regulations (31 Pa. Code §§ 301.1—301.204).

The proposed service area of the applicant is Cumberland, Dauphin, Lancaster and York counties.

A copy of the application is available for public inspection by appointment only at the following locations:

Department of Health, Bureau of Health Care Financing, Room 1030 Health and Welfare Bldg., Harrisburg, PA 17120, (717) 787-5193; or Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

Interested parties are invited to submit written comments, suggestions or objections within 30 days of the publication of this notice to A. J. Overton, Department of Health or Carolyn Smith, Insurance Department at the above listed addresses. Persons with a disability may submit comments, suggestions and objections in alternative formats, such as by audio tape, braille or using the Department of Health's TDD; (717) 783-6514. Persons with a disability who require alternative arrangements to inspect the application should contact either A. J. Overton or Carolyn Smith.

PETER J. JANNETTA, M.D.,
Secretary

[Pa.B. Doc. No. 96-493. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Super Bingo Instant Lottery Game

Under the provisions of the State Lottery Law (72 P. S. §§ 3761-1—3761-15) and the provisions of 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 Super Bingo.

2. *Price:* The price of a Pennsylvania Super Bingo instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Super Bingo instant lottery game ticket will contain 11 play areas. The 76 play symbols located in the play areas are: The numbers 1 through 75 and FREE. Each ticket will also contain a "Caller's Card" area. The "Caller's Card" area will consist of 30 squares in a 5 x 6 grid. The play symbols that may be located in each square are: The letter B with a number 1 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75.

4. *Prizes:* The prizes that can be won in this game are \$5, \$25, \$50, \$250, \$500, \$2,500, \$25,000 and \$50,000. The player can win up to 10 times on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 5,010,000 tickets will be printed for the Pennsylvania Super Bingo instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols in a five space horizontal, vertical or diagonal line on "Your Card 1," "Your Card 2," "Your Card 4," "Your Card 6," "Your Card 8," "Your Card 9," "Your Card 10," or "Your Card 11," shall be entitled to a prize of \$5.

(b) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Your Card 1," "Your Card 2," "Your Card 4," "Your Card 6," "Your Card 8," "Your Card 9," "Your Card 10," or "Your Card 11," shall be entitled to a prize of \$25.

(c) Holders of tickets matching the "Caller's Card" play symbols in an X extending through the "FREE" space and

through to each of the four corners on "Your Card 1," "Your Card 4," "Your Card 8," or "Your Card 10," shall be entitled to a prize of \$250.

(d) Holders of tickets matching the "Caller's Card" play symbols in an X extending through the "FREE" space and through to each of the four corners on "Your Card 2," "Your Card 6," "Your Card 9," or "Your Card 11," shall be entitled to a prize of \$2,500.

(e) Holders of tickets matching the "Caller's Card" play symbols in a five space horizontal, vertical or diagonal line on "Your Card 3," or "Your Card 5," shall be entitled to a prize of \$25.

(f) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Your Card 3," or "Your Card 5," shall be entitled to a prize of \$250.

(g) Holders of tickets matching the "Caller's Card" play symbols in an X extending through the "FREE" space and through to each of the four corners on "Your Card 3," or "Your Card 5," shall be entitled to a prize of \$25,000.

(h) Holders of tickets matching the "Caller's Card" play symbols in a five space horizontal, vertical or diagonal line on "Your Card 7," shall be entitled to a prize of \$50.

(i) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Your Card 7," shall be entitled to a prize of \$500.

(j) Holders of tickets matching the "Caller's Card" play symbols in an X extending through the "FREE" space and through to each of the four corners on "Your Card 7," shall be entitled to a prize of \$50,000.

7. *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:

| Win | Approximate Odds | Approximate No. of Winners Per 5,010,000 Tickets |
|-----------------------|------------------|--|
| \$5 | 1:6 | 835,000 |
| \$10 (\$5 x 2) | 1:15 | 334,000 |
| \$15 (\$5 x 3) | 1:75 | 66,800 |
| \$20 (\$5 x 4) | 1:120 | 41,750 |
| \$25 (\$5 x 5) | 1:200 | 25,050 |
| \$25 | 1:400 | 12,525 |
| \$30 (\$5 x 6) | 1:400 | 12,525 |
| \$40 (\$5 x 8) | 1:600 | 8,350 |
| \$50 (\$25 x 2) | 1:1,002 | 5,000 |
| \$50 | 1:2,004 | 2,500 |
| \$100 (\$25 x 4) | 1:1,002 | 5,000 |
| \$150 (\$25 x 6) | 1:1,002 | 5,000 |
| \$200 (\$25 x 8) | 1:2,500 | 2,004 |
| \$250 (\$25 x 10) | 1:2,500 | 2,004 |
| \$250 | 1:5,000 | 1,002 |
| \$500 (\$250 x 2) | 1:6,000 | 835 |
| \$500 | 1:12,525 | 400 |
| \$1,000 (\$250 x 4) | 1:25,050 | 200 |
| \$1,500 (\$250 x 6) | 1:50,100 | 100 |
| \$2,500 | 1:100,200 | 50 |
| \$5,000 (\$2,500 x 2) | 1:200,400 | 25 |
| \$25,000 | 1:1,002,000 | 5 |
| \$50,000 | 1:1,002,000 | 5 |

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Super Bingo instant lottery game tickets.

The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Super Bingo, prize money on winning Pennsylvania Super Bingo 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 Super Bingo 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.

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

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

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 96-494. Filed for public inspection March 29, 1996, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation, Bureau of Motor Vehicles, under the authority of section 3368 of the Vehicle Code (75 Pa.C.S. § 3368), has approved for use, until the next comprehensive list is published, subject to interim amendment, the following electronic speed-timing devices (radar); electronic speed-timing devices (nonradar), which measure elapsed time between measured road surface points by using two sensors; and electronic speed timing devices (nonradar), which calculate average speed between any two points.

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 devices (radar):

(1) Falcon Radar (identified on the radar housing as FALCON). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(2) Falcon Radar (identified on the radar housing as FALCON). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, Kansas 66214.

(3) H.A.W.K. Traffic Safety Radar System (identified on the radar housing as H.A.W.K.). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(4) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, Kansas 66214.

(5) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(6) KR-10SP, Stationary Radar (identified on the radar housing as KR-10SP). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66214.

(7) KR-10SP, Stationary Radar (identified on the radar housing as KR-10SP). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, Kansas 66214.

(8) Model 100, Decatur RA-GUN (identified on the radar housing as RA-GUN). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(9) Genesis-I. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(10) Genesis Handheld (GHS). Manufactured by Decatur Electronics, Inc., 715 Bright Street, Decatur, IL 62522.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing devices (nonradar) which measure elapsed time between measured road surface points by using two sensors:

(1) Electrical Speed Timing System. Manufactured by Richard Hageman, 98 South Penn Dixie Road, Nazareth, PA 18064.

(2) Model TK 100, Excessive Speed Preventor. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(3) Model TK 100, Excessive Speed Preventor. Manufactured by Targetron, Incorporated, 2442 Lycoming Creek Road, Williamsport, PA 17701.

(4) Speed Chek (identified on the housing as Speed Chek model one, Mfd. for: The Union Agency, Unionville, PA 19375). Manufactured by Sterner Lighting Systems, Incorporated, 351 Lewis Avenue, Winsted, Minnesota 55395.

(5) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(6) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Targetron, Incorporated, 2442 Lycoming Creek Road, Williamsport, PA 17701.

Under 75 Pa.C.S. § 3368(c)(1) and § 3368(c)(3), the Department has approved the use of electronic and mechanical stopwatches as speed-timing devices for use by any police officer. The Department has approved these speed-timing devices upon submission of a certificate of stopwatch accuracy indicating that a stopwatch has been successfully tested in accordance with the requirements of 67 Pa. Code, Chapter 105, Mechanical, Electrical and Electronic Speed-Timing Devices. The Department issues an approved speed-timing device certificate for the device, as required by section 105.72. The Department does not publish a listing of these approved speed-timing devices because they are approved individually by serial number and police department. Therefore, if a citation is contested, it is necessary for the police department to show both the certificate of stopwatch accuracy which was issued within 60 days of the citation and an approved speed-timing device certificate issued by the Department of Transportation, Bureau of Motor Vehicles.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing device (nonradar) which calculates average speed between any two points:

(1) VASCAR-plus. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, Virginia 23230.

The Department of Transportation, under 75 Pa.C.S. § 3368(d), has appointed the following stations for calibrating and testing speed-timing devices until the next comprehensive list is published, subject to interim amendment.

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for radar devices which may only be used by members of the State Police:

AEL Industries, Incorporated, 305 Richardson Road, Lansdale, Montgomery County, PA 19446 (Appointed: 07/31/89, Station R6).

E.I.L. Instruments, Incorporated, 701 Rodi Road, Suite 35, Pittsburgh, Allegheny County, PA 15235 (Appointed: 04/06/73, Station R5).

Thomas Associates R. & E., Incorporated, 65 South Mountain Boulevard, Mountain Top, Luzerne County, PA 18707 (Appointed: 08/08/86, Station R7).

Westinghouse Electric Corporation, 1002 McKee Road, Oakdale, Allegheny County, PA 15071 (Appointed: 09/12/85, Station R8).

YIS, Incorporated, 1049 North Hartley Street, York, York County, PA 17404 (Appointed: 01/14/75, Station R3).

The Department has appointed, under 75 Pa.C.S. § 3368(b), the following Official Speedometer Testing Stations:

Auto Electric & Speedometer Service, 7019 Beaver Dam Road, Levittown, Bucks County, PA 19057 (Appointed: 03/14/74, Station S54).

Auto Technology-Vocational Technical School Laboratory, 540 North Harrison Road, Pleasant Gap, Centre County, PA 16823 (Appointed: 02/10/69, Station S22).

Billy, The Speedometer Man, 4800 North Marvine Street, Philadelphia, Philadelphia County, PA 19141 (Appointed: 06/20/73, Station S52).

Bob's Speedometer Service, Incorporated, 1920 West Marshall Street, Norristown, Montgomery County, PA 19403 (Appointed: 11/15/77, Station Briggs-Hagenlocher, 1110 Chestnut Street, Erie, Erie County, PA 16501 (Appointed: 03/25/93, Station S39).

Ciulli Motors, Incorporated, 520 Clairton Boulevard, Pittsburgh, Allegheny County, PA 15236 (Appointed: 09/13/78, Station S13).

James M. Coulston, Incorporated, 2915 Swede Road, Norristown, Montgomery County, PA 19401 (Appointed: 02/11/75, Station S49).

Dave's Service Center, 3617 Nicholas Street, Easton, Northampton County, PA 18045 (Appointed: 10/29/76, Station S33).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 11/25/63, Station S19).

Gabe's Speedometer Service, 2635 West Passyunk Avenue, Philadelphia, Philadelphia County, PA 19145 (Appointed: 08/25/78, Station S85).

Hertz Penske Truck Leasing, Incorporated, 255 Penske Plaza, Reading, Berks County, PA 19603 (Appointed: 07/03/74, Station S76).

Highway Safety Traffic Surveillance, 1395 McLaughlin Run Road, Upper St. Clair, Allegheny County, PA 15241—Also authorized to use mobile units (Appointed: 03/22/83, Station S35).

Hoffman Ford Sales, Incorporated, 5200 Jonestown Road, Harrisburg, Dauphin County, PA 17112 (Appointed: 06/23/81, Station S5).

Humenicks Auto Electric, 646 East Diamond Avenue, Hazleton, Luzerne County, PA 18201 (Appointed: 11/13/67, Station S74).

Izer Garage, 4616 Buchanan Trail East, Zullinger, Franklin County, PA 17272 (Appointed: 02/23/53, Station S106).

Joe's Carburetor & Ignition Service, 868 Providence Road, Scranton, Lackawanna County, PA 18508 (Appointed: 08/16/57, Station S89).

K & M Automotive Electric Service, 1004-24th Street, Beaver Falls, Beaver County, PA 15010 (Appointed: 11/13/67, Station S23).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 01/03/84, Station S7).

Melody Lakes Tire & Auto Care, Incorporated, 1113 North West End Boulevard, Quakerstown, Bucks County, PA 18951 (Appointed: 09/15/71, Station S38).

North Boro Speedometer Service, 547 California Avenue, Pittsburgh, Allegheny County, PA 15202 (Appointed: 11/02/78, Station S69).

C. S. Powl & Son Speedometer Service, Incorporated, 2340 Dairy Road, Lancaster, Lancaster County, PA 17601 (Appointed: 09/07/78, Station S82).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 06/29/62, Station S67).

Reading Mack Distributors, Incorporated, 4226 Pottsville Pike, Reading, Berks County, PA 19605 (Appointed: 05/15/79, Station S48).

Reading Speedometer Service Company, 200-210 Warren Street, Reading, Berks County, PA 19601 (Appointed: 09/22/78, Station S47).

Stewart's Speedometer & Auto Parts, 112 South Third Street, Youngwood, Westmoreland County, PA 15601 (Appointed: 03/20/80, Station S58).

Thoman Auto Electric, Incorporated, 227 Valley Street, Lewistown, Mifflin County, PA 17044 (Appointed: 10/03/78, Station S104).

Thomas Auto Electric, 109 North 9th Street, Stroudsburg, Monroe County, PA 18360 (Appointed: 07/24/89, Station S105).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices which measure elapsed time between measured road surface points by using two sensors:

AEL Industries, Incorporated, 305 Richardson Road, Lansdale, Montgomery County, PA 19446 (Appointed: 10/02/79, Station EL1).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 04/07/93, Station EL3).

E.I.L. Instruments, Incorporated, 701 Rodi Road, Suite 35, Pittsburgh, Allegheny County, PA 15235 (Appointed: 08/28/86, Station EL17).

Highway Safety Traffic Surveillance, 132 Fawn Valley Drive, McMurray, Allegheny County, PA 15317—Also authorized to use mobile units (Appointed: 09/14/82, Station EL11).

Highway Safety Traffic Surveillance, 5131 Springhouse Lane, Bridgeville, Allegheny County, PA 15017—Also authorized to use mobile units (Appointed: 05/03/94, Station EL12).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station E22).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—Also authorized to use mobile units (Appointed: 03/26/85, Station EL14).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 12/01/78, Station EL2).

Targetron, Incorporated, 2442 Lycoming Creek Road, Williamsport, Lycoming Co., PA 17701—Also authorized to use mobile units (Appointed: 05/07/91, Station EL21).

Thomas Associates R. & E. Incorporated, 65 South Mountain Boulevard, Mountain Top, Luzerne County, PA 18707 (Appointed: 11/27/79, Station EL6).

YIS, Incorporated, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 02/20/80, Station EL7).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Stopwatch Testing Stations:

Beerbower Incorporated, 1546 East Pleasant Valley Boulevard, Altoona, Blair County, PA 16602 (Appointed: 09/02/77, Station W14).

George L. Cogley, 1222 Liberty Avenue, Natrona Heights, Allegheny County, PA 15065 (Appointed: 09/27/77, Station W9).

Department of General Services Metrology, Room B-124, Transportation and Safety Building, Harrisburg, Dauphin County, PA 17120 (Appointed: 03/09/79, Station W18).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 10/28/77, Station W29).

Frederick Clock Company, Route 343 and 22, Fredericksburg, Lebanon County, PA 17026 (Appointed: 07/08/88, Station W6).

Greene Jewelers, Route 819, Armbrust, Westmoreland County, PA 15616 (Appointed: 06/23/78, Station W41).

Highway Safety Traffic Surveillance, 132 Fawn Valley Road, McMurray, Allegheny County, PA 15317—Also authorized to use mobile units (Appointed: 10/10/89, Station W61).

Highway Safety Traffic Surveillance, 5131 Springhouse Lane, Bridgeville, Allegheny County, PA 15017—Also authorized to use mobile units (Appointed: 05/03/94, Station W3).

Hostetter's Jewelers, 2 Hill Street, Shrewsbury, York County, PA 17361 (Appointed: 11/18/77, Station W30).

Leitzel's Jewelry, 422 East, Myerstown, Lebanon County, PA 17067 (Appointed: 09/01/87, Station W58).

Leitzel's Jewelry Store, 296 Center Street, Millersburg, Dauphin County, PA 19061 (Appointed: 07/28/77, Station W7).

Marella's Jewelry, 416 North Springfield Road, Clifton Heights, Delaware County, PA 19018 (Appointed: 08/10/79, Station W42).

Molnars Jewelry, 972 Pennsylvania Avenue, Tyrone, Blair County, PA 16686 (Appointed: 06/30/87, Station W57).

Mountz Jewelers, 153 North Hanover Street, Carlisle, Cumberland County, PA 17013 (Appointed: 09/21/87, Station W59).

William H. Nagle, Incorporated, 617 Penn Avenue, West Reading, Berks County, PA 19611 (Appointed: 11/02/77, Station W25).

Precision Watch Repair Company, 1015 Chestnut Street, Room 1010, Philadelphia, Philadelphia County, PA 19107 (Appointed: 09/24/80, Station W54).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 09/15/86, Station W56).

Oscar Roth Jewelers, 659 Memorial Highway, Dallas, Luzerne County, PA 18612 (Appointed: 09/22/78, Station W47).

Servinsky Jewelers, 610 Second Street, Cresson, Cambria County, PA 16630 (Appointed: 05/18/78, Station W40).

C. A. Shire Jeweler, 456 River Avenue, Williamsport, Lycoming County, PA 17701 (Appointed: 07/20/77, Station W4).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 04/22/91, Station W63).

Targetron, Incorporated, 2442 Lycoming Creek Road, Williamsport, Lycoming Co., PA 17701—Also authorized to use mobile units (Appointed: 05/07/91, Station W64).

Wolf's Jewelry, 314 Market Street, Lewisburg, Union County, PA 17837 (Appointed: 10/06/77, Station W22).

YIS, Incorporated, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 08/30/89, Station W60).

Zimmel Jewelers, 1521 Bethlehem Pike, Flourtown, Montgomery County, PA 19031 (Appointed: 04/17/80, Station W35).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices which calculate average speed between any two points:

AEL Industries, Incorporated, 305 Richardson Road, Lansdale, Montgomery County, PA 19446 (Appointed: 08/28/86, Station EM15).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also

authorized to use mobile units (Appointed: 02/11/93, Station EM23).

Highway Safety Traffic Surveillance, 132 Fawn Valley Road, McMurray, Allegheny County, PA 15317—Also authorized to use mobile units (Appointed: 09/14/82, Station EM6).

Highway Safety Traffic Surveillance, 5131 Springhouse Lane, Bridgeville, Allegheny County, PA 15017—Also authorized to use mobile units (Appointed: 05/03/94, Station EM10).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station EM22).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—Also authorized to use mobile units (Appointed: 02/27/85, Station EM13).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 10/02/80, Station EM2).

Targetron, Incorporated, 2442 Lycoming Creek Road, Williamsport, Lycoming County, PA 17701—Also authorized to use mobile units (Appointed: 05/07/91, Station EM21).

Thomas Associates R. & E. Incorporated, 65 South Mountain Boulevard, Mountaintop, Luzerne County, PA 18707 (Appointed: 10/06/80, Station EM3).

YIS, Incorporated, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 12/20/80, Station EM5).

Comments, suggestions, or questions may be directed to Mary Sheriff, Manager, Inspection Station Processing, Bureau of Motor Vehicles, Room G-134, Transportation and Safety Building, Harrisburg, PA 17120 or by telephoning (717) 787-2795.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 96-495. Filed for public inspection March 29, 1996, 9:00 a.m.]

Retention of Engineering Firms

Erie County Reference No. 08430AG1985

The Department of Transportation will retain an engineering firm for final design, environmental mitigation and consultation during construction for S.R. 4034, Section A50, the Erie East Side Access Highway, in the City of Erie, Erie County, PA described as follows:

Work will involve the design of a four lane, controlled access highway in an urban setting comprised of dense residential dwellings interspersed with commercial and light to medium industrial establishments. The proposed highway will parallel an active railroad line and it is anticipated that a portion of this line will require relocation to accommodate the proposed highway. Work will also involve the realignment of a portion of 6th Street (S. R. 4018) at its intersection with East Avenue. There will be extensive involvement with both underground and aerial utilities. Facilitating traffic flow with existing parallel and cross streets and maintaining a comprehen-

sive public involvement effort will be important elements of the design. Environmental mitigation will include replacement of coastal zone wetlands, noise and vibration analysis and remediation of hazardous and residual waste sites. The estimated construction cost is \$3.0 million.

The selected firm will provide engineering services which will include the following tasks: field surveys and property investigations; preliminary roadway and railroad design; traffic counts; a traffic circulation study; preliminary traffic signal design; a type, size and location submission; a subsurface boring, sampling and testing program; utility coordination; noise analyses; vibration study; wetland replacement plans; hazardous waste management; preliminary and final right-of-way plans; meetings and design coordination; agency coordination and public involvement; Public Utility Commission (PUC) and railroad coordination; final roadway and railroad design; preparation of construction drawings; final traffic signal design; foundation and final structure design and drawings; preparation of final plans, specifications and estimates; development of a CPM schedule for construction activities and project management and administration. The selected firm will also be required to perform shop drawing reviews, alternatives review and provide construction consultation.

A Draft Environmental Impact Statement (DEIS) was made available for public review and comment on March 1, 1996. A public hearing is scheduled for April 11, 1996.

This project is a candidate project for "Design Phase Partnering."

Engineering firms that are currently serving, or are being considered for selection as the municipal engineer for the City of Erie will not be considered for this assignment. Also, firms that are under contract, or are being considered, to provide engineering services to a land developer for a site located along the proposed highway as defined and recommended by the Draft Environmental Impact Statement will not be considered for this assignment. Firms are to state in their letter-of-interest that they are not serving in either capacity as a municipal engineer or as a representative of a site developer.

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

- a. Specialized experience and technical competence of firm on other projects of this type and magnitude.
- b. Past record of performance with respect to cost control, quality of work products and ability to meet schedules.
- c. Experience and managerial ability of proposed project manager and other key staff that will be assigned to this project.
- d. Available staffing for this assignment.
- e. Relative size of the firm to the size of the project.

The goal for Disadvantaged Business Enterprise (DBE) participation in this agreement shall be 15% of the total contract price. Additional information concerning DBE participation in this agreement is contained in the General Requirements and Information section after the advertised projects.

Technical questions concerning the requirements for this project should be directed to William G. Petit, P.E.,

District 1-0, at (814) 437-4270 or Michael L. McMullen, P.E., District 1-0, at (814) 437-4331.

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 performing any of the above services are invited to submit letters of interest to: Director, Consultant Selection Committee, Room 1118, Transportation and Safety Building, Harrisburg, PA 17120.

A separate letter of interest and required forms must be submitted for each project for which the applicant wishes to be considered. The letter of interest and required forms must be received within 13 calendar days of this notice. The deadline for receipt of a letter of interest at the above address is 4:30 p.m. of the thirteenth day.

If the project advertisement indicates that the Department will retain an engineering firm, letters of interest will only be accepted from individuals, firms or corporations duly authorized to engage in the practice of engineering. If an individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

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. Proposed DBE firms must be certified at the time of submission of the letter of interest. If the selected firm fails to meet the goal established, it shall be required to demonstrate its good faith efforts to attain the goal. Failure to meet the goal and to demonstrate good faith efforts may result in being barred from Department contracts in the future.

Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms and other engineering firms who have not previously performed work for the Department of Transportation.

Each letter of interest must include in the heading, the firm's Federal Identification Number and the Project Reference Number indicated in the advertisement. The letter of interest must also include the following:

1. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project."
2. Standard Form 254, "Architect-Engineer and Related Services Questionnaire" not more than 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 sub-consultant is an individual, a college professor or a company. Please disregard the statements on Standard Form 255 that indicate a Standard Form 254 is only required if not already on file with the contracting office. The Department does not maintain a file for Standard Form 254 for contracting purposes; therefore, this Form is required for the prime consultant and each subconsultant as stated above.

3. Two copies of the Department's Form D-427 (Rev. 6-89), "Current Workload" for the firm submitting the letter of interest. At least one copy of Form D-427 must remain free and not bound in any way to any other portion of the letter of interest or accompanying documentation. Copies of Form D-427 are available upon request from the above address or by contacting the Department's Consultant Agreement Division at (717) 783-9309.

4. 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.

The Standard Form 255 must be 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. If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be presently certified by the Department of Transportation, and the name of the firm and the work to be performed must be indicated in Item 6. If a Women 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.

The Standard Form 254 must be signed and dated and must be less than 1 year old as of the date of this advertisement. A Standard Form must accompany each letter of interest for the firm submitting the letter of interest, each party to a joint venture, and for each subconsultant shown under Item 6 of the Standard Form 255.

Unless other factors are identified under the individual project reference number, the following factors, listed in their order of importance, will be considered by the Committee during their evaluation of the firms submitting letters of interest:

- a. Specialized experience and technical competence of firm.
- 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. Current workload and capacity of firm to perform the work within the time limitations.
- d. Location of consultant.
- e. Special requirements of the project.
- f. Other factors, if any, specific to the project.

The Department 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 Department currently limits its participation in the consultant's indirect payroll costs (overhead) on design and miscellaneous projects to 130% of the direct payroll cost or the consultant's actual audited overhead rate, whichever is less. The Department currently limits its participation in the consultant's indirect payroll costs (overhead) on construction inspection projects to 85.2% of the direct payroll cost or the consultant's actual audited overhead rate, whichever is less. The Department's limitations will apply to the projects advertised above unless the Department policy is revised prior to the negotiation of an agreement or contract.

The assignment of the above services will be made to one of the firms responding to this notice, but the Committee reserves the right to reject all letters of interest submitted, to cancel the solicitations requested under this notice, and/or to readvertise solicitation for these services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 96-496. Filed for public inspection March 29, 1996, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

DEP v. CBS Inc.; Doc. No. 93-052-CP-C

The parties have agreed to a settlement of the above matter, the major provisions of which include:

- (1) CBS has agreed to pay DEP a \$150,000 civil penalty.
- (2) CBS has agreed to fund environmentally beneficial projects in the amount of \$300,000.

Copies of the full agreement are in the hands of:

Martin H. Sokolow, Jr., Assistant Counsel, DEP, Rachel Carson State Office Building, P. O. Box 8464, 400 Market Street—9th Floor, Harrisburg, PA 17105-8464, (717) 787-8790;

John W. Carroll, Pepper, Hamilton & Scheetz, 200 One Keystone Plaza, North Front and Market Streets, P. O. Box 1181, Harrisburg, PA 17108-1181, (717) 255-1155;

and at the office of the Environmental Hearing Board, and may be reviewed by any interested party on request during normal business hours.

Persons aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, P. O. Box 8457, 2nd Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-8457. Appeals must be filed within 20 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Environmental Hearing Board at (717) 783-3483. TDD users may telephone the Board through AT&T Pennsylvania Relay Service at (800) 654-5984.

The Environmental Hearing Board is empowered to approve this settlement if no appeal is timely filed.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 96-497. Filed for public inspection March 29, 1996, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meeting Notice

The following meeting of the Health Care Cost Containment Council has been scheduled: Thursday, May 2, 1996, Council Meeting 10 a.m. The meeting will be held at the Pennsylvania Chamber of Business and Industry, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101. The meeting is open to the public. Persons who need accommodation due to a disability and want to attend a meeting should contact Cherie Kauffman, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787, at least 24 hours in advance so that arrangements can be made.

ERNEST J. SESSA,
Executive Director

[Pa.B. Doc. No. 96-498. Filed for public inspection March 29, 1996, 9:00 a.m.]

HUMAN RELATIONS COMMISSION

Notice of 1994-1995 Court Cases

The Human Relations Commission hereby announces the compilation of Commonwealth Court and Supreme Court of Pennsylvania cases from 1994-1995 involving the Human Relations Commission.

Copies of this Volume VII book, Volume I (1955-76), Volume II (1977-80), Volume III (1980-85), Volume IV (1986-90), Volume V (1991-92) and Volume VI (1193-94) may be obtained by mailing a request for the publication and accompanied by a check or money order in the amount of \$15 for each book to Laura J. Treaster, Information Director, Human Relations Commission, 101 South Second Street, Suite 300, Harrisburg, PA 17101. The check or money order should be made payable to the "Commonwealth of Pennsylvania."

An additional two-book volume entitled, *Commission-related Federal and State Court Cases* covering 1986-1991 is also available for \$30.

HOMER C. FLOYD,
Executive Director

[Pa.B. Doc. No. 96-499. Filed for public inspection March 29, 1996, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the date indicated, the following final-form regulations for review. The regulations will be considered within 30 days of their receipt at a public meeting of the Commission. 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 a regulation, interested parties should contact the agency promulgating the regulation.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> |
|-----------------|--|-----------------|
| | Pennsylvania Liquor Control Board | 3-20-96 |
| 054-047 | Events/Tournaments/Contests | |
| | JOHN R. MCGINLEY, Jr., <i>Chairperson</i> | |

[Pa.B. Doc. No. 96-500. Filed for public inspection March 29, 1996, 9:00 a.m.]

INSURANCE DEPARTMENT

Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield; Filing No. 297-ACII-CR-3/96 for Approval of a Non-Gatekeeper PPO Contract

Under filing no. 297-ACII-CR-3/96 Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield jointly submitted CONTRACT FORM ACII-CR-3/96, a Non-Gatekeeper, Risk-Assuming preferred provider contract to be marketed as Access Care II to community-related group accounts. The form filing consists of 92 pages.

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

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

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-501. Filed for public inspection March 29, 1996, 9:00 a.m.]

Blue Cross of Western Pennsylvania; Blue Cross Master Group Filing; Filing No. 1-MG-96-WP

Blue Cross of Western Pennsylvania has submitted filing no. 1-MG-96-WP for Insurance Department approval. This filing updates the base rates, trends, FIT and

investment income factors and benefit costs applicable to Blue Cross Master Group agreements. An effective date of July 1, 1996, is requested for this filing.

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

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-502. Filed for public inspection March 29, 1996, 9:00 a.m.]

Blue Cross of Western Pennsylvania; Filing for Prescription Drug Rating Factors for Experience-Rated Accounts; Filing No. 1-FSD-96-WP

Blue Cross of Western Pennsylvania has submitted filing no. 1-FSD-96-WP for Insurance Department approval. This filing establishes new business rates and revises rating factors applicable to experience-rated groups having freestanding prescription drug programs. Approximately 500,000 group subscribers are covered under these programs. An effective date of July 1, 1996, is requested for this filing.

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

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-503. Filed for public inspection March 29, 1996, 9:00 a.m.]

Blue Cross of Western Pennsylvania; Pennsylvania Blue Shield; Group Major Medical Filing; Filing No. 1-GMM-96-WP

Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield have submitted filing no. 1-GMM-96-WP for Insurance Department approval. This filing updates the base rates, trends and distribution table applicable to Major Medical groups. An effective date of July 1, 1996, is requested for this filing.

Copies of the filing are available for public inspection on Monday, Wednesday and Friday, by appointment,

during normal work hours at the Insurance Department's Offices in Harrisburg, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-504. Filed for public inspection March 29, 1996, 9:00 a.m.]

Blue Cross of Western Pennsylvania; Pennsylvania Blue Shield; Group Primary Care Gatekeeper Designated Filing; Filing No. 1-PCGD-96-WP

Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield have submitted filing no. 1-PCGD-96-WP for Insurance Department approval. This filing updates the base rates, trends, retentions and other rating factors applicable to Primary Care Gatekeeper Designated groups. An effective date of July 1, 1996, is requested for this filing.

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

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-505. Filed for public inspection March 29, 1996, 9:00 a.m.]

James F. Burns; Hearing

James F. Burns; Pennsylvania Assigned Risk; Doc. No. AG96-03-002

The hearing is scheduled for May 8, 1996, at 9 a.m. in the Administrative Hearings Office, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General

Rules of Administrative Practice and Procedure) unless specific exemption is given.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-506. Filed for public inspection March 29, 1996, 9:00 a.m.]

Deregulation of Accident and Health Forms

The Insurance Commissioner hereby deregulates certain accident and health forms, as authorized by section 354 of The Insurance Company Law of 1921 (40 P.S. § 477b) as set forth in Annex A.

Statutory Authority

Section 354 of The Insurance Company Law of 1921 (40 P.S. § 447b), requires that all policy forms for accident and health insurance and other lines of business, be submitted to the Insurance Commissioner for prior approval before issuance to any consumer in the Commonwealth. However, that law gives the Commissioner express authority to exempt forms from the prior approval requirement. Accordingly, the Commissioner hereby exempts from filing or prior approval the forms for the lines of business listed in Annex A.

Insurers Subject to the Filing Requirement

Section 354 applies only to insurance companies, associations and exchanges, which terms are defined at section 101 of The Insurance Company Law (40 P.S. § 361). Section 354, and thus this deregulation, do not apply to Health Maintenance Organization policies, Blue Cross/Blue Shield policies or Preferred Provider Organization policies.

Forms Which are not Deregulated

The Commissioner's action extends to certain group lines of business offered by commercial accident and health insurers only. The Commissioner has not deregulated policy forms used in the individual accident and health market. Thus, individual accident and health policies are not deregulated hereunder.

Forms which include both regulated and deregulated lines of business must continue to be submitted for prior approval. Also, forms which have been previously disapproved by the Insurance Department may not be used absent the prior approval of the Commissioner.

Continuing Authority of the Commissioner

Notwithstanding the implementation of this notice, the Commissioner will retain complete authority to request and be provided a copy of any form being issued in this Commonwealth, as provided by section 903 of The Insurance Department Act of 1921 (40 P.S. § 323.1 et seq.).

The Commissioner also will retain complete authority to reassume regulatory authority over the types of forms deregulated hereunder at her discretion.

Notwithstanding the deregulation of the forms specified herein, all such forms must continue to comply with applicable Pennsylvania law including, but not limited to:

Childhood Immunization Act 35 of 1992 (40 P.S. § 3501 et seq.)

Coverage for Mammographic Examination (40 P.S. § 764c)

Women's Preventive Health Services Act (40 P.S. § 1571 et seq.)

Effective Date

This deregulation action is effective as of July 1, 1996.

Questions

Questions concerning this notice may be directed to Gregory Martino, Deputy Insurance Commissioner, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-4192.

ANNEX A

Insurance Department

Deregulated Commercial Lines Accident and Health Forms

The Insurance Commissioner, by this notice, hereby deregulates the following lines of business under the authority of section 354 of The Insurance Company Law of 1921 (40 P.S. § 447b), effective July 1, 1996.

1) Group Long or Short Term Disability policies issued under The Insurance Company Law of 1921, section 621.2 (40 P.S. § 756.2). Regulations: 31 Pa. Code Chapter 89.

2) Blanket Student Accident and Health policies issued under The Insurance Company Law of 1921, section 621.3 (40 P.S. § 756.3). Regulations: 31 Pa. Code Chapter 89.

3) Group Dental and Vision policies issued by commercial insurers under The Insurance Company Law of 1921, section 621.2 (40 P.S. § 756.2). Regulations: 31 Pa. Code Chapter 89.

4) Group Accident and Health policies issued by commercial insurers under The Insurance Company Law of 1921, section 621.2 (40 P.S. § 756.2). Regulations: 31 Pa. Code Chapter 89.

5) Blanket Accident and Health policies issued under The Insurance Company Law of 1921, section 621.3 (40 P.S. § 756.3). Regulations: 31 Pa. Code Chapter 89.

6) Franchise Accident and Health policies issued under The Insurance Company Law of 1921, section 621.4 (40 P.S. § 756.4). Regulations: 31 Pa. Code Chapter 89.

7) Riders, amendments and endorsements used with the above lines of business.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-507. Filed for public inspection March 29, 1996, 9:00 a.m.]

Independence Blue Cross; Group Experience Rated Factors Update; Basic/Personal Choice/Point-of-Service Comprehensive Major Medical Products; Filing No. 4-P-96

By filing no. 4-P-96, Independence Blue Cross requests approval from the Insurance Department of adjustments in its experience-rating factors which increase the credited discount, increase investment income credit, freeze the current excess claim provision for a minimum of 12 months, and increase the administration cost component of retention. The filing requests an effective date of July 1, 1996.

Copies of the filing are available for public inspection on Monday, Wednesday and Friday, by appointment,

during normal work hours at the Insurance Department's Offices in Harrisburg and Philadelphia.

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

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-508. Filed for public inspection March 29, 1996, 9:00 a.m.]

Independence Blue Cross; Pennsylvania Blue Shield; Major Medical Rating and Financial Settlement for Experience-Rated Groups; Filing No. 1-P-96

By filing no. 1-P-96, Independence Blue Cross and Pennsylvania Blue Shield seek Insurance Department approval to modify their methods for rating and financial settlement of retrospectively-rated Major Medical policies in order to align them more closely with those used for basic and comprehensive coverages. An effective date of July 1, 1996, is requested.

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

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-509. Filed for public inspection March 29, 1996, 9:00 a.m.]

Mountain Laurel Assurance Company; Private Passenger Auto

On March 13, 1996, the Insurance Department received from Mountain Laurel Assurance Company a filing for a rate level change for private passenger auto insurance.

The company requests on overall 1.61% increase amounting to \$2.4 million annually, to be effective May 15, 1996.

Unless formal administrative action is taken prior to May 12, 1996, the subject filing may be deemed approved by operation of law.

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

Interested parties are invited to submit written comments, suggestions or objections to Jin Liu, Actuary, Insurance Department, Office of Rate and Policy Regulation,

Bureau of Property and Casualty Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Department

[Pa.B. Doc. No. 96-510. Filed for public inspection March 29, 1996, 9:00 a.m.]

Edna Peterson; Hearing

Appeal of Edna Peterson; Pennsylvania Assigned Risk Plan; Doc. No. P96-03-001

Under section 19 of the Pennsylvania Assigned Risk Plan, that was adopted by the Insurance Commissioner under 75 Pa.C.S. § 1741, notice is hereby given that Edna Peterson has requested a hearing on the determination by the Pennsylvania Assigned Risk Plan Governing Committee of the termination of the above-captioned automobile insurance policy.

The hearing will be held on May 8, 1996, at 1 p.m. in Hearing Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is given.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-511. Filed for public inspection March 29, 1996, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of their automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Lonnie and Susan Alexander; file no. 96-223-30591; General Accident Insurance Company; doc. no. PH96-03-007; April 25, 1996, at 1 p.m.;

Appeal of Robert J. DeMartyn, Jr.; file no. 96-188-00442; United States Fidelity & Guaranty; doc. no. P96-03-020; April 26, 1996, at 2 p.m.;

Appeal of Albert and Marilyn Longstreet; file no. 96-265-30322; West American Insurance Company; doc. no. PH96-03-008; May 2, 1996 at 9 a.m.;

Appeal of Francisco I. Babilonia; file no. 96-265-30033; West American Insurance Company; doc. no. PH96-03-005; May 2, 1996, at 10 a.m.;

Appeal of Sandra and William Porter; file no. 96-264-30369; State Farm Fire & Casualty Insurance Company; doc. no. PH96-03-006; May 15, 1996, at 9 a.m.;

Appeal of Rudolph D. Spoljaric, Jr.; file no. 96-188-00279; Erie Insurance Company; doc. no. P96-03-022; June 4, 1996, at 9 a.m.;

Appeal of Sebastian Jerrytone; file no. 95-121-00749; Erie Insurance Exchange; doc. no. P96-03-021; June 4, 1996, at 10 a.m.;

Appeal of Christine A. Kniffen; file no. 96-265-30380; Erie Insurance Company; doc. no. PH96-03-009; June 6, 1996, at 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-512. Filed for public inspection March 29, 1996, 9:00 a.m.]

Review Procedure Hearings under The Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insureds' policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Bruce Gilbert; file no. 96-267-30390; Boyertown Mutual Insurance Company; doc. no. PH96-03-004; April 23, 1996, at 3 p.m.;

Appeal of Dawn Vandeneeden; file no. 96-280-30397; Prudential Property & Casualty Insurance Company; doc. no. PH96-03-010; April 25, 1996, at 11 a.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accord-

ance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-513. Filed for public inspection March 29, 1996, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Lehigh County, Wine & Spirits Shoppe # 3907, Allentown.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,000 to 3,500 net useable square feet of new or existing retail commercial space in the Western portion of Allentown City in the vicinity of the intersection of U. S. Route 222 and PA Route 29.

Proposals due: May 2, 1996 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Charles D. Mooney, (717) 657-4228

The following Liquor Control Board leases will expire:

Lehigh County, Wine & Spirits Shoppe # 3917, Broadway Shopping Center, 960 Broadway, Bethlehem, PA 18015.

Lease Expiration Date: April 30, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,800 net useable square feet of new or existing retail commercial space within 1/2 mile of the intersection of Broadway and Itaska Streets, Fountain Hill Borough.

Proposals due: May 2, 1996 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Willard J. Rhodes, (717) 657-4228

Luzerne County, Wine & Spirits Shoppe # 4013, South Main Plaza, 379 S. Main Street, Wilkes-Barre, PA 18701.

Lease Expiration Date: April 30, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 5,200 net useable square feet of new or existing retail commercial space within 1/2 mile of the intersection of Academy and South Main Street, City of Wilkes-Barre.

Proposals due: May 2, 1996 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard J. Rhodes, (717) 657-4228

Butler County, Wine & Spirits Shoppe # 1001, 126 W. Cunningham Street, Butler, PA 16001.

Lease Expiration Date: April 30, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in the City of Butler. Loading facilities and some free parking highly desirable.

Proposals due: April 5, 1996 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Tom Deal, (412) 565-5130

Jefferson County, Wine & Spirits Shoppe # 3302, Punxj Plaza, 545 W. Mahoning Street, Punxsutawney, PA 15767.

Lease Expiration Date: January 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,800 net useable square feet of new or existing retail commercial space in a shopping center environment serving the Punxsutawney area.

Proposals due: April 5, 1996 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 96-514. Filed for public inspection March 29, 1996, 9:00 a.m.]

PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY

PHEAA/Treasury Department—Tuition Account Program

The Pennsylvania Higher Education Assistance Agency (PHEAA) and the Treasury Department are seeking a

contractor to help carry out the Statewide marketing and advertising of the Tuition Account Program (TAP). TAP is a prepaid college tuition program that is administered by the Treasury Department. The contractor would also help to generally increase awareness of the need to begin financial planning for higher education when children are at a young age.

The duration of the contract will be 12 months for a dollar amount not to exceed \$900,000. Contractors wishing to respond should contact Donna Orris, PHEAA, at (717) 720-2702 or Cynthia Lynch, Treasury Department, at (717) 787-9667 no later than 3 p.m. Wednesday, April 3, 1996.

MICHAEL H. HERSHOCK,
President and Chief Executive Officer

[Pa.B. Doc. No. 96-515. Filed for public inspection March 29, 1996, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Creation of Office of Prothonotary

The Pennsylvania Public Utility Commission has created the Office of Prothonotary within the Office of the Secretary and has assigned duties associated with that office.

The Commission is responsible for the filing, docketing, safekeeping, control, dissemination, record retention and retrieval of all documents filed with this agency. The Office of the Prothonotary within the Secretary's Office will be responsible for these important duties. Additionally, the Prothonotary will have the discretion to reject filings not properly perfected. Because this represents a change in the historic practice of this agency, persons doing business before this agency are advised that the policy of rejecting filings not properly perfected will become effective within 30 days after publication of this notice.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-516. Filed for public inspection March 29, 1996, 9:00 a.m.]

Implementation of the Telecommunications Act of 1996; Doc. No. M-00960799

Public meeting held
 March 14, 1996

Commissioners Present: John M. Quain, Chairperson—Statement follows; Lisa Crutchfield, Vice Chairperson—Statement follows; John Hanger; David W. Rolka—Statement follows; Robert K. Bloom

Tentative Decision

By the Commission:

A. General Background

On February 8, 1996, President Clinton signed the Telecommunications Act of 1996 (act) into law. The act is a landmark piece of legislation which for the first time in

62 years comprehensively amends the Federal law which governs the provision of telephone service throughout the Nation. The far-reaching nature of the act and its profound effects on the future regulation of telecommunications services at both the State and Federal levels are best summarized in the Congressional Conference Report which states that the purpose of the act is:

... To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes. . . .

As reflected in the stated purpose, the act sets forth a National policy framework to be implemented and coordinated in cooperative fashion by the Federal Communications Commission (FCC) and the various State commissions. The primary themes of this National telecommunications policy framework, as reflected in the stated purpose, are as follows: (1) to move away from a fully regulated telecommunications business environment towards a deregulated fully competitive business environment in all markets and submarkets; (2) to accelerate advanced deployment of the Nation's telecommunications infrastructure and (3) to assure universal service to all Americans through equal access to the Nation's telecommunications infrastructure.

In this regard, the underlying themes of the act are consistent with the Commonwealth's telecommunications policy framework as set forth in Chapter 30 of the Public Utility Code (66 Pa.C.S. §§ 3001 et seq.). Because of the parallel courses established by the act and Chapter 30, it is clear that through its efforts to implement Chapter 30, Pennsylvania has already made substantial progress in the direction now required by the National policy framework, as established in the act.

This is not to say that the act will not have a significant effect on the Commission's future regulation of the telecommunications industry. It certainly will. However, the act will not require a fundamental change in direction or focus, but instead will require the Commission to take a number of steps, both internally and externally, to assure the level of cooperation and coordination between the Commission and the FCC envisioned, and indeed required, by the act in implementing the National policy framework. However, as long as the Commission continues on its course as directed under its State legislative mandate, the required implementation steps will be more in the form of adjustments rather than overhaul or preemption.

Within this scenario, there are many provisions of the act which raise questions as to what steps, if any, the Commission must take to assure that its regulation of the telecommunications industry is fully consistent with Federal law. These provisions of the act can be divided into two categories for purposes of discussion. First, there are preemptive provisions which appear to eliminate or restrict the ability of the Commission to regulate or act in a certain manner. Second, there are enabling provisions of the act which assign new areas of activity to the states and appear to assign new responsibilities to the Commission in participating in the implementation of the National policy framework.

In this regard, although the ultimate goal of the act is to move toward a deregulated, competitive environment, the transition process envisioned by the act is clearly one involving very complex and far reaching regulatory activ-

ity by both the FCC and various State commissions—regulatory activity which appears, at least on its face, to be more complex and resource and time consuming than previously encountered by the Commission in some areas. While ultimately, through development of a fully competitive business environment in all telecommunications markets, the Commission's and FCC's regulatory roles should start to significantly decrease, the period of transition involves a quickly changing but extremely active role by the Commission in participating in the implementation of both State and Federal law.

Through issuance of this Tentative Decision, we will briefly discuss the provisions of the act which we have identified as requiring potential substantive modification or restriction of past or future Commission action or otherwise affect the manner in which the Commission conducts its business in its day-to-day regulation of the telecommunications industry. This decision is issued in tentative form in order to solicit and consider the comments of all interested parties before the Commission takes any final steps in furtherance of implementation of the act. In this regard, the issues discussed are not intended to represent an exhaustive list and we welcome comment on any issue pertaining to any provision of the act which we may have overlooked and which parties believe to require further Commission action or scrutiny.

B. Discussion of Issues

1. Entry

a. Certificates of Public Convenience

The most apparent, immediately significant, express preemption in the act is found in section 253(a) of the act which provides as follows:

(a) IN GENERAL.—No state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

Under Pennsylvania law, the Commission regulates entry through issuance of certificates of public convenience under 66 Pa.C.S. §§ 1101 and 1103. Under section 1103, the Commission may only approve the entry of a carrier "if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public" (public interest finding). Under the broad language of section 253(a) of the act, it appears that the Commission is prohibited from restricting the entry or preventing the continued operations of a telecommunications service provider whether or not the Commission finds the provision of services by the carrier to be in the public interest. Accordingly, it appears that the legal basis underlying the issuance and maintenance of all telecommunications certificates of public convenience, the public interest finding, has been preempted by the act, with one possible exception discussed hereafter.¹ Given the language of section 253(a), it appears that the requirements of 66 Pa.C.S. §§ 1101 and 1103, at least as they pertain

¹ As to one sector of the telecommunications industry, radio carriers, the Commission's entry regulation was previously preempted through enactment of Section 6002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (OBRA), 47 U.S.C. § 332. In this regard, on June 16, 1995 the Commission entered an Order in *In Re: Implementation of the Omnibus Budget Reconciliation Act of 1993*, L-00950104, M-00950695, 25 Pa.B. 3238, which implemented the entry preemption for radio carriers by canceling all radio carrier certificates of public convenience and requiring radio carriers to file a registration form with the Commission on an annual basis. The June 16, 1995 order also initiated an inquiry as to whether PCS/PCN services should be considered jurisdictional and subject to the same procedural requirements as other radio carriers. Although the preemptive language in the OBRA reads much differently than the preemptive language in Section 253(a), the language of Section 253(a) appears on its face to be even broader than that in the OBRA.

to Commission-approved operating authority, have generally been preempted² and that it may no longer be legally permissible for the Commission to adjudicate entry applications or issue or maintain entry certificates of public convenience.³

Presuming entry preemption, Commission implementation of the preemption could take a variety of forms. Certificates could be converted to Registrations Statements with the Commission's "A" file becoming the repository for carrier specific information regarding the nature and scope of a given carrier's intrastate business. Procedures would be developed by the Commission for registering new entrants. Alternatively, the Commission could cancel all existing telecommunications certificates, as it did for radio carriers in implementing the OBRA, and require each existing carrier and new entrant to file a Registration Statement to be developed by the Commission which would provide the Commission and the public with necessary information regarding the conduct of the carrier's business in Pennsylvania. Market specific registration forms could be developed by the Commission which would reflect the varying levels of information required of different types of carriers.⁴ One possible advantage of this alternative would be that it would allow for more centralized record keeping for telecommunications carriers and more easily accessible information for the Commission and the public since the vital information on each carrier would be contained in the Registration Statement itself.

The Commission requests interested parties to comment on these and other possible alternatives and to include in their comments proposals regarding the content of registration information the Commission should require of providers in various markets. Comments should also address whether the Commission should require that registration forms be annually or periodically updated or whether the Commission should impose an ongoing obligation on carriers to file an amended Registration Statement if any of the information in the original Statement changes or becomes inaccurate. Commentators should also address whether it is feasible or desirable for Registration Statements to be filed in electronic format.

Parties should comment on whether removal of entry barriers and potential Commission implementation alternatives would have any tax or accounting repercussions as a result of possible loss in value of the certificate as a book asset or other financial ramifications resulting from potential Commission implementation.⁵ Finally, we also seek comment on any interim procedures parties believe may be appropriate for the Commission to employ pending issuance of its final order in this matter.

b. *Terms and Conditions of Service*

Although the language of section 253(a) is relatively broad, section 253(b) of the act continues to permit states

² 66 Pa.C.S. §§ 3008(e) and 3009(a) clarify the application of Section 1101 within the context of Chapter 30. Accordingly, it appears that these subsections are also subject to preemption under the Act.

³ Although administratively difficult to implement, removal of entry barriers does not constitute a significant substantive modification to Commission regulatory policy since the Commission has now opened up all markets, including the local market, to competitive entry.

⁴ For example, it can be presumed that the Commission would require a lesser volume of information in an interexchange reseller registration form as compared to a local exchange carrier registration form.

⁵ The Commission encountered these sorts of problems when it attempted to implement a Federal entry preemption in the motor carrier area. However, on its face, the telecommunications industry appears to be distinguishable from the motor carrier industry since, because of major differences in traditional forms of regulation of the two industries, telecommunications certificates were never as negotiable as motor carrier certificates and accordingly never accrued an identifiable market value as was associated with motor carrier certificates.

to impose operating terms and conditions on a "competitively neutral" basis. Section 253(b) of the Act provides as follows:

(b) STATE REGULATORY AUTHORITY-Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with Section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers.

While the entry preemption under section 253(a) is broadly expressed, the qualification to application of subsection (a) by subsection (b) appears to be equally broad. Although the State commission may not preclude new carriers from entering into any or all service markets, the State commission may continue to impose requirements pertaining to the terms and conditions under which services are provided to the consuming public as long as the requirements are competitively neutral.

Commission requirements governing the terms and conditions of service provided by telecommunications carriers are contained in Chapters 63 and 64 of the *Pennsylvania Code* and in some cases by Commission orders.⁶ At least initially, it does not appear that there are any existing regulatory provisions (other than entry) which are subject to preemption since, to our knowledge, all existing regulatory provisions are applied equally to all similarly situated carriers providing services in various markets and fall within the broad language of section 253(b). However, we request interested parties to identify and provide explanation as to any regulatory requirements which a party believes are not covered by section 253(b) and are thus subject to Federal preemption.⁷

c. *Equity Transfers and Other Financial Transactions*

In addition to certificates of public convenience issued under 66 Pa.C.S. § 1101, Pennsylvania also requires regulatory approval of a wide variety of financial transactions involving existing utilities under 66 Pa.C.S. § 1102, including equity and asset transfers. Within certain contexts, Commission approval of equity and asset transfers has been viewed as an entry barrier particularly when the transaction involves transfers of control of the utility.⁸ However here, the express language of section 253(a) only precludes State actions which have the effect of precluding a carrier's entry into various service markets. The language of section 253(a) thus does not appear to lend itself easily to an interpretation that the preemptive

⁶ For example, in its *Proposed Rulemaking to Establish a Universal Service Funding Mechanism*, the Commission has proposed regulations to establish a state universal service fund and to require that all jurisdictional telecommunications carriers contribute to the fund on a pro rata, competitively neutral basis. It appears clear that the Commission's authority to require carrier contribution for all carriers, including carriers entering Pennsylvania markets, is preserved by Section 253(b). Another example pertains to the Commission's October 4, 1995 order approving entry applications for MFS Intelenet of Pennsylvania, Inc., TCG Pittsburgh, MCI Metro Access Transmission Services, Inc., and Eastern Telelogic Corporation at A-310203F0002, *et al.* In the Commission's order, the Commission imposed marketing restrictions on the new entrants applicable to the "Joint Package" marketing of their telecommunications services. It appears that the Commission's exercise of authority to impose these restrictions would also be preserved by Section 253(b).

⁷ For instance, the Commission currently requires a filing fee of \$350 to be paid by all telecommunications carriers applying to do business in Pennsylvania. Some parties may argue that maintenance of this fee, in and of itself, constitutes an entry barrier even if the Commission continued to require it of all applicants or registrants on a competitively neutral basis.

⁸ In implementing OBRA, the Commission viewed regulatory approval of transfers of control under Section 1102 to be subject to the OBRA entry preemption. However, as indicated previously, the language of the entry preemption in the OBRA is significantly different than the language of the entry preemption in Section 253(a). The OBRA language in question provides that "no state or local government shall have any authority to regulate the entry or the rates charged by any commercial mobile service or any private mobile service." 47 U.S.C. § 332. In contrast, the language of Section 253(a) is far more limited in scope, providing in relevant part that "no state or local statute or regulation may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

effect extends to required State regulatory approval of utility transfers of control. However, we request interested parties to comment on this issue.

Furthermore, section 103 of the act amends section 34(b) of the Public Utility Holding Act of 1935 (15 U.S.C. §§ 79 *et seq.*), to expressly recognize State commission authority to review proposed asset transfers by natural gas and electric registered public utility commission holding companies or their affiliates to a telecommunications affiliate in the holding company structure designated by the FCC as an exempt telecommunications company. This provision appears to reinforce the Commission's section 1102 authority in the public utility holding company context as gas and electric holding companies move into the telecommunications area. This provision should likewise be included as a subject for comment by interested parties.

d. *Exception for Rural Telephone Companies*

Another important exception to the removal of intrastate entry barriers by section 253(a) is found at section 253(f) of the act. Section 253(f) appears to establish a limited exception to the preemptive provisions of section 253(a) applicable only to rural telephone companies as defined in the act. Section 253(f) provides in relevant part as follows:

(f) RURAL MARKETS-It shall not be a violation of this section for a state to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements of section 214(e)(1) for designation as an eligible telecommunications carrier for that area being permitted to provide such service . . .

Section 214(e)(1), referenced in section 253(f), establishes a designation of eligibility process for universal service funding purposes, as will be discussed in more detail hereafter, which requires carriers to offer basic universal service throughout a given service area and advertise the availability of such service offerings to the consuming public in the service area.⁹ Subsection (e)(1) expressly incorporates by reference the requirements contained in subsections (e)(2) and (e)(3). Section 214(e)(2) provides as follows:

(2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS-A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, a State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional carrier meets the requirements of paragraph (1). Before designating an additional telecommunications carrier for an area served by a rural telephone carrier, the State commission shall find that the designation is in the public interest.

Accordingly, in addition to the obligation to serve commitment required as a prerequisite to universal service support eligibility under subsection (e)(1), subsection

⁹ Section 253(f) is a permissive provision, not a mandatory provision. However, the Act appears to envision a potential situation in which entry to a rural service market would be linked to a readiness to serve throughout the service area.

(e)(2) requires the State commission to find, for rural telephone companies, that designation is in the public interest.

Finally, section 251(f) exempts rural telephone companies¹⁰ from interconnection requirements and procedures, the details of which will be discussed hereafter, until such time as the rural telephone company receives a bona fide request for interconnection, at which time the State commission is apparently directed to conduct an inquiry to determine whether to require the rural telephone company's compliance with general interconnection requirements. In reaching its determination, the State commission is to consider whether the request for interconnection is unduly economically burdensome, technically feasible and consistent with universal service principles—a public interest type standard.¹¹ The Commission, at least with regard to the interconnection determination under section 251(b), is required to act upon the request within 120 days.

While for nonrural telephone companies universal service funding eligibility is considered independently from entry, for rural telephone companies it appears that universal service eligibility and interconnection requirements may be merged into consideration of the appropriateness of entry into a rural telephone company's local service and access service markets as an exception to the entry preemption.¹² Under the provisions of the act cited above, it appears a State commission could consider competitive entry into a rural telephone company's local and access markets at the same time and under the same standard (a public interest finding) as interconnection and universal service funding eligibility for the competitive local exchange carrier seeking to serve the rural area.¹³ Under this scenario, in applying the public interest standard, the Commission would include in its consideration the "economically burdensome," "technically feasible" and universal service criteria expressed in section 251(f)(1)(B).

While there may be a variety of ways to administer the rural telephone company exception to the removal of entry barriers, one of the simplest and most logical ways would be to maintain the existence of rural telephone certificates of public convenience (assuming other § 1101 certificates are cancelled) and to require new entrants into rural telephone company local and access service markets to file an application under section 1103 which would be reviewed by the Commission within the context of the "necessary or proper" or public interest standard as appears to be required by the act. Interconnection and universal service funding eligibility for the new entrant would be evaluated through the same application pro-

¹⁰ Under the definitions section of the Act (Section 3), a rural telephone company is defined as a local exchange carrier which meets one of the four criteria listed in the definition. One of the criteria includes local exchange carriers which provide telephone exchange service, including exchange access, to fewer than 50,000 access lines. This criteria appears to be the same criteria which qualifies a local exchange carrier for a streamlined form of regulation under Pennsylvania law. 66 Pa.C.S. § 3006. Accordingly, it appears that, at a minimum, all of the streamlined regulation carriers under Pennsylvania law qualify as rural telephone companies under the Federal standard.

¹¹ Section 251(f)(2) also provides local exchange carriers with fewer than 2% of the Nation's subscriber lines the opportunity to petition the Commission for suspension or modification of interconnection requirements, once interconnection requirements become effective. The Commission must evaluate such petitions under a public interest standard and must issue its decision within 180 days.

¹² It appears the interrelationship of these various provisions is designed to protect rural telephone companies from "cream skimming" practices by competing carriers. Because of their small size and limited number of commercial customers, potential "cream skimming" practices create greater exposure for rural telephone companies.

¹³ This view is supported by Section 252(g) of the Act which expressly authorizes state commissions to consolidate entry, interconnection and universal service funding eligibility proceedings for rural telephone companies, "to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State Commission in carrying out its responsibilities under this Act."

cess.¹⁴ The public interest standard employed by the Commission in the consolidated proceeding would be consistent with all express considerations required by the act as discussed above.

While the alternative identified above may be a workable procedure, we request interested parties to comment on this procedure and other possible alternatives to implementation of the rural telephone company exception to the removal of entry barriers. We also request the Pennsylvania Telephone Association (PTA) to closely review the definition of a rural telephone company contained in section 3 of the act and identify in its comments the member companies which presently qualify for the rural telephone company exception and indicate the section 3 criteria under which each identified member qualifies.

2. Interconnection

The act assigns far reaching responsibilities to State commissions to assure that interconnection arrangements between incumbent local exchange carriers and entrants seeking to compete with the incumbent are implemented through the development of interconnection parameters and procedures and through participation in the development and approval of interconnection agreements. The State commission's participation involves a combination of different roles including that of mediator, arbitrator and adjudicator. Such a mixed role, however it is implemented, involves a new type of responsibility for our Commission and will present a challenge in the development of appropriate internal and external procedures.

Section 251 of the act provides the general standards governing interconnection arrangements which standards will be further defined by the FCC and may be further defined by State commissions.¹⁵ While the *MFS, Phase II* proceeding was initiated to address unbundling and general interconnection pricing standards for Bell, in *Investigation to Establish Standards and Safeguards for Competitive Safeguards*, M-00940587, the Commission has expressed its intention to determine whether the safeguards developed for Bell should be applied to other local exchange carriers. It appears that such a determination to extend Bell standards to other local exchange carriers may also be appropriate for standards developed in the *MFS, Phase II* proceeding. In this regard, we expect active parties to address the requirements of the act in litigating the *MFS, Phase II* proceeding, for example, the wholesale-retail requirement of section 252(d)(3) and the specific standards for interconnection under section 251(c)(2).

Section 252 of the act sets forth very specific procedures and time restrictions governing State commission participation in development and approval of individual interconnection agreements. It is implementation of these procedures which requires our timely attention.

Under section 252, the act sets forth a schedule of events which commences on the date an entrant makes a request to the incumbent local exchange carrier for interconnection.¹⁶ The schedule is summarized as follows:

¹⁴It appears that the 120-day time limitation of Section 251(b) would not be applicable to a consolidated proceeding. Parties should comment on this issue.

¹⁵The Commission has already commenced the process of establishing and defining interconnection standards in *Application of MFS Intelenet of Pennsylvania, Phase II*, A-310213F0002. From our review, it appears that the general direction in which the Commission is headed in these dockets is fully consistent with the general standards governing interconnection arrangements under Section 251.

¹⁶Section 252 procedures only applies to an entrant's request to interconnect with an incumbent local exchange carrier. However, Section 251(a) of the Act requires all carriers to interconnect with each other. The Act does not address what procedures should be utilized, for example, if a local exchange carrier requires interconnection to an interexchange carrier's network and the parties are unable to reach a voluntary

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| Day 1 | Request for interconnection. |
| Day 1-Day 135 | Parties are required to negotiate and attempt in good faith to reach an agreement without state commission participation. However, if they choose, any party(s) may ask the Commission to "mediate any differences arising in the course of the negotiation." |
| Day 135-160 | Parties may continue to negotiate. However, if they choose, any party(s) may petition the Commission to act as an arbitrator to resolve any open issues (not necessarily all issues). Opposing parties may respond to the petition. |
| Petition date-Day 270 | Section 252(b)(4)(C) requires the Commission to resolve all open issues by no later than 9 months from the original date the entrant made a request to the incumbent local exchange carrier for an interconnection arrangement (Day 1). Accordingly, the Commission will have between 110 days and 135 days to arbitrate the dispute, the exact amount of time depending on when during the day 135 to day 160 window a party petitions the Commission for arbitration. |
| Execution of Agreement | Under Section 252(e), following execution of an interconnection agreement, either through negotiations, mediation, arbitration, or a combination thereof, the agreement must be submitted to the Commission for approval. The Commission must either approve or reject the agreement within 90 days from submission for agreements reached through negotiations, and within 30 days for agreements reached through arbitration. |

Although the chronology of the process is made very clear by the act, the procedural and substantive nature of the process, particularly the arbitration process, is not. Sections 252(c) and (d) require that the Commission's resolution of disputes within the arbitration process be consistent with the act and FCC regulations and that cost-based and reciprocal interconnection and network element charges and an interconnection implementation schedule should be established by the Commission.¹⁷ Once an agreement is executed and filed with the Commission, whether reached through negotiation or arbitration, the Commission is to determine whether to approve or reject the agreement through application of a public interest standard. The Commission must also determine whether arbitrated agreements meet the generic interconnection standards under section 251 and the pricing standards under section 252—negotiated agreements are not required to meet the section 251 standards.

Under section 252(b), the arbitration process before the Commission is compulsory. Under section 252(b)(5), the refusal of any party to continue to negotiate throughout the process or to cooperate with the Commission in its role as arbitrator is considered a failure to negotiate in good faith and apparently viewed as a violation of the act. Furthermore, once issues are arbitrated by the Commission, the parties apparently must prepare and execute an

interconnection agreement. At the state level, it appears that complaint procedures would be best suited for this purpose. Interested parties should comment on this issue.

¹⁷What constitutes cost-based and reciprocal pricing of terminating access is presently being litigated in the Commission's *Universal Service* docket. What constitutes cost-based and nondiscriminatory pricing of basic service elements is currently being litigated in the *MFS, Phase II* docket.

agreement which includes the terms and conditions arbitrated by the Commission. Accordingly, it appears relatively clear that the Commission's role of arbitrator and its determinations within that role are binding on the participating parties.¹⁸ Furthermore, it appears that the Commission's actions in approving or disapproving arbitration determinations should not be considered adjudications and are interlocutory in nature, since the entire interconnection agreement, including arbitrated issues, is subject to subsequent Commission review under section 252(e)(2).

As to participants in the process, there is language throughout section 252 which seems to envision a process involving multiple parties and which could be read to permit interested parties other than the entrant and the incumbent local exchange carrier to participate in the process. If other parties are permitted to participate, it is unclear whether this participation should be permitted in all phases of the negotiations and/or arbitration, or whether such participation should be restricted to the review process before the Commission once the final interconnection agreement is formally submitted.

Section 252(a)(1) requires that all interconnection agreements be approved by the State commission, including those which were executed prior to enactment. It appears clear that this requirement would extend to areas like traditional extended area service (EAS) interconnection agreements between incumbent local exchange carriers, and to wireless interconnection agreements, arguably including those involving market sectors historically not regulated by the Commission, and possibly even to the IntraLATA Toll Originating Responsibility Plan (ITORP) arrangement.

Under section 252(f), Bell may file a statement of generally available terms with the Commission which sets forth Bell's offer of interconnection terms and conditions to entrants within the Commonwealth. The filing and review of this statement appears to be completely separate and apart from development and approval of individual interconnection agreements. Within 60 days of the filing of a terms statement by Bell, the Commission must either complete its review of the statement or allow the statement to go into effect subject to continuing review under subsection (f)(4), unless the filing carrier agrees to an extension of time. In reviewing a terms statement filed by Bell, the Commission must determine whether the statement is consistent with general interconnection standards under section 251 and otherwise consistent with the public interest. Although the act does not expressly identify a terms statement as a tariff filing, in coordinating administration of the act with State law procedures, it appears that tariff filing and approval procedures as provided by 66 Pa.C.S. §§ 1308(a) and (b) may be the best suited procedural platform for carrying out this function. However, if section 1308 procedures are utilized, application of the act would preclude the Commission from suspending the effectiveness of the terms statement but would permit the Commission to allow the terms statement to become effective, subject to litigation of interested party complaints.

Under section 252(h), the Commission must make all interconnection agreements available for public inspection within 10 days following Commission approval of a given agreement. The Commission is permitted to assess a reasonable and nondiscriminatory fee on participants to

¹⁸ Despite the fact that arbitrator determinations appear to be binding on the parties, if the Commission subsequently approves the arbitrated agreement, aggrieved parties are given the opportunity by Section 252(e)(6) to challenge the Commission's action in Federal district court.

interconnection agreement procedures and on Bell for filing of a terms statement to cover the Commission's administrative costs. Of course, at the present time no such fees have been established and it is uncertain what level of fees is justified. In particular, the arbitration and mediation process in particular appear to be a relatively costly process for the Commission to administer, although it appears that the same individuals could serve both roles.

Because of the significant allocation of administrative time and resources required by the various regulatory functions assigned in the interconnection area by the act, it will be beneficial for the Commission to have advance notice, to the extent possible, when pleadings, requests or statements are going to be filed with the agency. While because of the various time deadlines and somewhat unpredictable circumstances which may arise it may be impossible to establish a strict prefiling notice requirement, it appears that some system should be developed to make the Commission aware of what is coming so it can plan accordingly.

Finally, section 251(c)(4) of the act enables State commissions to, "consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such services to a different category of subscribers." This prohibition appears to apply to situations where a carrier attempts to cross customer classes and resell services to a customer class different than the class the reseller purchased the underlying service for. However, in what context this situation may arise and in what manner the Commission should address such a situation is not readily apparent.

As is readily apparent, administration of the Commission's far-reaching role pertaining to regulation of interconnection arrangements as defined by the act will require development and implementation of new regulatory parameters and procedures in areas and for functions previously unknown to this Commission. Although section 252 is very detailed and specific, the practical application of the section at the State level is somewhat complicated and unclear. To assist the Commission in the implementation process, interested parties should provide comment on all issues addressed in the previous discussion and any other issues which may have been overlooked. The Commission requests that the comments be expansive and explanatory so as to allow the Commission to develop a process which is fair to all interests.

3. Collocation Policy Statement

Commission policy statements and guidelines at 52 Pa. Code § 69.311 establish the Commission's current policy governing expanded interconnection for intrastate special access. Section 69.331 provides as follows:

(c) It is the Commission's policy to permit Tier 1 Local Exchange Carriers to offer, on a nondiscriminatory basis, expanded interconnection for intrastate special access, either on a physical or virtual collocation basis. The expanded interconnection for intrastate special access that is offered on virtual collocation basis shall be technically, economically and operationally comparable to the physical collocation that is being offered. The Tier 1 Local Exchange Carriers and interconnectors may negotiate mutually acceptable arrangements on an individual basis, which will be tariffed to facilitate regulatory review and enforcement of nondiscrimination requirements.

This policy has governed intrastate collocation since 1994. However, section 251(c)(6) of the act provides as follows as one of the duties required of incumbent local exchange carriers:

(6) COLLOCATION-The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

While it has been the Commission's policy to allow the local exchange carrier to choose whether it offers collocation on a physical basis, subsection (c)(6) establishes the general rule that collocation must be made available on a physical basis unless it is infeasible in a given situation. The subsection also assigns the Commission the role of ascertaining when physical collocation is infeasible for both intrastate and interstate interconnection and access. While the subsection goes beyond the special access interconnection arrangement addressed in the Commission's policy statement, the subsection appears to be inconsistent with the policy statement and would appear to have preemptive effect on the policy statement. Interested parties should comment on whether 52 Pa. Code § 69.311 has been preempted and whether the policy statement should be rescinded or modified. Parties should also comment on what procedures should be utilized by the Commission to determine whether physical collocation is infeasible in a given instance.

4. Universal Service

Section 254(f) of the act addresses State authority in the universal service area. Section 254(f) provides as follows:

(f) STATE AUTHORITY-A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

Under section 254, the FCC must promulgate regulations which implement the recommendations of a Federal-State Joint Board on Universal Service within 15 months of enactment of the act.

At the State level, the Commission is presently conducting an on-the-record proceeding to address universal service in the *Universal Service Investigation* at I-00940035, and has initiated a rulemaking proceeding at L-00950105 designed to establish a State universal funding mechanism. At least at the present time, the Commission's actions and stated course in its universal service dockets appear to be completely consistent with the direction of the Federal government as set forth in the act. However, some issues deserve discussion at this time.

Under the Commission's present rulemaking proposal, the Commission would create a State universal service

fund to replace historic subsidies to high cost areas of the Commonwealth as those subsidies are identified in the litigation docket. The fund, as presently proposed, would be contributed to by all jurisdictional telecommunications carriers on a pro rata basis based on a given company's share of jurisdictional Statewide intrastate operating revenue. The fund would reimburse any carrier, incumbent or new entrant, which served a given customer in a high cost area in an amount equal to the historic subsidy as calculated by the Commission. Although the Commission's proposal only requires contribution by jurisdictional carriers, the Commission has previously requested comment as to whether nonjurisdictional telecommunications carriers should also contribute.

In its rulemaking comments to the Commission submitted in January of this year, the Independent Regulatory Review Commission questioned the Commission's legal authority under State law to establish a State universal service fund. While the Commission continues to strongly believe that it has authority under the Public Utility Code to establish a fund and proceed with its rulemaking, section 254(f) expressly recognizes the authority and the expectation that states, including the Commission on behalf of the Commonwealth, will promulgate regulations to preserve and advance universal service in the manner consistent with that proposed by the Commission. In this regard, section 254(f) appears to expressly enable State commissions, including the Commission, to promulgate regulations to establish a universal service funding mechanism, even if it were determined that the Commission lacks authority under State law on a stand alone basis. Interested parties should comment on this issue.

Under its present rulemaking proposal, the Commission only requires contribution to universal service by jurisdictional telecommunications carriers. However, section 254(f) mandates that *every* telecommunications carrier, as defined in section 3(a)(49) of the act, contribute to the State universal service funding mechanism. Given this statutory language, it appears clear that the nonjurisdictional telecommunications carriers, like cellular companies and possibly even cable companies, operating in Pennsylvania would be required by Federal law to contribute to the Commonwealth's universal service funding mechanism. Interested parties should comment on whether they agree with this analysis.

Under the Commission's present rulemaking proposal, carriers automatically qualify to receive universal service funding if they serve customers in a high cost service area. No universal service certification or designation is required as a prerequisite.

Under section 214 of the act, carriers must receive designation from the State commission in order to be eligible to receive Federal universal service support¹⁹ in a given service area—which service areas are also to be established by the State commission.²⁰ In order to qualify for State commission designation, a carrier must offer basic universal service to all parts of the universal service area for which it seeks designation and must advertise in the media the availability of charges for basic universal

¹⁹In interpreting the Act, it is important to distinguish between the issue of which carriers are required to contribute to the universal service funding mechanism and which carriers are eligible for universal service support. While, under Section 254(f) every intrastate telecommunications carrier must contribute to the universal service funding mechanism, only carriers designated under Section 214(e) are eligible for universal service support.

²⁰In the on-the-record component of the Commission's *Universal Service Investigation*, the Commission is presently addressing the establishment of service areas for universal service support purposes.

service.²¹ Procedures are also established by section 214(e)(4) of the act for the State commission to permit a carrier to relinquish its designation in an area upon approval of the State commission upon a finding that all customers in the area will be able to receive basic universal service from another designated carrier in the area.

Clearly there is a difference in approach between the Commission's present rulemaking proposal and the approach adopted by the act. Under the Commission's proposal, any carrier which serves any customer²² in a high cost service area would be automatically eligible for support from the State fund. Under the act, carriers will not be eligible for designation for support until the carrier commits to making service available to all customers in a given service territory. Although, the requirements and procedures of section 214 are expressly restricted to the Federal universal funding mechanism, interested parties should provide comments as to whether the Commission should or is required to take the Federal approach in proceeding with its universal service rulemaking. Interested parties should also include in their comments recommendations pertaining to the development of procedures for the Commission to administer designation for universal service support whether or not such designation is relevant to both the State and Federal universal service funding mechanism or just the Federal mechanism.²³

Section 254(h) makes special provision for health care providers and educational providers and libraries within the universal service context. As to health care providers, section 254(h)(1)(A) requires carriers to make necessary services and instruction pertaining to the services available to rural health care providers at rates reasonably comparable to rates charged urban health care providers. As to educational providers and libraries, section 254(h)(1)(B) of the act requires that carriers make universal services, as will be defined by the FCC under section 254(c)(3) of the act or as may be defined by the State commission, available to all educational providers and libraries at a discounted rate. As to intrastate services, the act assigns responsibility for determining the amount of the discount to State commissions. Carriers which provide universal services to either health care providers or educational providers and libraries are eligible for support or reimbursement through universal service funding mechanisms.

Interested parties should provide comment as to what parameters and procedures should be utilized to fulfill the Commission's responsibilities to assure required universal service protections for rural health care providers and all educational providers and libraries. Parties should include recommendations in their comments as to what extent the Commission can address these issues in its pending Universal Service dockets.

Finally, section 254(k) of the act provides as follows:

(k) **SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.**-A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with

²¹ The difference in the standard applicable to state commission review of universal service designation for a rural telephone company service area has been previously discussed in the discussion pertaining to removal of entry barriers.

²² The issue as to whether or to what extent to include commercial customers in a high cost area in the universal service funding mechanism is an issue which has not been determined and is subject to inquiry in the proposed rulemaking docket.

²³ Pursuant to Section 214(e)(3), of the Act the Commission is assigned the responsibility to determine which carrier or carriers should be designated to serve unserved areas. Interested parties should also comment on what standards and procedures should be utilized by the Commission in making this determination.

respect to interstate services, and the states, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

Clearly, our Commission has already commenced implementation of this subsection in its *Competitive Safeguards* and *Universal Service* dockets and it appears the Commission's course is completely consistent with the subsection's requirements. Interested parties should include discussion of this issue in their respective comments.

6. Prohibition Against Interexchange Service Rate De-Averaging

Section 254(g) of the Act generally prohibits providers of interexchange service from de-averaging interexchange toll rates between urban and rural areas. Subsection (g) provides as follows in relevant part:

(g) INTEREXCHANGE AND INTERSTATE SERVICES-Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider in urban areas . . .

While it is clear subsection (g) assigns responsibility to the FCC to implement and enforce the de-averaging prohibition, application of the subsection will undoubtedly have significant effect on intrastate toll rates. For example, presently some interexchange carriers charge different toll rates in different local exchange carrier service territories and, in fact, higher rates may be economically justified (although apparently now prohibited by the act) in areas where access rates are higher. See, generally, *AT&T Petition for Approval of Revised Optional Calling Plans*, L-00920069, et al., (January 24, 1995), *Pennsylvania Public Utility Commission v. AT&T Communications of Pennsylvania, Inc.*, M-00940503F0095 (March 31, 1995). Furthermore, it is unclear as to what extent the subsection applies to promotional and/or contractual service offerings. Accordingly, interested parties should provide comment as to what type of activity is permitted and prohibited by subsection (g) within the intrastate context.

7. In-Region InterLATA Services For Bell

Under section 271(c) of the act, a Bell affiliate²⁴ is permitted to provide in-region interLATA services if either a facilities-based competitor is providing local service through a qualifying interconnection arrangement in Bell's service territory or if during a certain time frame specified by section 271(c)(1)(B) Bell has not received a request for access and interconnection.²⁵ In order for an interconnection arrangement to qualify, the arrangement must meet a competitive checklist as established by section 271(c)(2)(B). While the checklist is relatively detailed and specific, its application will undoubtedly be subject to varying interpretations.

The review process governing a Bell affiliate's entry into the in-region interLATA market is governed by section 271(d). Section 271(d) provides as follows in relevant part:

²⁴ Pursuant to Section 272 of the Act, Bell is required to structurally separate its in-region interLATA activities, once approved, through operation of an affiliate.

²⁵ It is so unlikely that Bell will not receive a request for access and interconnection during the time frame prescribed by Section 271(c)(1)(B) that the possibility is not worth further discussion.

(d) ADMINISTRATIVE PROVISIONS-

(1) APPLICATION TO COMMISSION-On and after the date of enactment of the Telecommunications Act of 1996, a Bell operating company or its affiliate may apply to the Commission for authorization to provide interLATA services originating in any in-region State. The application shall identify each State for which the authorization is sought.

(2) CONSULTATION-

* * * * *

(B) CONSULTATION WITH STATE COMMISSION-Before making any determination under this subsection, the Commission shall consult with the state commission that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

(3) DETERMINATION-Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination approving or denying the authorization requested in the application for each state"

Review of any future Bell affiliate in-region interLATA application before the FCC, given the expected highly contentious nature of any such application, is placed on an extremely fast track and will involve statutorily required consultation between the Commission and the FCC—an unprecedented process—to address whether the competitive checklist has been met. Accordingly, interested parties should provide comment identifying how it is envisioned this process will operate and should address what factors should be considered by the Commission in reviewing whether the Bell affiliate has complied with the competitive checklist. Commentators should specifically address what input, if any, should be received by the Commission from interested parties during the application process in developing the Commission's positions for purposes of consultation with the FCC. If outside input is warranted, commentators should address how the opportunity for input should be procedurally structured.

8. InterLATA EAS for Bell and GTE

Section 601(a) of the act supersedes the AT&T and GTE consent decrees which had required Bell and GTE to seek waivers from the Department of Justice (DOJ) before carrying any traffic across a LATA boundary. At the State level, the DOJ waiver process became relevant in situations involving interLATA EAS where the Commission ordered that a given interLATA route be converted from a toll route to a local route. Under this scenario, if Bell or GTE was the originating carrier (and in some cases the terminating carrier) for an interLATA EAS route, Bell or GTE was required to seek and receive a consent decree waiver prior to conversion of the route to local. In this regard, Commission regulations at 52 Pa. Code § 63.75(6) provide as follows:

(6) In cases where the local exchange carrier is prohibited from providing service between the calling exchange and the receiving exchange by Federal antitrust consent decree restrictions and a waiver is necessary to implement EAS, the local exchange carrier shall apply for a waiver of Federal antitrust restrictions to allow it to implement EAS. The Commission will file a statement affirmatively supporting the waiver application.

The consent decree restrictions pertaining to interLATA EAS have been superseded by the act and Bell and GTE are no longer subject to Federal restrictions historically imposed by consent decree in carrying local traffic across

a LATA boundary for interLATA EAS purposes. At the time of enactment, Bell had at least two interLATA EAS waiver requests pending before the DOJ which it appears should be withdrawn or transferred. In any case, interested parties should comment on the effect of the Act on interLATA EAS situations involving Bell or GTE and whether the Commission's regulations at section 63.75(b) should be modified.

9. Bell IntraLATA Toll Imputation Requirement

Under section 271(e)(2)(A) of the act, once granted authorization to provide in-region interLATA services, the Bell affiliate may not start to offer and provide in-region interLATA services until it makes intraLATA presubscription available throughout its service territory in a given state. Given this provision, it is extremely likely that the Bell affiliate will start to provide in-region interLATA services coincidental with the availability of intraLATA presubscription (most likely to the day).

Section 272(e) of the act defines the relationship between Bell and its interLATA affiliate. Under section 272(e)(3), Bell:

(3) shall charge the affiliate described in subsection (a), or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service

Therefore, it appears that once the Bell affiliate enters the in-region interLATA market, coincident with the availability of intraLATA presubscription in Bell's service territory, Bell is subject to a mandatory imputation requirement for the provision of its services which utilizes its access services, apparently including Bell's intraLATA toll services.

In Pennsylvania, on December 14, 1995, the Commission entered an Opinion and Order in *Investigation Into IntraLATA Interconnection Arrangements*, I-00940034, which set forth the terms and conditions under which intraLATA presubscription would be made available in the Commonwealth. As to Bell, the Commission required that intraLATA presubscription be made available by no later than June 30, 1997. Furthermore, the Commission refrained from imposing an imputation requirement on intraLATA services provided once presubscription is available, on either local exchange carriers, including Bell, or interexchange carriers. Instead, the Commission determined that, at least initially, the marketplace should be permitted to govern the pricing of intraLATA services and that the Commission would monitor the marketplace on an ongoing basis to assure that no carrier was engaging in anticompetitive behavior. The monitoring of the intraLATA market would commence upon the availability of intraLATA presubscription in a given area.

It appears that the effect of section 272(e)(3) is to require that Bell be made subject to an imputation requirement upon the availability of intraLATA presubscription in its service territory. Accordingly, interested parties should comment on whether the Commission's December 14, 1995 Order at I-00940034 requires revision given the application of the act.

10. Audits

Section 272(d) of the act establishes an audit requirement for Bell and its interLATA service affiliates. Section 272(d) provides as follows:

(d) BIENNIAL AUDIT.-

(1) GENERAL REQUIREMENT.-A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

(2) RESULTS SUBMITTED TO COMMISSION: STATE COMMISSIONS.-The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State Commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

Interested parties should comment on what the Commission's role, if any, should be in the joint audit process for Bell. Commentators who advocate an active role for the Commission should provide further comment regarding the intended scope of any such audit. Parties should also address the audit comment process established by section 272(d)(2) and discuss what procedures should be utilized by the Commission to evaluate final audit report comments and what alternatives are available to the Commission to address these comments.

Furthermore, section 103 of the act amends section 34(d) of the Public Utility Holding Company Act of 1935 (15 U.S.C.A. §§ 79 *et seq.*), so as to establish independent audit authority for State commissions to audit telecommunications affiliates of public utility holding companies which are categorized as exempt telecommunications companies by the FCC. Although the subsection goes on to impose auditor selection requirements and time deadlines for such a State audit, the language of the subsection is permissive, not mandatory, and does not require the Commission to conduct such audits unless they are found by the Commission to be necessary. Interested parties should provide comment as to whether such audits, if found to be necessary, can be integrated into the Commission's normal audit functions.

11. Notice of FCC Filings

In addition to the wide variety of filings which are required by the act to be filed with state commissions, the act also contains many filing requirements to be submitted to the FCC. Although in most instances the act does not expressly require documents filed by Pennsylvania carriers at the FCC to be submitted to the Commission, it appears important that Federal documents be shared with the Commission in order to assure the coordinated Federal/State activity envisioned by the act. At a bare minimum, it appears that the Commission should receive notice of all Federal filings by Pennsylvania carriers, particularly those which ultimately will require some action by the Commission or which trigger a deadline which requires Commission involvement. Interested parties should submit comments regarding this proposal.

12. Public Forum

In addition to receipt and evaluation of the written comments of interested parties, it appears valuable to create a setting for an open discussion of these important issues. Accordingly, the Commission will hold a public forum to address the issues raised by this Order and any other issues relevant to interpretation, application and administration of the act. The public forum will be held on April 3, 1996, at 10 a.m. in Hearing Room No. 1. All

interested parties are welcome to attend. Parties who wish to actively participate in the public forum should contact Otto F. Hofmann, Deputy Executive Director at (717) 783-5375 by no later than 5 days following publication of this Order in the *Pennsylvania Bulletin*. In both written comments submitted under this Order and any oral discussions at the public forum, parties should be careful not to discuss the substantive merits of any issue pending before the Commission in any contested on-the-record proceeding.

13. Conclusion

Overall, issuance of this Order represents the Commission's initial attempt to commence the arduous task of implementation of the Federal Telecommunications Act of 1996. Through this Order, the Commission establishes a 30-day comment period following publication for interested parties to comment on the wide variety of issues pertaining to Commission implementation of the Federal Act. The Commission is hopeful that interested parties give requested comments the time and effort these issues deserve so that the Commission can move forward in a timely manner to implement the act and, in doing so, bring its current procedures into compliance with Federal law, develop procedures and plan the allocation of resources to accomplish its newly created responsibilities; *Therefore,*

It Is Ordered That:

1. The Commission hereby solicits comment from all interested parties on all of the issues discussed in the body of this Order and any other issues pertaining to Commission implementation of The Telecommunications Act of 1996.

2. The Secretary is hereby directed to serve this Order on the Office of Consumer Advocate, the Office of Small Business Advocate, each jurisdictional telecommunications carrier, the Pennsylvania Electric Association, the Pennsylvania Gas Association, the A-310213F0002 service list and the Commission's Chapter 30 service list.

3. The Secretary shall duly certify this Order and deposit it with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Executive Director's Office shall schedule a public forum on for April 3, 1996, at 10 a.m. in Hearing Room No. 1 for interested parties to openly discuss all issues raised by this Order and any other issues relevant to interpretation, application or administration of The Telecommunications Act of 1996. Parties wishing to make an oral presentation at the public forum shall notify Otto Hofmann, Deputy Executive Director at (717) 783-8156 by no later than 5 days following publication of this Order in the *Pennsylvania Bulletin*.

5. Within 30 days of publication, an original and 10 copies of any comments concerning the subject matter addressed in the Order shall be submitted to the Pennsylvania Public Utility Commission at the above-captioned docket. The contact person is Alan Kohler, Assistant Counsel, (717) 772-8840. In addition to the original and 10 copies filed with the Commission's Secretary, each set of comments shall be served on each Commissioner's office.

JOHN G. ALFORD,
Secretary

Statement of Chairperson John M. Quain

On February 8, 1996, President Clinton signed the Telecommunications Act of 1996 (Act) into law. The Act

represents a landmark piece of legislation, which for the first time in 62 years, comprehensively amends the federal law which governs the provision of telephone service throughout the nation.

The Law Bureau introduction states that the "far reaching nature of the Act and its profound effects on the future regulation of telecommunications services at both the State and Federal levels are best summarized in the Congressional Conference Report which states that the purpose of the Act is:

...To provide for pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition and for other purposes. . .

In my view Congress has given the Federal Communications Commission and the individual State Commissions a distinct mandate for implementation of this legislation.

The Law Bureau Tentative Decision before us today initiates the arduous task to implement the legislation in the Commonwealth of Pennsylvania. I challenge all interested parties to give diligent thought to their responses to the procedural considerations set out in the proposed Tentative Decision. Unlike past regulatory schemes, both regulators and industry need to work together to meet the ultimate goal of economic growth through competition.

I look forward to working with all interested parties on this monumental task. We have the challenge so we must move forward expeditiously but with some level of caution. Pennsylvania and consumers can benefit from this process.

Statement of Vice Chairperson Lisa Crutchfield

The recently enacted federal Telecommunications Act of 1996 (Act) sets the stage for a new era of competition in an industry that accounts for over \$200 billion in annual sales.¹ The Act, which amended the Communications Act of 1934, provides for a "pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans. . . ."² Long distance carriers, cable companies and other companies, including public utilities such as electric companies are no longer prevented from offering local telephone services. Local telephone companies are permitted to offer long distance telephone service as well as deliver video to homes and businesses.

The Act removes existing entry barriers to the local telephone market by preempting state or local statutes and regulations that excludes entities other than the traditional local exchange carrier (LEC) monopoly from providing telecommunications services. All carriers are subject to a number of access requirements which are intended to provide for open and fair competition. Additionally, in an effort to address the growing gap between the information "haves" and "have nots," the Act contemplates the development of an evolving definition for universal service as well as the establishment of a universal service fund.

A basic thrust of the Act is regulatory parity whereby all providers of telecommunications services are regulated in the same manner. The Act also provides for technological neutrality thereby preventing regulation from determining the appropriate technology (i.e. telephone, cable, satellite or wireless) that is used to provide services to consumers.

I envision a broadband, multimedia electronic network through which digitally coded information (i.e. voice, video, text, data, graphic or what have you) which runs to and from any point in the network to any other point in the network. This advance technology will serve important national goals, including (1) expansion of social services such as access to government information, improved health care, broader educational resources and (2) an increase in commercial activity including advanced manufacturing, more extensive electronic commerce and wider telecommuting.

The Act affects either directly or indirectly most areas of intrastate telecommunications services. There will be a significant impact on the Commission's regulatory activity. For example, the Act prohibits the Commission from restricting entry to the intrastate market. We currently regulate the entry to the intrastate market through the issuance of a certificate of public convenience pursuant to 66 Pa.C.S. §§ 1101 and 1103. This type of regulation is no longer permitted under the Act. There are other provisions of the Act that assign new areas of responsibility to the Commission thereby impacting our regulatory activity. These areas of responsibility include matters regarding interconnection, virtual collocation, Bell Operating Companies (BOC) requests for in-region interLATA services, and universal service. For example, the Act requires the Commission to approve negotiated interconnection agreements. Additionally, the Commission, pursuant to the Act, is permitted to mediate differences and to arbitrate unresolved disputes that arise during the course of interconnection negotiations.

This Commission deems it appropriate to take internal and external measures in order to implement the Act. The Executive Director's Office will serve as the chair of an internal implementation task force. The Law Bureau has prepared for our consideration today an implementation Order, in tentative form, to be issued for comment. Additionally, a public forum is scheduled to be held in April. This forum will provide an opportunity for dialogue with stakeholders and other interested parties. I believe these activities will provide for the orderly implementation of the Act. I commend the Law Bureau for its actions to date in preparing this Commission for the implementation of the Act. I, however, offer the following additional areas for consideration of comments by the parties in response to the Tentative Order.

1. Repeal or Amend Provisions of the Public Utility Code and Pennsylvania Code

Existing laws under the Public Utility Code are subject to preemption under the Act. I request interested parties to identify and provide explanations as to any statutory requirements under the Public Utility Code which it believes is subject to Federal preemption and requires the Commission to seek the General Assembly's action to repeal or amend the particular law. Additionally, the Act preempts Commission regulations that are inconsistent with the Act as well as the Federal Communications Commission (FCC) regulations. Accordingly, I request interested parties to identify Commission regulations that should be repealed or amended.

¹Source: Economic Report of the President to Congress (February 14, 1996).

²H.R. Conf. Rep. No. 104-458, 104 Cong., 2d Sess. (1996).

2. Interconnection

Section 251 of the Act includes general standards governing interconnection; however, it permits the Commission to enforce its regulations and policies governing access and interconnection obligations so long as the requirements are not inconsistent or prevent the implementation of the Act. The Commission's *Application of MFS Intelenet of Pennsylvania, Phase II*, at Docket No. A-310213F002, proceeding includes the unbundling and general interconnection pricing standards for The Bell Atlantic-Pennsylvania (Bell). The Tentative Order requires the parties, in this proceeding, to address the Act. Since this proceeding only examines unbundling and interconnection pricing standards for Bell as the incumbent LEC, I would like interested parties to comment on whether the Commission should institute a limited generic investigation or expand the MFS Phase II proceeding to include all other incumbent LECs.

Section 251(c)(6) requires incumbent LECs to provide for physical collocation unless it demonstrates to the Commission that physical collocation is not practical for technical reasons or there are space limitations. I encourage interested parties to comment on technical and space limitation standards the Commission should utilize in determining whether physical collocation is feasible and practical.

Section 251(f) of the Act exempts a rural telephone company from meeting the interconnection requirements of Section 251(c) until the company receives a bona fide request for interconnection service. The Act requires the Commission to make a determination as to whether the request is unduly economically burdensome, technically feasible and consistent with the universal service requirements. I request interested parties to identify standards the Commission should consider in making its determination as to the economic and technical feasibility of such interconnection request.

3. Universal Service

Section 254(f) permits a state to advance and preserve universal service. All intrastate telecommunications providers are required to contribute to universal service within a state as determined by the state. The FCC and the state are responsible for ensuring universal service is available at just, reasonable and affordable rates. The Tentative Order points out that the Independent Regulatory Review Commission, in comments to the Commission's universal service rulemaking, questioned our legal authority under state law to establish a state universal service fund. The Order specifically states that "[w]hile the Commission continues to strongly believe that it has authority under the Public Utility Code to establish a fund and proceed with its rulemaking, Section 254(f) expressly recognizes the authority and the expectation that states, including the Commission on behalf of the Commonwealth, will promulgate regulations to preserve and advance universal service in the manner consistent with that proposed by the Commission."

It is interesting to note that Congress specifically delineated the state commission as the responsible entity for carrying out certain provisions of the Act. As it relates to universal service, the Act specifically refers to the state rather than the state commission. We may require legislative action delegating to the Commission the state's responsibility relative to universal service. I request interested parties to comment on whether the Commission has the authority to oversee and implement the

universal service provisions of the Act which are specifically reserved to the state.

4. Exempt Telecommunications Companies

Section 103 of the Act amends the Public Utility Holding Company Act of 1935 (PUCHA) to permit registered electric and gas holding companies to establish affiliates to provide telecommunications services. The Tentative Order provides for service of the Order on the Pennsylvania Electric Association and the Pennsylvania Gas Association. In order to facilitate the comment process, I recommend that the Tentative Order be served on all jurisdictional electric and gas companies.

5. Audits

Section 272 of the Act requires Bell and its interLATA service affiliates to obtain a biennial joint Federal/State audit. The Act also requires the state commission to implement procedures to protect proprietary information submitted during the course of the audit. The Commission currently has procedures governing the protection of proprietary information. I request interested parties to comment on the adequacy of the Commission's existing procedures.

Statement of Commissioner David W. Rolka

The Federal law specifically prescribes procedures for state certification of eligible telecommunications carriers (ETC) for purposes of qualifying for universal service funding. For areas served by a rural telephone company, state certification of more than one ETC must be based on a public interest finding. One of the requirements that an ETC must meet is to offer services that are supported by Federal universal service support mechanisms and to advertise the availability of such services and charges therefor, throughout the service area applicable to the ETC designation. These provisions, found at Sections 254 and 102/214(e) of the Act, link a carrier's eligibility to receive Federal universal service financial support with a carrier's obligation to serve throughout a particular service territory that is determined by the state commission. Section 253(f) expressly provides that a state may require as a condition of market entry that a carrier seeking to serve a rural telephone company area must meet the ETC standard prescribed in Section 214(e)(1).

The state commissions also may continue to prescribe a carrier's obligation to serve within non-rural markets under the new federal law. Section 253(b) expressly preserves the states' ability to impose, on a competitively neutral basis and consistent with Section 254, "requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." However, sole reliance on Section 253(b) would be incomplete if I failed to note that the authority set forth in subsection (b) is limited by subsection (a) of Section 253. Subsection (a) forbids the imposition of requirements which prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. My interpretation of these sections is that the state commission may not impose geographic boundaries on the scope of a carrier's operating authority as a condition to market entry because that may be a barrier to entry. However, the carrier may be required to identify the geographic boundaries in which it intends to provide service, and must comply with the associated common carrier responsibilities which includes the obligation to serve within the carrier's defined service territory.

These provisions pursuant to Section 253 authorize state commissions to impose a common carrier obligation to serve on all carriers seeking to provide local exchange service, independent of and regardless of whether the carrier is certified by the state commission as an ETC under Section 214(e) to receive federal universal service financial support. Carriers which seek entry into areas served by rural telephone companies may have to meet an additional public interest threshold pursuant to Sections 253(f) and 214(e). All carriers, nonetheless, which seek entry into telecommunications markets, may be required to undertake an obligation to serve, consistent with the states' continued authority over such matters such as universal service, public safety and welfare and quality of service.

Under this interpretation of the Federal act, new competitors or new entrants could have the ability to serve narrow geographic segments of the Commonwealth and could more easily focus their energies in those areas where profit is expected to be most substantial. This may increase the potential for new competitors to "cream skim" the incumbent's customers, and may create pressure on incumbents to seek to deaverage rates as a responsive tactic. Given that both Pennsylvania and federal law prohibit deaveraged interexchange rates, local rate deaveraging is expected to be the primary focus for rate rebalancing efforts. Such efforts could seriously jeopardize the affordability of local basic rates. We must be mindful that like Pennsylvania's Chapter 30, the federal law establishes a framework for local exchange competition and for the advancement and preservation of universal service. Affordability of rates is a common goal of both the state and federal law. Our implementation efforts must take into account that the federal law was enacted to benefit customers through the introduction of competition. While the industry structure must undergo some further transition as the bill's framework is implemented, the perspective of the end result to the customer—the monthly bill—must always be a guiding factor.

In our pending docket on universal service, rules have been proposed that any carrier which serves a high cost customer could qualify to receive intrastate universal service financial support. The proposed Tentative Order before us today poses the question of whether a carrier's eligibility to receive intrastate universal service support should be predicated on the same basis as the eligibility to receive federal financial support, namely the carrier's obligation to serve throughout the service area. This approach might limit a new entrant's interest in "creamskimming" to only those areas where the new entrant would be willing to serve without qualifying for federal universal service support and perhaps state universal service financial support (if the state's eligibility criteria were revised to reflect the standards prescribed in Section 254).

In our pending Universal Service Investigations at Docket Nos. I-940035 and L-950105, the proposed rules would allow all local exchange service providers which serve subscribers in a high cost service area to receive universal service support. Some commenting parties have challenged this framework and have suggested that state universal service funding should be disbursed only to the incumbent carriers because only those carriers have an obligation to serve. Such a limitation appears to be foreclosed by the federal act for those facilities-based carriers which serve non-rural markets, because Section 214(e) prescribes that the state commission shall certify

as an "eligible telecommunications carrier" any carrier which: (1) agrees to offer the set of services included within the Section 254 definition of universal service; (2) agrees to advertise the availability of such services; and (3) which offers the universal services using its own facilities or a combination of its own facilities and resale of another carrier's services. If a facilities-based carrier undertakes the obligation to provide service within a non-rural service area, the state commission must certify the carrier as an ETC, which renders the carrier eligible to receive universal service support pursuant to Section 254. Section 254 establishes the ETC certification as a prerequisite for receiving Federal universal service support and further prescribes that state regulations must not be inconsistent with the FCC rules. These provisions appear to prohibit the limitation of availability of either state or federal universal service support mechanisms to incumbent carriers who are serving non-rural markets.

The law contemplates that the FCC and state commissions will work together to develop and implement policies governing telecommunications services. The FCC's deadlines for promulgating regulations to implement the various provisions and requirements of the law are very compressed, and consequently, the states must diligently and promptly pursue their implementation efforts so that we can be assured that federal and state policy making will be coordinated. As the proposed Tentative Order notes, Pennsylvania already has a number of proceedings well under way that will address various aspects of the federal law. In particular the second phase of our local competition docket will address various aspects of unbundling; the universal service docket will address cost and pricing issues for local call termination rates in addition to universal services and the competitive safeguards investigation will identify appropriate requirements applicable to Bell's provision of competitive services. Those dockets are currently scheduled to produce recommendations for Commission consideration in June of 1996. It will be imperative for the Commission to promptly review and dispose of these recommendations so that we can promptly implement our responsibilities under the federal law. This effort will also demonstrate to the FCC that we intend to be a full partner in fulfilling the requirements of the new law.

I noted with interest the statutory interpretation issue raised in Vice Chairman Crutchfield's Statement regarding this matter. In particular, the Statement seeks comment on whether the use of the term "state" rather than "state commission" in Section 254 means that legislative action is required to delegate to this Commission the state's responsibility relative to universal service. I would request commenting parties to consider whether the use of the terms "state" and "state commission" are interchangeable in Title II of the Federal Act. For example, Section 254 uses the term "state," while its companion section, 214(e) uses the term "state commission." Similarly, Section 253 uses the term "state," while Section 252 uses both terms within different subsections. Section 252(e)(1) and (2) refers to "state commission," whereas Section 252(e)(6) uses both terms within that subsection:

(6) REVIEW OF STATE COMMISSION ACTIONS—In a case in which a *State* fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a *State commission's* failure to act. . . .

(Emphasis added). Another such example is evident in Section 214(e)(3), which uses the term "state commission." In contrast, the Conference Committee Report uses the term "state" to describe the responsibilities and requirements set forth in Section 214(e).

By making state universal service support mechanisms available to new entrants as well as incumbents, the fund can be used as an incentive to obtain new entrants' commitments to serve particular areas and to minimize the potential for cream-skimming. If the funds are not available to new entrants that are willing to undertake an obligation to serve in non-rural markets, the new entrants will be disadvantaged by having to compete with incumbents who would be able to qualify for such support. Additionally, the use of the fund as a tool to encourage more competition will be lost.

The interplay between Section 253(a) and 253(b) also raises a more general question of whether the state commission may revoke the operating authority of a telecommunications service provider and what alternative forms of recourse might be available. We should proceed cautiously before concluding that the fitness requirements prescribed in Chapter 30 should be nullified. The Tentative Order indicates that these criteria may be entry barriers. I suggest that they could also be construed as reasonable terms and conditions permitted by Section 253(b). We must consider an appropriate analytical framework for identifying market entry barriers versus reasonable terms and conditions.

I request commenting parties to address the analysis and ideas proposed in this Statement in their formal comments as well as at the public forum scheduled in the Tentative Order.

[Pa.B. Doc. No. 96-517. Filed for public inspection March 29, 1996, 9:00 a.m.]

Petitions of Pennsylvania Power Company for Declaratory Orders, Amendment of Prior Commission Orders, and Waiver of Certain Regulations and Applications for Rate Changes; Doc. No. P-00961028

Pennsylvania Power Company has filed: (1) petitions for declaratory orders under 66 Pa.C.S. § 331(f) and 52 Pa. Code §§ 5.41—5.43 to permit for accounting purposes the accelerated depreciation of nuclear generation assets and amortization of certain regulatory assets, the accelerated funding of decommissioning its interests in two nuclear plants, and establishing a procedure for the future disposition of certain assets; (2) applications to eliminate the energy cost rate as to Penn Power, roll the Energy Cost Rate (ECR) costs into base rates, and to implement five economic development tariffs; and (3) petitions to amend under 66 Pa.C.S. § 703(g) and 52 Pa. Code § 5.572 two prior Commission orders relating to the ECR, and to waive certain Commission regulations. The filing constitutes Pennsylvania Power Company's Rate Stability and Economic Development Plan for which an effective date of May 1, 1996 is sought. The filing is docketed at P-00961028.

Persons desiring to file protests to the applications and answers to the petitions may do so in accordance with 52 Pa. Code §§ 5.51—5.54 (relating to protests) and 52 Pa. Code §§ 5.61—5.66 (relating to answers). All such pleadings must be filed with the Secretary, Pennsylvania

Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, within 30 days of the date of publication of this notice in the *Pennsylvania Bulletin*. Copies of the petitions and applications are on file with the Commission and are available for public inspection. The contact person is Assistant Counsel Kevin J. Moody, (717) 787-2126.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-518. Filed for public inspection March 29, 1996, 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 April 22, 1996, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

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

A-00112899. Sang Yul Lee, t/d/b/a Hankook Call Taxi (753 Cheltenham Avenue #13, Melrose Park, Montgomery County, PA 19027)—persons upon call or demand in the township of Cheltenham, Montgomery County.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00104504, Folder 1, Am-D. Krapf's Coaches, Inc. (1060 Saunders Lane, West Chester, Chester County, PA 19380), a corporation of the Commonwealth of Pennsylvania—persons between points in the county of Berks and from said county to points in Pennsylvania, and return; *so as to permit* the transportation of persons in group and party service, between points in that part of Pennsylvania on and south of Interstate Highway 80 and on and east of Interstate Highways 81 and 83, and from points in said territory to points in Pennsylvania, and return. *Attorney:* Patricia Armstrong, P. O. Box 9500, Harrisburg, PA 17108.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of part of the rights as described under each application.

A-00112902. A & E Limousine, Inc. (1679 Forest Acres Drive, Clarks Summit, Lackawanna County, PA 18411), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in the county of Lackawanna, and from points in the said

county, to points in Pennsylvania and return; which is to be a transfer of part of the right issued to B Squared, Inc., t/d/b/a A 1 Special Delivery Limousine Service, under the certificate issued at A-00109053, subject to the same limitations and conditions.

A-00111011, F. 3. The Rose Limousine Service, Inc. (676 Main Road, Wilkes-Barre, Luzerne County, PA 18702), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in the county of Luzerne, and from points in the said county, to points in Pennsylvania and return; which is to be a transfer of part of the right issued to B Squared Inc., t/d/b/a A 1 Special Delivery Limousine Service, under the certificate issued at A-00109053, subject to the same limitations and conditions.

Notice of 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 April 15, 1996.

- A-00112890 John A. Wagner, t/d/b/a John A. Wagner Trucking
1627 Walnut Street, Carnegie, PA 15106
- A-00112891 Louis H. Martin, t/d/b/a Louis H. Martin Trucking
3795 Beagle Road, Middletown, PA 17057-4056
- A-00112892 Randall Davidson, t/d/b/a Randy Davidson Trucking
R. D. 1, Box 44, Mahaffey, PA 15757
- A-00112893 Joseph W. Stockton
21 Violet Lane, West Grove, PA 19390
- A-00112907 D & B Trucking
P. O. Box 221, Hanover, PA 17331
- A-00112908 Thomas L. Sensenig & Tammy S. Sensenig, tenants by the entirety,
t/d/b/a K & K Dispatch
P. O. Box 309, Myerstown, PA 17067
- A-00112903 Vernon Martin
845 East Kercher Avenue, Myerstown, PA 17067
- A-00112904 Raymond Sheerer, t/d/b/a Ray Sheerer Enterprises
4421 Main Street, Whitehall, PA 18052
- A-00112905 Larry L. Fultz, t/d/b/a L L Fultz Trucking
1337 Oaklyn Drive, Narvon, PA 17555
- A-00112906 Cynthia G. Carr and Andrew J. Jr., t/d/b/a StarrCarr Trucking
Box 17, Barto, PA 19504
- A-00112909 York Electrical Supply Co., Inc., t/d/b/a YESCO
P. O. Box 669, York, PA 17405
- A-00112897 Carl Dietrich
328 Zion's Church Road,
Shoemakersville, PA 19555
- A-00112898 Bernard M. Folmar, Jr., t/d/b/a BMF, Inc.
R. D. 2, Box 226, Morrisdale, PA 16858

A-00112900 Eric Lee & Rudy Lynn Wolgemuth,
Copartners, t/d/b/a E and R Farms
1376 Landis Road, Elizabethtown, PA
17022

A-00112901 Donald Rebeck, Jr.
R. D. 1, Box 32B, Dornsife, PA 17823
JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-519. Filed for public inspection March 29, 1996, 9:00 a.m.]

**Water and Sewer Service
Without Hearing**

A-230510F0004. Westtown Water Treatment Company. Application of Westtown Water Treatment Company t/d/b/a Westtown Sewer Company for approval to begin to offer, render, furnish or supply wastewater service/sewer service to the public in additional territory in Westtown Township, Chester County, that is Green Lane Development and Chesterfield Development.

This application may be considered without a hearing. Protests or Petitions to Intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before April 15, 1996, under 52 Pa. Code (relating to public utilities).

Counsel for Applicant: Patricia Armstrong, Esquire, Thomas T. Niesen, Esquire, Regina Matz, Esquire, Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-520. Filed for public inspection March 29, 1996, 9:00 a.m.]

**STATE EMPLOYEES'
RETIREMENT BOARD**

Hearings Scheduled

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

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

May 22, 1996 James C. Gallagher 1 p.m.
(Disability)

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

General Rules of Administrative Practice and Procedure,
1 Pa. Code Part II unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 96-521. Filed for public inspection March 29, 1996, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Director of Purchases, at the Administrative Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following contract:

Contract No. 96-006-RJ41. Roadway repairs between M. P. 188.59, Exit 14 and M. P. 236.06, Exit 17 on the PA Turnpike System in Franklin and Cumberland Cos., PA.

Bid Opening: April 17, 1996, 11 a.m.

Bid Surety: 5%.

Plans, specifications and contract documents will be available and open to the public inspection at the Administrative Building. Copies may be purchased upon payment of \$25 per paper copy set (do not add State tax) by check or U.S.P.S. Money Order (no cash) to the Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676: Attn: *Secretary/Treasurer's Office*. No refund will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Director of Purchases for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 96-522. Filed for public inspection March 29, 1996, 9:00 a.m.]

FEDERAL SURPLUS PROPERTY PROGRAM

DEPARTMENT OF GENERAL SERVICES

INVENTORY AND INFORMATION

The Department of General Services, Bureau of Supplies and Surplus Operations oversees the Federal Surplus Property Program within the Commonwealth of Pennsylvania in accordance with the Federal Property and Administrative Services Act of June 30, 1949, 63 Stat. 377 as amended. Personal property is made available on an equitable basis to our State Agency for allocation to eligible organizations at minimal service charges. Available property can include office equipment and furniture, clothing, hand tools, hardware, light machinery, heavy equipment and much more. Some of the equipment is new, while some may require repair, but all of the property is useful, and is available to your organization at a fraction of the cost of buying retail. Most nonprofit, tax-exempt organizations, such as municipalities, schools, emergency management agencies, day care centers and other public service organizations are eligible and have saved thousands of dollars annually through the use of federal surplus property.

All federal surplus property is donated on a first-come, first-served basis to eligible nonprofit organizations within the Commonwealth. A nominal cost is incurred by the participants in the form of a service charge to cover the state's cost of administering the program. Questions about the availability of items or about your organization's ability to participate in the Federal Surplus Property Program should be directed to: The Department of General Services, Bureau of Supplies and Surplus Operations, Federal Surplus Property Program, P. O. Box 1365, 2221 Forster Street, Harrisburg, PA 17105, or call TOLL-FREE 1-800-235-1555.

VEHICLES AND HEAVY EQUIPMENT

Crane. Mfg. Hanson Machine Company, 5 ton, 1988, Model H-446, diesel, 33,200 gvw, 459 hours. Only 1 available, good condition, stock number 3810-95-0416-001, \$3,750 ea.

Trailer. Mfg. varies, 2 wheel, 3/4 ton, cargo, 2,780 gvw. Several available, good condition, stock number 2330-95-0495-002, \$750 ea.

Truck. Mfg. Dodge, pick-up, 4x4, 1976 and 1977, 318, v-8, 8,000 gvw, automatic. Several available, conditions vary, \$250.00—\$1,500 ea.

Car. Mfg. Chevy, Citation, 4 door sedan, 1984, 4 cylinder, automatic, 51,765 miles. Only 1 available, good condition, stock number 2310-95-0453-004, \$200 ea.

Car. Mfg. GMC, Pontiac, Bonneville, 4 door sedan, 4.1 litre, v-6, automatic, 95,838 miles. Only 1 available, good condition, stock number 2310-96-0118-001, \$700 ea.

Ambulance. Mfg. Chrysler Corporation, Dodge, 4x4, w 20, 1977, 318, v-8, automatic, 8,000 lb gvw. Only 2 available, good condition, \$1,500 ea.

Forklift. Mfg. Hyster, gas, 4,000 lb capacity, Model 540C-P, 1971. Only 1 available, fair condition, stock number 3930-96-0235-016, \$750 ea.

BUILDING MATERIALS

Sheet. Mfg. unknown, aluminum, 4' x 12' x .040". Plenty available, NEW, stock number 9535-95-0207-023, \$8.75 ea.

Sheet. Mfg. unknown, aluminum, 4' x 12' x .050". Plenty available, NEW, stock number 9535-95-0053-011, \$10.00 ea.

Sheet. Mfg. unknown, aluminum, 3' x 6' x .032". Plenty available, NEW, stock number 9535-95-0168-016, \$5.00 ea.

Sheet. Mfg. unknown, aluminum, 3' x 8' x .038". Plenty available, NEW, stock number 9530-95-0168-014, \$8.75 ea.

Channel. Mfg. unknown, aluminum, 4-3/4" x 1/2" x 1" long. Plenty available, NEW, stock number 9540-95-0141-062, \$2.50 ea.

Sheet. Mfg. unknown, steel, 4' x 8'. Plenty available, good condition, stock number 9515-95-0207-001, \$2.50 ea.

Bolt. Mfg. Stanley, eye bolt, steel, bright zinc plated, 3/8" x 4", 10 bolts/box, sold by the box. Plenty available, NEW, stock number 5306-96-0237-002, \$2.00 ea.

Hinge. Mfg. Stanley, spring hinge, steel, 3 hinges/box, sold by the box. Plenty available, NEW, stock number 5340-96-0237-001, \$2.00 ea.

Castor. Mfg. Powers Industrial, swivel, 6", with grease fitting. Limited quantities available, NEW, stock number 5340-96-0062-004, \$15.00 ea.

Electrode. Mfg. McKay, welding machine, size 1/4 x 14, class 1, type mil-310-16, 10 lb. can. Plenty available, NEW, stock number 3439-96-0195-006, \$5.00 ea.

BUSINESS AND RESIDENTIAL FURNISHINGS

Chair. Mfg. varies, various styles and colors. Plenty available, condition varies, \$3.00—\$25.00 ea.

Cabinet. Mfg. varies, file, 4 and 5 drawer. Plenty available, good condition, \$35.00—\$60.00 ea.

Partition. Mfg. unknown, fabric, various sizes. Plenty available, very good condition, \$3.75 ea.

Rack. Mfg. AHF Enterprises, coat rack, wood, 4 hook. Limited quantities available, NEW, stock number 7110-96-0351-082, \$25.00 ea.

Table. Mfg. Rishel Hon Industries, printer table, wood, 36" x 30". Limited quantities available, NEW, stock number 7110-96-0351-093, \$50.00 ea.

CLOTHING, TEXTILES AND PERSONAL ITEMS

Boots. Mfg. McRae Industries, hot weather, combat type, many sizes available, sold by the pair. Plenty available, NEW, stock number 8430-00-0005-001, \$12.00 ea.

Boots. Mfg. varies, insulated, cold weather, rubber, size varies, sold by the pair. Plenty available, NEW, stock number 8430-00-0003-001, \$12.00 ea.

Boots. Mfg. LaCrosse Footwear, Inc., 5 buckle, size 10, sold by the pair. Plenty available, NEW, stock number 8430-95-0121-008, \$3.50 ea.

ELECTRICAL AND ELECTRONICS

Lamp. Mfg. Philips, reflector, elliptical, 50 watt, 120 volt, ER-30, flood. Plenty available, NEW, stock number 6240-95-0487-008, \$.38 ea.

Lamp. Mfg. Philips, reflector, elliptical, 120 watt, 120 volt, ER-40, flood. Plenty available, NEW, stock number 6240-95-0487-002, \$.75 ea.

Lamp. Mfg. Osram, medium, skirted base, 45 watt, "Super Halogen." Plenty available, NEW, stock number 6240-95-0487-003, \$1.25 ea.

Lamp. Mfg. General Electric, floor, indoor, R-30, "Miser," for track and recessed lighting, 45 watt, avg. life 2,000 hours. Plenty available, NEW, stock number 6240-95-0487-010, \$.75 ea.

Multimeter. Mfg. Barnett Instrument Company, AN/VRM 105C. Limited quantities available, good condition, stock number 6625-95-0553-005, \$11.25 ea.

Light. Mfg. Walter Kidde & Company, Inc., spot light, "Mobilite." Plenty available, NEW, stock number 6220-95-0067-006, \$7.50 ea.

Fixture. Mfg. Thomas Industries, Inc., lighting, ceiling square, walnut, 16" x 16", med. base. Limited quantities available, NEW, stock number 6210-95-0067-011, \$2.50 ea.

Battery. Mfg. Eveready Energizer, D, 12 batteries/pack, sold by the pack. Plenty available, NEW, stock number 6135-96-0050-001, \$7.00 ea.

Light. Mfg. Chemical Device Corporation, safety, 12 hour, green lightstick, 20 sticks/case, sold by the case. Plenty available, NEW, stock number 6260-96-0137-004, \$15.00 ea.

OFFICE MACHINES AND SUPPLIES

Printer. Mfg. Hewlett Packard, Think Jet, personal computer, Model #2225B, specialized scientific application unless an extra adapter is acquired. Plenty available, NEW, stock number 7025-95-0467-003, \$7.50 ea.

Fluid. Mfg. LHB Industries, correction, opaque white, water base, type I, 0.6 ounces/bottle, 12 bottles/box, sold by the box. Plenty available, NEW, stock number 7510-95-0235-003, \$1.25 ea.

Envelope. Mfg. Kraft, 6-1/2" x 9-1/2", 500 envelopes/box, sold by the box. Plenty available, NEW, stock number 7530-95-0528-001, \$3.75 ea.

Paper. Mfg. Hammermill paper, white, offset book, type II, uncoated, recycled, 34" x 44", 12,500 sheets/skids, sold by the skid. Plenty available, NEW, stock number 9310-95-0032-004, \$46.08 ea.

Holder. Mfg. Tiffany, memo, 4" x 6", with 150 sheets of paper. Plenty available, NEW, stock number 7520-95-0528-002, \$2.00 ea.

Cabinet. Mfg. Steelmaster, card, 3" x 5" cards, gray, 1,500 card capacity, single drawer. Limited quantities available, NEW, stock number 7110-95-0538-005, \$3.00 ea.

Pen. Mfg. Sanford, extra fine point, green, 12 pens/box, sold by the box. Plenty available, NEW, stock number 7510-94-0409-002, \$.38 ea.

OILS, PAINTS AND CHEMICALS

Adhesive. Mfg. Devon, epoxy, "5 minute," clear. Plenty available, NEW, stock number 8040-95-0494-004, \$1.00 ea.

Fluid. Mfg. Royal Lubricants Company, Inc., hydraulic, fire resistant, type I, 1 quart/container, sold by the container. Plenty available, NEW, stock number 9150-95-0223-001, \$.50 ea.

Enamel. Mfg. Pratt & Lambert, deck, interior, gray, 5 gallons/can, sold by the can. Limited quantities available, NEW, stock number 8010-95-0164-001, \$10.00 ea.

Sealant. Mfg. Koch Materials Company, joint, hot cured, jet fuel resistant, 5 gallons/can, sold by the can. Limited quantities available, NEW, stock number 8030-95-0223-008, \$5.00 ea.

Cement. Mfg. CMS Industries, Inc., refractory, "heat stop", resist high temperature, can be used for repairs to fire brick and masonry in fireplaces, woodstoves, kilns, furnaces, flues, 3-1/2 gallons/can, sold by the can. Plenty available, NEW, stock number 5680-95-0398-006, \$7.50 ea.

Nail. Mfg. Lowe's, steel wire, 3-1/2", 16D, 50 lbs./box, sold by the box. Limited quantities available, NEW, stock number 5315-95-0387-009, \$11.25 ea.

Agitator. Mfg. Dynamic Technologies Corporation, paint, works with gallons, quarts and pints, 115 volt. Plenty available, NEW, stock number 4940-95-0680-012, \$100.00 ea.

Paint. Mfg. varies, colors vary, quarts and gallons. Plenty available, NEW, \$.75—\$3.50 ea.

PLUMBING/HEATING/AIR CONDITIONING EQUIPMENT

Tank. Mfg. American Standard, toilet, white, use with 3112 and 3412 bowl. Plenty available, NEW, stock number 4510-95-0498-005, \$2.50 ea.

Guage. Mfg. Marsh, pressure, 300 psi maximum, 3" diameter. Limited quantities available, NEW, stock number 6685-95-0441-005, \$1.50 ea.

Toilet. Mfg. Electra Magic, portable, free standing, with drain. Limited quantities available, good condition, stock number 4510-95-0261-001, \$12.50 ea.

Heat Stop. Mfg. CMS Industries, Inc., refractory, cement, 3-1/2 gallons/can, sold by the can. Plenty available, NEW, stock number 5680-95-0398-006, \$5.00 ea.

Heater. Mfg. State, water heater, self cleaning, 100 gallons, 115 volt, 60 cycle. Only 1 available, NEW, stock number 4520-91-0166-001, \$50.00 ea.

VEHICLE PARTS AND ACCESSORIES

Radiator. Mfg. Modine, "New Complete", engine coolant, for Dodge M880. Limited quantities available, NEW, stock number 2930-95-0449-001, \$17.50 ea.

Can. Mfg. U. S. Metal Container Company, gasoline, steel, 5 gallon capacity, military. Plenty available, NEW, stock number 7240-95-0538-006, \$5.00 ea.

Tube. Mfg. Bridgestone/Firestone, Inc., inner tube, pneumatic, 11.00 R 12.00 R24/25, 2 tubes/box, sold by the box. Limited quantities available, NEW, stock number 2610-95-0346-017, \$3.50 ea.

Set. Mfg. Kent-Moore, reconditioning, injector tube. Only 3 available, NEW, stock number 5180-95-0501-017, \$25.00 ea.

MISCELLANEOUS

Battery. Mfg. Auftragsnummer, AA, alkaline, 40 batteries/package, sold by the package. Plenty available, NEW, stock number 6135-95-0398-008, \$1.00 ea.

Roach Kill. Mfg. Waterbury Company, kills cockroaches, waterbugs, ants and silverfish, 10 ounces/bottle, 12 bottles/box, sold by the box. Plenty available, NEW, stock number 6840-95-0268-004, \$4.00 ea.

Powder. Mfg. Care Products, talcum, 14 ounces/can, 24 cans/box, sold by the box. Plenty available, NEW, stock number 8510-95-0468-004, \$5.00 ea.

Material. Mfg. Ludlow Corporation, barrier, flexible, grease proofed, waterproof, self adhering, 36" x 100 yards/roll, sold by the roll. Plenty available, NEW, stock number 8135-95-0261-027, \$6.25 ea.

Ashtray. Mfg. Skokie Tool Corporation, tobacco, metal, 5". Plenty available, NEW, stock number 9920-95-0117-004, \$.08 ea.

Machine. Mfg. Tennant Company, scrubbing machine, Model 550 D, 4 cylinder, diesel. Only 1 available, looks good, stock number 3825-96-0106-002, \$1,875.00 ea.

Tank. Mfg. Beta Systems, aluminum, 500 gallon, for petroleum products, mounted on skids. Plenty available, NEW, \$200.00 ea.

Machine. Mfg. Tennant Company, scrubbing machine, 1982, Model 550 D, 4 cylinder, diesel, 1,099 hours. Only 1 available, good condition, stock number 3825-96-0106-002, \$1,875.00 ea.

Ax. Mfg. unknown, single edge. Plenty available, NEW, stock number 5110-96-0193-041, \$7.50 ea.

Pallet Jack. Mfg. Bib Joe Mfg. Company, Model WPT-40, 4,000 lb. capacity. Only 2 available, good condition, stock number 3920-96-0185-008, \$750.00 ea.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 96-523. Filed for public inspection March 29, 1996, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

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 THAT COMPETITIVE EDGE—FOR FREE!

Do you want to do business with your state government? The Treasury Department's office of Contract Information Services can assist you by providing you with information that may be helpful to you in successfully bidding on State contracts.

Act 244 of 1980 requires Commonwealth departments and agencies to file with the Treasury Department a copy of all contracts involving an expenditure of \$5,000 or more.

These fully executed contracts usually contain the vendor's name, dollar value, effective and termination dates and contract specifications. Some contracts also include the names of other bidding vendors and the bid proposal compiled by the awarded vendor. There is a minimal cost for photocopying contracts.

Allow the Treasury Department to "make a difference for you." For contract information call the office of Contract Information Services TOLL-FREE (in Pennsylvania) at 1-800-252-4700 or (717) 787-4586. Or you may write or visit the office at Room G13, Finance Building, Harrisburg, Pa. 17120.

CATHERINE BAKER KNOLL,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x337

Commodities

PR-2527205 Alarm and signal systems—300 each; lights, warning, portable, with red lens, 90 lb. pull magnet and heavy duty cord.

Department: State Police
Location: Harrisburg, Dauphin County, PA 17103
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2454115 Building and construction materials—1 system; furnish and design heating, air conditioning and ventilation system.

Department: Corrections
Location: Huntingdon, Huntingdon County, PA 16652
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-1001226 Chemicals and chemical products—63 barrels; Paracide F or Paracide-S (Formalin), containing 9 to 12.5 percent methanol for stabilization.

Department: Fish and Boat Commission
Location: Bellefonte, PA
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231160 Construction, mining, excavating and highway maintenance equipment—7 each; saw, concrete, walk behind with trailer—7 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2547725 Data processing and computer equipment and supplies—1 each; purchase of Vim DLP redundancy equipment.

Department: PSERS
Location: Harrisburg, Dauphin County, PA 17108
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2274115 Electric and electronic equipment components—1 each; furnish and render operational Nema 3R housing 5 kv rated manual selector switch capable of 100 amps three phase at the pad mounted transformer.

Department: Corrections
Location: Waynesburg, Greene County, PA 15370
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2302385 Engineering and surveying supplies and mapping—various amounts; total telescopic station with tripod prism pole, single tilt mount and 2 prisms. Distance measuring range: 3,900 feet with one prism with appropriate accessories.

Department: Conservation and Natural Resources
Location: Harrisburg, Dauphin County, PA 17105-8451
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2411355 Hazardous detecting instrument and accessories—2 each; Gilian Gilibrator, Deluxe Kit, 120v Part No. 800275 (no substitute)—12 each; Gilian Gilibrator, High Flow Kit, 120 v, 2-30 lpm Part No. 800270 (no substitute).

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA 17105-8468
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2440355 Hazardous detecting instruments and accessories—4 each; Enviroics Model S-9100 "no substitute" computerized ambient monitoring calibration system.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA 17105-8468
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231500 Highway maintenance equipment—1 each; paver, finisher, 10'—1 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231180 Highway maintenance equipment—2 each; excavator—2 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231570 Highway maintenance equipment—3 each; kettle, btm, 200 gal., double boiler without air compressor—3 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231540 Highway maintenance equipment—4 each; plow, power angle, dual taper—4 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231170 Highway maintenance equipment—7 each; loader, 1.75 cy—7 each; option: same as item No. 1.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-8231560 Highway maintenance equipment—various amounts; plow and option.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17120
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2556155 Hospital equipment and supplies and veterinary equipment and supplies—20 each; furnish and set up small animal operating table (Sterilgard Model SG-400, Nuair Model NU400, or equal. Laminar flow hood w/base.

Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

PR-2581185 Household and commercial furnishings and appliances—1 lot carpet—extra heavy traffic—28 oz. tufted loop pile—3,000 sq. yds.—1 lot; carpet tiles—extra heavy traffic—30 oz.—500 sq. yds.—1,000 ft.; black 4" cove base.

Department: Revenue
Location: Harrisburg, Dauphin County, PA 17128-1200
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

- PR-1784135** Household and commercial furnishings and appliances—various amounts; thermalization cart with appropriate accessories.
Department: Military Affairs
Location: Northeastern Veterans Center, Scranton, Lackawanna County, PA 18503-1213
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2512155** Laboratory equipment and supplies—4 each; large transfer restraint cage, stainless steel, 30" x 48" x 48".
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2507045** Laboratory equipment and supplies—various amounts; furnish and render operational, a bar coding system at the PA Equine Toxicology and Research Laboratory w/appropriate accessories.
Department: Agriculture
Location: West Chester, Chester County, PA 19383-0551
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2514155** Laboratory equipment and supplies—10 each; caging, micro-vent double face mouse, 72" x 31" x 70"—7 each; caging, micro-vent single face rat, 76" x 27" x 75"—12 each; caging, stainless steel single face rat, 58" x 18" x 65".
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2568155** Laboratory equipment and supplies—10 each; stainless steel guinea pig 15 cage unit (GS 161507) to be delivered and set up.
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2557155** Laboratory equipment and supplies—15 each; Laminar flow hood with base. (Reference: Sterilgard Model SG600, Nuair Model NU-600 or equivalent.)
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2555155** Laboratory equipment and supplies—3 each; flow hood.
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2425355** Laboratory equipment and supplies—4 each; air monitor, miniature photoionization, with field kits, belt clip holsters, dilution probes and filters for dilution probe.
Department: Environmental Protection
Location: Conshohocken, Montgomery County, PA 19428
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2515155** Laboratory equipment and supplies—7 each; Biogard vertical laminar animal transfer work station, 55" x 32" x 79"—6 each; flo-clean system unit, 69" x 46" x 79 1/2"—18 each; see-through cage system, 60" x 14 1/2" x 70".
Department: State System of Higher Education
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA 15203
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2582115** Lighting fixtures, lamps and clocks—400 each; fluorescent fixture surface mounted wraparound.
Department: Corrections
Location: Waymart, Wayne County, PA 18472-0256
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2561385** Motor vehicles, trailers and cycles—1 each; 1996 model compact enclosed type 4x4 truck.
Department: General Services
Location: Harrisburg, Dauphin County, PA 17105
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2407215** Motor vehicles, trailers and cycles—1 each; 1996 Model converted van type wheelchair passenger vehicle.
Department: Public Welfare
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA 17870
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2480115** Motor vehicles, trailers and cycles—1 each; 1996 Model large size enclosed size 4x4 truck.
Department: Corrections
Location: Camp Hill, Cumberland County, PA 17001-0598
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2545215** Office supplies—19 each; shredder, paper.
Department: Public Welfare
Location: Harrisburg, Dauphin County, PA 17105
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2535305** Office supplies—50,000 each; letter size file folders; size: 9.625" x 11.75"—500 each; record storage boxes: size 15" x 12.5" x 10".
Department: Historical and Museum Commission
Location: Harrisburg, Dauphin County, PA 17108-1026
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2585155** Photographic equipment and supplies—various amounts; professional 3CCD color camera JVC Model NO. KY-27CST or equal—w/proper accessories.
Department: State System of Higher Education
Location: PA State University, University Park, Centre County, PA 16801
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2322355** Radio and television equipment and supplies—1 each; canister sampler including all accessories—1 each; multiple canister sampling adapter or module for sampling 16 canisters sequentially.
Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA 17105-8468
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2564355** Radio and television equipment and supplies—1 system; handheld GPS/GIS data collection system, reference Leica Model MX 8614 receiver, Leica MX 8600 PC and MX 8610 PC software, or approved equal.
Department: Environmental Protection
Location: Wilkes-Barre, Luzerne County, PA 18701-3195
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2360385** Radio and television equipment and supplies—25 each; Corvallis Microtechnology MC-GPS or approved equal.
Department: Conservation and Natural Resources
Location: Harrisburg, Dauphin County, PA 17105-8552
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-1845385** Radio and television equipment and supplies—32 each; Corvallis Microtechnology MC-GPS or approved equal—1 each; 12 channel GPS base station/bulletin board.
Department: Conservation and Natural Resources
Location: Harrisburg, Dauphin County, PA 17105-8552
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2247125** Radio and television equipment and supplies—various amounts; Sencore—TVA92—TV analyzer w/appropriate accessories.
Department: Public Welfare
Location: Hiram G. Andrews Center, Johnstown, Cambria County, PA 15905-3092
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705
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- PR-2491385** Tractors—1 each; latest model agricultural/general purpose wheel tractor.
Department: Conservation and Natural Resources
Location: Promised Land State Park, Greentown, Pike County, PA 18426-9735
Duration: Indeterminate 1995-96
Contact: Vendor Services, (717) 787-2199 or (717) 787-4705

SERVICES

Personnel/Clerical Services—02

SP 295408 Provide laborers for part-time assistance to the Department of Conservation and Natural Resources on an as-needed basis.

Department: Conservation and Natural Resources
Location: Harrisburg, PA
Duration: July 1, 1996 through June 30, 1999
Contact: Corinna Gaiski, (717) 783-0760

Telecommunications Services and Equipment—03

814166 Provide labor, supervision, equipment and materials necessary for the repair of 2-way radios and other electronic equipment. Services shall include installing electronic equipment in vehicles.

Department: Transportation
Location: Bureau of Aviation, Harrisburg International Airport, Middletown, Dauphin County, PA 17057
Duration: June 1, 1996 through May 31, 1997
Contact: Curt Summers, (717) 948-3927

Construction—04

ESU 405-405 ESU accepting bids on ESU405-405—Renovation and Expansion of Ahnert Alumni Center. Estimated Gen. Prime \$250K, HVAC \$90K, Plumbing \$20K, electrical \$65K. Plans at \$50, call (215) 977-8662, Susan Maxman Architect, 123 South 22nd Street, Philadelphia, PA 19103. For special accommodation needs at ESU call Zaffy Zaffuto, (717) 422-3595. Pre-bid 4/16/96. Bid open 5/7/96. Responsible firms invited to bid including MBE/WBE.

Department: State System of Higher Education
Location: East Stroudsburg University, East Stroudsburg, PA 18301
Duration: 220 days a.n.p.
Contact: Susan Maxman Architect, (215) 977-8662

080887 Highway Construction Project: Districtwide, Group 2-96-LP1 (2-0); Districtwide, Group 3-96-LP1 (3-0); Luzerne County, Group 4-96-ST4 (4-0); Districtwide, Group 2-96-TLP (8-0); Adams County, Sachs Covered Bridge; Districtwide, Group 9-96-LP5 (9-0); Blair County, SR 2011-001; Greene County, SR 19-06M; Berks County, Group 5-96-POC1C; Berks County, Group 5-96-POC1D.

Department: Transportation
Location: Districts 2-0, 3-0, 4-0, 8-0, 9-0, 12-0 and 5-0
Duration: FY 1995/1996
Contact: V. C. Shah, P.E., (717) 787-5914

CAL-329 California University of Pennsylvania of the State System of Higher Education is interested in obtaining bids for repaving streets. Interested bidders can request the University's Project Manual from D & L Associates (412) 765-3643. There will be a pre-proposal hearing on April 3, 1996 at 10:00 a.m. in Room 117, Azorsky Administration Building. Bid opening will be April 15, 1996 at 2:00 p.m. in Room 117, Azorsky Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System's contracts.

Department: State System of Higher Education
Location: California University of Pennsylvania, California, PA
Duration: 90 days
Contact: Vickie A. Laubach, (412) 938-4430

AE-4050 Concrete foundation walls. FAX (717) 787-0462.

Department: Transportation
Location: Thomasville Stockpile No. 05, Route 30, Thomasville, York County, PA
Duration: 90 calendar days, proposed bid May '96
Contact: Tina Chubb, (717) 787-7001

SPC 262730 Resurfacing approximately 5,000 SF of roadway at Shawnee State Park, Bedford County. Bid opening date: April 11, 1996, 2:00 p.m., Shawnee State Park, R. R. 2, Box 142B, Schellsburg, PA 15559

Department: Conservation and Natural Resources
Location: Shawnee State Park, R. R. 2, Box 142B, Schellsburg, PA 15559
Duration: Completion time: 45 days after notice to proceed
Contact: Robert F. Bromley, (814) 733-4218

HVAC—05

FM 087795-06 Replace existing water cooled compressors in the Dietary with an air cooled split system type refrigeration unit. Work will be performed at the campus of Ebensburg Center.

Department: Public Welfare
Location: Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931
Duration: Ninety days from effective date of contract
Contact: Cora Davis, Purchasing Agent I, (814) 472-0288

Consulting Services—07

024A Provide training on Novell Standard Perfect Office Suite for Windows software modules for up to 250 employees.

Department: Commerce
Location: Identified in Request
Duration: Bids accepted until April 15, 1996
Contact: Information Management Division, Department of Commerce, (717) 787-9610

MR-22 During the 1996 year the following services to be provided to Clarion University will be bid and contracted for a one to five year agreement term. Prospective bidders are asked to submit a "request for inclusion" letter for any service(s) they may wish to provide to the University. Services to be provided: swimming pool water testing.

Department: State System of Higher Education
Location: Purchasing Department, Clarion University of PA, Clarion University Campus, Clarion and Oil City, PA
Duration: One to five year contracts will be let
Contact: Karen Dupree, (814) 226-2233

FINAID-005 The Hiram G. Andrews Center is seeking Financial Aid Consultation/Management Services to provide the following: determine student eligibility for PELL, SEDG, NDSL, and other Federal programs; assist in administering these programs, disbursing program funds and preparing all required Federal government reports; and provide staff training and on-site consultations. Approximately 250 students per year will be processed for educational financial aid programs. This will not result in a contract for employment.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, Cambria County, PA 15905
Duration: 7/1/96 to 6/30/99 with options to renew
Contact: R. D. Robinson, Chief Purchasing Agent, (814) 255-8210

035 Provide consulting service for the collection of hydrogeologic data for permitting of surface and deep mines and refuse reprocessing. Consultant must be prequalified by the Small Operator Assistance Program in order to be eligible for this activity. If you would like more information about this program, you may call (717) 783-8846. Persons who require an auxiliary aid, service, or other accommodation may use the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 to be connected to (717) 783-8846.

Department: Environmental Protection
Location: Room 213 Executive House, Harrisburg, Dauphin County, PA 17105-8461
Duration: July 1, 1996 to June 30, 1997
Contact: Lou DiLissio, (717) 783-8846

Court Reporting Services—08

SPC 217295 This is a two year contract for a maximum of \$20,000 (\$10,000-per year) service required are for court reporting services on an "as needed" basis for depositions and Public Hearings scheduled by the Pennsylvania Human Relations Commission's Harrisburg Regional Office. Stenotype machine preferred. Steno Mask is not acceptable. Hearings/depositions may be held in 39 Central Pennsylvania Counties. Call Kathy Prosser, 783-8487 for detailed specifications before submitting bid. Final bid acceptance date for bids is April 29, 1996.

Department: Executive Office
Location: PA Human Relations Commission, Harrisburg Regional Office, Uptown Shopping Plaza, 2971-E North Seventh Street, Harrisburg, PA 17110-2123
Duration: July 1, 1996 to June 30, 1998
Contact: Kathy Prosser, (717) 783-8487

Demolition and Renovation—09

0051-A14-004 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of various commercial and residential properties for the Liberty Tunnel and Saw Mill Run Boulevard Project in the City of Pittsburgh, Allegheny County. Contractor will be required to demolish or remove all structures, outbuildings and any site improvements. He will also be required to comply with FHWA and State regulations. For bid forms, specifications and other information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: City of Pittsburgh, Allegheny County, PA
Duration: 30
Contact: Michael Sudar, (412) 429-4830

IN-716 Bathroom Renovations Elkin Hall. Work included under this project consists of bathroom renovations, Elkin Hall consisting of removing existing walls, ceilings, ceramic tile, steel deck, ductwork, exhaust fans, hot water baseboard, floor drains, water piping, showers, wiring, conduit, switches, etc., to furnish and install new E.P.D.M. membrane, structural glazed facing tile, ceramic tile, plaster, paint, metal studs, shower and bath accessories, louvers, ductwork, exhaust fans, fire dampers, air grilles, water piping, shower panels, ball valves, floor drains, wiring conduit, lighting fixtures, etc. Phone: (412) 357-2289. FAX: (412) 357-6480.

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, (412) 357-4851

Medical Services—10

Dental-96 State Correctional Institution requests a vendor to supply dental laboratory services for inmates dental prosthesis for incarcerated inmates.

Department: Corrections
Location: State Correctional Institution Graterford, Route 29, Box 246, Graterford, PA 19426
Duration: 1 year
Contact: Kelly Richardson, (610) 489-4151

9107 Podiatry services for Warren State Hospital patients. Contract period: 07/01/96—06/30/99. Complete specifications and other terms and conditions may be obtained by contacting the hospital.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Drive, North Warren, Warren County, PA 16365-5099
Duration: 07/01/96—06/30/99
Contact: BD Muntz, (814) 726-4496

PUR/CL-5/37 Provide physicals and tests for new applicants and/or employees.

Department: Office of Attorney General
Location: Pittsburgh (must be within 15 miles, North)
Duration: Three (3) years July 1, 1996—June 30, 1999
Contact: M. Rebecca Harley, (717) 783-6275

PUR/CL-4/36 Provide physicals and tests for new applicants and/or employees.

Department: Office of Attorney General
Location: Harrisburg (must be within 25 miles of downtown Harrisburg)
Duration: Three (3) years July 1, 1996—June 30, 1999
Contact: M. Rebecca Harley, (717) 783-6275

PUR/CL-6/38 Provide physicals and tests for new applicants and/or employees.

Department: Office of Attorney General
Location: Philadelphia (must be within 15 miles)
Duration: Three (3) years July 1, 1996—June 30, 1999
Contact: M. Rebecca Harley, (717) 783-6275

RFP96-07 Sports Medicine/Team Physician Services—Kutztown University is seeking a Health Care Services Provider capable of providing Sports Medicine/Team Physician Services to the Athletic Program at Kutztown University for the purpose of pre-participation athletic exams, medical and athletic screening, injury and illness management, event coverage and certified athletic trainer supervision. All elements of the RFP will be considered when awarding the contract. RFP packages are available April 8, 1996. Request for packages should be made in writing to: Gina Frankhouser, Purchasing Agent, Kutztown University, P. O. Box 730, Kutztown, PA 19530; or faxed to: Gina Frankhouser, Purchasing Agent, (610) 683-4674. Bids are due April 22, 1996 at 2:00 p.m. Bids received after the due date and time will be returned unopened.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: Annual 7/1/96—6/30/97—renewable
Contact: G. Frankhouser, Purchasing Agent, (610) 683-4663

Engineering Services—11

08430AG1985 To provide final design, shop drawing review and consultation during construction services for S. R. 4034, Section A50, East Side Access from 6th Street to the Bayfront in Erie County.

Department: Transportation
Location: Engineering District 1-0
Duration: Eighteen (18) months
Contact: Consultant Agreement Division, (717) 783-9309

Firefighting, Safety and Rescue Services—12

B-6456 State Correctional Institution Graterford is requesting a factory certified vendor to provide service and repair to the Chloride Emergency Lighting Systems located on the cell block A through E. Service also to include semi-annual p.m. testing of units.

Department: Corrections
Location: State Correctional Institution Graterford, Box 246, Graterford, PA 19426
Duration: 3 years
Contact: Kelly Richardson, (610) 489-4151

Food Services—13

5278 Miscellaneous frozen foods—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5277 Frozen foods—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5276 Cottage cheese and yogurt—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5275 Fresh meats—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5274 Poultry—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5273 Portion control meats—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5272 Breakfast and baked items—for a three (3) month period beginning July 1, 1996 through September 30, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—September 30, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5271 Decaffeinated coffee—for a one (1) year period beginning July 1, 1996 through June 30, 1997. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—June 30, 1997
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5270 Frozen juice 4 oz.—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5269 Ice cream—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5268 Snack products—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5267 Bread and rolls—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5266 Drinks and juices—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5265 Pies—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

5264 Pastries—for a six (6) month period beginning July 1, 1996 through December 31, 1996. More detailed information can be obtained from the Hospital.

Department: Public Welfare
Location: Haverford State Hospital, Building No. 21, 3500 Darby Road, Haverford, Delaware County, PA 19041
Duration: July 1, 1996—December 31, 1996
Contact: Jackie Newson, Purchasing Agent, (610) 526-2624

Inquiry No. 30094 Meat and meat products. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30093 Poultry and poultry products. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30092 Fish and fish products. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30091 Miscellaneous foods, baked items, frozen goods. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30090 Miscellaneous frozen food entrees and egg products, milkshakes. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30089 Prepared fresh vegetables. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30088 Fresh fruits and vegetables. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30087 Frozen fruits and vegetables. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30086 Juices, frozen and juice drinks, unsweetened. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30085 Ice cream, sherbet, related items. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30084 Bread and rolls. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

Inquiry No. 30083 Dairy and dairy products. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September, 1996.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September, 1996
Contact: Ken Wilson, Purchasing Agent, (412) 873-3256

5046 Prepared salads—for delivery July through December, 1996. Specifications, delivery dates, and quantities/delivery available upon request.

Department: Public Welfare
Location: Torrance State Hospital, Attn: Dietary Storeroom, SR 1014, Torrance, PA 15779-0111
Duration: July through December, 1996
Contact: Linda J. Zoskey, Purchasing Agent, (412) 459-4547

5047 Produce including prepared vegetables—for delivery July through September, 1996. Specifications, delivery dates, and quantities/delivery available upon request.

Department: Public Welfare
Location: Torrance State Hospital, Attn: Dietary Storeroom, SR 1014, Torrance, PA 15779-0111
Duration: July through December, 1996
Contact: Linda J. Zoskey, Purchasing Agent, (412) 459-4547

5045 Ice cream and sherbet—various flavors. Style: 4 oz. insulated cups with lids. For delivery July through December, 1996. Specifications, delivery dates, and quantities per delivery available upon request.

Department: Public Welfare
Location: Torrance State Hospital, Attn: Dietary Storeroom, SR 1014, Torrance, PA 15779-0111
Duration: July through December, 1996
Contact: Linda J. Zoskey, Purchasing Agent, (412) 459-4547

6500-016 Poultry and poultry products: chicken fryers, split; chicken parts; turkey roast; ground turkey; and other poultry items as required. Items to be bid on a monthly basis for the months July 1, 1996 through June 30, 1997.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-026 Fruits and vegetables—fresh radishes, celery, cabbage, carrots, oranges, grapefruit, apples, bananas, tomatoes, onions, potatoes, tangerines, cantaloupes, watermelons, and other fruits and vegetable items as required by the institution. Bids to be submitted monthly—deliveries weekly.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-028 Dry beans, assorted varieties, 100 lb. bags. To be bid as necessary to fulfill menu requirements. Approximate annual usage: pinto beans—100 bags; dry lima beans—40 bags, dry navy beans—50 bags.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-029 Flour—all purpose, bread, whole wheat, rye, pastry, and others are required. To be bid on a quarterly basis per institutional requirements.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-031 Picante sauce—4 gallons per case. To be bid as needed. Current average quarterly usage: 40 cases.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-032 Domestic hen eggs to be delivered weekly. Amount of delivery will be based on institutional menu requirements (approximately 450 dozen per delivery). Product will be bid on a quarterly basis.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-033 Ice cream—8 slices per box, 4 boxes per gallon. Twin popsicles—assorted flavors, 3 oz.; and other assorted novelties as required. All products to be free from pork or pork by-products. To be bid as needed per institutional menu requirements.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-034 Pizza with tomato sauce and real cheese (no cheese substitute), fully baked. To be bid as needed to fulfill menu requirements. Current monthly usage: 45 trays (19 lbs. per tray).

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-036 Turkey ham; minced turkey bologna; turkey salami; frankfurters; Lebanon bologna; meatballs; liver; turkey franks; veal patties; Pullman hams; sandwich steaks; frozen fish (breaded and unbreaded); cheeses (American, mozzarella, cheddar) and any other meat product as may be required by the institution. Items to be bid on a monthly basis for the period July 1, 1996 through June 30, 1997.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-037 Assorted noodles, pasta products—to be bid per institutional requirements.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-038 Juices, assorted varieties—46 oz. cans approximately. To be bid per institutional menu requirements.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-040 Butter and margarine—one-pound block and ready-pats. Items will be bid on a quarterly basis. Bids specifications and delivery dates available from institutional Purchasing Office.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-041 Bread and rolls—assorted varieties, quantities, specifications and delivery dates on file at institutional Purchasing Office.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: September 1, 1996 through August 31, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-043 Prepared salads including but not limited to potato salad, pasta salad, tortellini salad, carrot and raisin salad, macaroni salad.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1996 through June 30, 1997
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

F2500-96 Poultry products, as indicated are approximate monthly requirements. Bids will be advertised on a monthly basis, July 1996 through June 1997. Monthly delivery date to be established by Institution. Turkey salami—1200 lbs.; turkey franks—1200 lbs.; turkey bologna—1200 lbs.; turkey roll—2000 lbs.; chicken croquettes—150 cs.; and any other poultry products that may be required for this period.

Department: Corrections
Location: State Correctional Institution, Dallas, Luzerne County, PA 18612
Duration: July 1996 through June 1997
Contact: Fred B. Moody, Purchasing Agent, (717) 675-1101, ext. 221

347-95 Frozen entrees, various types for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 347-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

348-95 Poultry and poultry products, various items for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 348-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

349-95 Meat and meat products, various items for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 349-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

350-95 Bread and rolls, various types for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 350-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

351-95 Coffee concentrate, for delivery July, 1996 through June, 1997. For more specifics request bid proposal, Inquiry No. 351-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July, 1996 through June, 1997
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

352-95 Ice cream, sherbet, various items for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 352-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

353-95 Orange juice for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 353-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

354-95 Portion control juice, various flavors, for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 354-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

355-95 Drinks, half gallon size, various flavors, for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 355-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

356-95 Milkshakes, chocolate, vanilla, strawberry, for delivery July through December, 1996. For more specifics request bid proposal, Inquiry No. 356-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through December, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

357-95 Pastries, pies, cakes, for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 357-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

358-95 Fish and fish products, various items, for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 358-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

359-95 Cheese, various types, for delivery July through October, 1996. For more specifics request bid proposal, Inquiry No. 359-95.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through October, 1996
Contact: Sue Brown, Purchasing Agent, (610) 270-1026

96-013 Miscellaneous foods as follows: 400 dozen Danish sweet rolls (assorted flavors); 24 cases coffee cakes, French Crumb; 12 cases pound cake; 6 cases carrot sheet cake (cream cheese icing); 12 cases chocolate sheet cake (white or chocolate icing); 12 cases yellow sheet cake (white icing); and 6 cases yellow sheet cake (chocolate icing). Bids will be awarded on an aggregate basis. Bids will be opened at this facility on April 14, 1996 at 2:30 p.m.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July, 1996 through December, 1996
Contact: Dorthia Claud-Williams, Purchasing Agent, (215) 953-6412

96-014 Ice cream, sherbet and related novelties as follows: 500 dozen ice cream cups (assorted); 144 dozen sherbet (assorted); 144 dozen popsicles (assorted); 300 dozen ice cream sandwiches; 144 dozen frozen yogurt cups (assorted); 144 dozen chocolate éclair; 72 dozen strawberry shortcake; 144 dozen strawberry sundae cup; 216 dozen double sundae; 144 dozen vanilla ice cream bar; 144 quarts party slices (assorted); and 144 dozen water ice (assorted). Bids will be awarded to the lowest bidder on an aggregate total.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July, 1996 through June, 1997
Contact: Dorthia Claud-Williams, Purchasing Agent, (215) 953-6412

96-015 Cheese as follows: 1500 lbs. cheese, American (white); 600 lbs. cheese, cheddar, natural (shredded); and 432 lbs. cheese, mozzarella (sliced); and 432 lbs. cheese, mozzarella (shredded). Bids will be awarded to the lowest bidder on an aggregate total. Bids will be opened at this facility on April 24, 1996 at 2:30 p.m.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July, 1996 through December, 1996
Contact: Dorthia Claud-Williams, Purchasing Agent, (215) 953-6412

Fuel-Related Services—14

2-0-00226 The Department of Transportation Maintenance District 0220, Clearfield County, will be renting oil distributors, minimum 2,500 gallon capacity.

Department: Transportation
Location: Clearfield County 0220
Duration: June 1, 1996 to May 31, 1997
Contact: Grover C. Beightol, (814) 765-0492

AE-1933 Removal of underground storage tanks. FAX (717) 787-0462.

Department: Transportation
Location: Lemoyne, Cumberland County, PA
Duration: 90 calendar days, proposed bid April 1996
Contact: Tina Chubb, (717) 787-7001

AE-3014 Removal of underground storage tanks. FAX (717) 787-0462.

Department: Transportation
Location: Central Garage, Dauphin County, PA
Duration: 90 calendar days, proposed bid April 1996
Contact: Tina Chubb, (717) 787-7001

AE-3015 Removal of underground storage tanks. FAX (717) 787-0462.

Department: Transportation
Location: Mt. Pocono, Monroe County, PA
Duration: 90 calendar days, proposed bid April 1996
Contact: Tina Chubb, (717) 787-7001

AE-3019 Removal of underground storage tanks. FAX (717) 787-0462.

Department: Transportation
Location: Lehighton, Carbon County, PA
Duration: 90 calendar days, proposed bid April 1996
Contact: Tina Chubb, (717) 787-7001

RFP No. TEST1996 Qualified, professional testing organization that is experienced in professional examination administration, candidate processing and grading to conduct and maintain the Pennsylvania Storage Tank Installer and Inspector Certification Examination. Other related services, such as study guide development and item bank restructuring, are included.

Department: Environmental Protection
Location: Bureau of Water Quality Management, Statewide
Duration: 3-5 years
Contact: Division of Storage Tanks, 800-42-TANKS (w/in PA) or (717) 772-5599

Janitorial Services—15

JC-4-96 Provide full janitorial services. Provide equipment and supplies to clean and maintain premises (5,660 square feet). Work to be done in accordance with the Department of Labor and Industry Janitorial Services General Conditions and Instructions.

Department: Labor and Industry
Location: Job Center Field Operations, 209 East Locust Street, Clearfield, Clearfield County, PA 16830
Duration: 10/1/96-9/30/98
Contact: David L. Marino, Manager, (814) 765-0567

IFB 95-07-11 Provide snow and/or ice removal from parking area, two sidewalks and an entryway. Also provide salting/cindering on as-needed basis under icy conditions. Procedures to be provided prior to 7:45 a.m. Contractor to furnish equipment, operator, salt, and/or cinders. Detailed specifications available on request. All bids must be submitted to the Pennsylvania Department of Health, North Central District Office, 734 West Fourth Street, Williamsport, PA 17701 by the date and time indicated in the IFB cover letter. Bids received after that time will not be considered regardless of the reason.

Department: Health
Location: State Health Center, 329 Church Street, Danville, PA 17821
Duration: July 1, 1996 through June 30, 1998 (two years)
Contact: Karen Sonntag, (717) 327-3400

Landscaping Services—16

3509 The Farm Department at Graterford Correctional Institution will be seeking vendors to supply the following commodities. Included shall be: 150 ton—herbicides, fertilizers, lime, seeds for planting and use in silage inoculants. 800,000 lbs. raw milk. 500 ton various dairy feeds. 50 acres of combining shell corn. 850,000 1/2 pints of milk and non-carbonated fruit drinks. All amounts are estimates and may vary according to actual needs. Contracts to be awarded throughout the fiscal year: July 1, 1996 through June 30, 1997.

Department: Corrections
Location: Correctional Industries, P. O. Box 246 (Off Route 29), Graterford, PA 19426
Duration: July 1, 1996 through June 30, 1997
Contact: G. L. Arasin, Manager I, (610) 489-3466

MR 0800-52 Mowing and landscape maintenance at Rest Area/Welcome Center Site G, located along Interstate 81 Northbound one mile north of the Pennsylvania-Maryland State Line within Antrim Township, Franklin County. Specifications for this work available on request.

Department: Transportation
Location: Rest Area/Welcome Center Site G, I-81 Northbound, Antrim Township, Franklin County, PA
Duration: May 20, 1996 to May 19, 1997
Contact: Ed Myers, (717) 787-7600

Lodging/Meeting—18

081-96-7000-38 Provide catering services for Commission meetings occurring approximately twice monthly for the period July 1, 1996 to June 30, 1998. These meetings will be held in the Harrisburg Area. Attendance at these meetings will vary from 10 to 50 persons. Responses to this advertisement received 20 days after publications will not be honored. Option to renew contract for one additional year. Please request bid information for further requirements.

Department: Executive Offices
Location: Pennsylvania Commission on Crime and Delinquency, 4th Floor, Executive House, 2nd and Chestnut Streets, Harrisburg, PA 17101
Duration: July 1, 1996 to June 30, 1998
Contact: Geary Kauffman, (717) 787-8077, ext. 3026

Mail Services—19

3500-0001 To provide mailing services to the response to the public request. To provide the general public with Transportation map request, tourist pamphlets and other items the general public may request. To provide miscellaneous mailing for the Customer Relations, Distribution Services and the Press Office. These mailings may require sorting, stuffing, wrapping, boxing, rolling, etc. It will also require the contractor to respond for services within one half hour after contact with the Department of Transportation.

Department: Transportation
Location: Transportation and Safety Building, Commonwealth and North Streets, Room G-127, Harrisburg, PA 17120
Duration: 7/1/96-6/30/97
Contact: Gregory Spittle, (717) 783-9525

SP-251810 To transport various packages throughout The Commonwealth of Pennsylvania and, in some instances, to points beyond The Commonwealth but within the borders of the Continental United States. Packages to be delivered will originate from the Correctional Industries at State Correctional Institution Huntingdon, Huntingdon, Pennsylvania, and will be of various sizes and weights; averaged total monthly poundage is approximately 5,500 pounds.

Department: Corrections
Location: Bureau of Correctional Industries, State Correctional Institution, 1100 Pine, Huntingdon, PA 16654-1112
Duration: July 1, 1996 to and including June 30, 1997
Contact: Jim Miller, Purchasing Agent II, (814) 643-2400, ext. 261

Maintenance and Repair Services—20

CAL-331 California University of Pennsylvania of the State System of Higher Education is interested in obtaining bids to provide repair of the Student Center lower level. Interested bidders can request the University's Project Manual from D & L Associates, (412) 765-3643. There will be a pre-proposal meeting on April 23, 1996 at 10:00 a.m. in Room 117, Administration Building. Bid opening date is May 1, 1996 at 2:00 p.m. in Room 117, Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System contracts.

Department: State System of Higher Education
Location: California University of Pennsylvania, California, PA
Duration: Three (3) months
Contact: Vickie A. Laubach, (412) 938-4430

CAL-330 California University of Pennsylvania of the State System of Higher Education is interested in obtaining bids for Old Main roof. Interested bidders can request the University's Project Manual from Burt Hill Kosar Rittleman Associates (412) 394-7085. There will be a pre-proposal conference held on April 9, 1996 at 10:00 a.m. in Room 117, Administration Building. Bid opening date is April 22, 1996 at 2:00 p.m. in Room 117, Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System contracts.

Department: State System of Higher Education
Location: California University of Pennsylvania, California, PA
Duration: Three (3) months
Contact: Vickie A. Laubach, (412) 938-4430

SPC-95-015 Repair to and replacement of damaged rain gutters. For specifications, please send a written request to the Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213 Attn: Mr. Joseph Libus, Purchasing Agent II.

Department: Military Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: 05/01/96 through 6/30/96
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

Project No. DGS A 973-8 Project title: Repairs to the Boone House. Brief Description: make repairs to the Boone House including replacing the wood shingled roof, repainting all previously painted features, reglazing all windows and repairing or replacing all deteriorated wood structures. General construction. Plans deposit: \$25.00 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 below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Bid date: Wednesday, April 24, 1996 at 11:00 a.m. A pre-bid conference has been scheduled for Wednesday April 3, 1996 at 10:30 a.m. at the Site Maintenance Building, Daniel Boone Homestead, Birdsboro, Berks County, PA. Contact person: Jim Lewars at (610) 582-4900. All contractors who have secured contract documents are invited and urged to attend this pre-bid conference.

Department: General Services
Location: Daniel Boone Homestead, Birdsboro, Berks County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Bidding Unit, (717) 787-6556

Project No. 409-EM Lock Haven University of the State System of Higher Education (SSHE) invites contractors to request bid documents for the project of "Concrete Maintenance", Project 409-EM. Work includes: removal and replacement/installation of concrete curbs, sidewalks, ramps, curb cuts, masonry and concrete retaining walls, concrete block walls, etc. This is a one-year contract, renewable for two (2) years thereafter. There is a pre-bid meeting on April 17, 1996 (10:30 a.m.) in the Maintenance Department, Room No. 16. Bid proposals are due and will be opened publicly on May 3, 1996 (2:00 p.m.). For further information, or to request contract documents at a non-refundable cost of \$15.00, bidders can contact Todd Webber, Contract Specialist at Maintenance Department, Room No. 12, Lock Haven University, Lock Haven, PA 17745, phone (717) 893-2019. The System encourages responses from small firms, minority firms, women owned firms and firms which may have not previously performed work for the System, and will consider joint-ventures which will enable these firms to participate in System contracts.

Department: State System of Higher Education
Location: Lock Haven University, Lock Haven, PA
Duration: One year renewable two (2) years thereafter
Contact: Todd Webber, Maintenance Department, (717) 893-2019

038 Installation of fiberglass shingles on the roof of maintenance building and the roofs of two small bay windows at a residence. Project will entail the removal of the old shingles and roofing felt down to the roof sheathing, removal of the metal drip edge, and removal of all flashing. Disposal of all waste products will be the responsibility of the contractor.

Department: Conservation and Natural Resources
Location: Bureau of Forestry, 10099 Lincoln Way East, Fayetteville, PA 17222-9609
Duration: Work must be completed by June 30, 1996
Contact: Gary L. Zimmerman, (717) 352-2211 or 352-2260

Project No. 9663 Install approximately 18 squares of vinyl siding, to include soffits, fascia, gutters, downspouts, rigid insulation and trim. Replace 23 wood windows with vinyl replacement windows on a single story dwelling.

Department: Military Affairs
Location: Quarters No. 24, Ft. Indiantown Gap, Annville, Lebanon County, PA
Duration: 120 days
Contact: Emma Schroff, (717) 861-8518

SP 282438 Painting of all extension wood surfaces including, but not limited to, 71 windows, and doors, 3 dormers and 3 porches on a 2-story brick structure.

Department: Environmental Protection
Location: North Warren District Office, North Warren, PA 16365
Duration: 3-12-96—6-30-96
Contact: Douglas Higby, (814) 332-6816

Project No. DGS 408-57 Phase II Project title: Replacement of Steam Lines. Brief description: Work consists of replacing and installing new underground steam piping at approximately 5000 linear feet, manhole repair and associated connections at buildings on the North Campus of the University in accordance with the contract documents. Mechanical construction. Plans deposit: \$45.00 per set. Payable to: Consolidated Engineers. 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 below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Consolidated Engineers, 35 South Dwight Street, West Lawn, Pennsylvania 19609, telephone (610) 670-1656. Bid date: Wednesday, April 17, 1996 at 11:00 a.m.

Department: General Services
Location: Kutztown University of Pennsylvania, Kutztown, Berks County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Bidding Unit, (717) 787-6556

MR-2 During the 1996 year the following services, to be provided to Clarion University, will be bid and contracted for a one to five year agreement term. Prospective bidders are asked to submit a "request for inclusion" letter for any service(s) they may wish to provide to the University. Services to be provided: maintenance for spectrophotometers and microscope cleaning and repairs.

Department: State System of Higher Education
Location: Purchasing Department, Clarion University of PA, Clarion University Campus, Clarion and Oil City, PA
Duration: One to five year contracts will be let
Contact: Karen Dupree, (814) 226-2233

MR-1 During the 1996 year the following services, to be provided to Clarion University, will be bid and contracted for a one to five year agreement term. Prospective bidders are asked to submit a "request for inclusion" letter for any service(s) they may wish to provide to the University. Services to be provided: maintenance for CBord Student ID System equipment; Minolta, Savin, Mita, Canon, Konica and Monroe copier repair; repair of weight training equipment; maintenance for Pitney Bowes posting equipment; reconditioning of football equipment; maintenance for Digital mainframe computer equipment; elevator repair maintenance; telecommunication repair and line installation; maintenance and repair of Johnson Facilities Management System.

Department: State System of Higher Education
Location: Purchasing Department, Clarion University of PA, Clarion University Campus, Clarion and Oil City, PA
Duration: One to five year contracts will be let
Contact: Karen Dupree, (814) 226-2233

Moving Services—21

MR-2T During the 1996 year the following services, to be provided to Clarion University, will be bid and contracted for a one to five year agreement term. Prospective bidders are asked to submit a "request for inclusion" letter for any service(s) they may wish to provide to the University. Services to be provided: Athletic Bus Transportation.

Department: State System of Higher Education
Location: Purchasing Department, Clarion University of PA, Clarion University Campus, Clarion and Oil City, PA
Duration: One to five year contracts will be let
Contact: Karen Dupree, (814) 226-2233

FLDTR-002 The Hiram G. Andrews Center is seeking the services of a contractor to provide transportation services for its students. The contractor must provide drivers and vehicles: bus, minibus, bus with wheelchair lift. Students will be transported for educational field trips and recreational activities. There will be approximately 50 one-day trips to various locations—Washington, D.C.; Columbus, OH; Harrisburg; Williamsport; Lancaster; Pittsburgh; Altoona; State College; etc. Trips will be scheduled on an as-needed basis.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, Cambria County, PA 15905
Duration: 7/1/96 to 6/30/97 with renewal options
Contact: R. D. Robinson, Chief Purchasing Agent, (814) 255-8210

Sanitation—24

PGC-2509 The PA Game Commission, Southeast Region, is soliciting bids for the pick-up and disposal of dead deer on or along roadways within the Northern half of Chester County. Bidders are required to attend a pre-bid conference to be held at the Southeast Region Office of the PA Game Commission on April 11, 1996, beginning at 10:00 a.m. For a bid package or directions to the Southeast Region Office, call (610) 926-3136.

Department: Game Commission
Location: Northern half of Chester County, on or along roadways
Duration: 07-01-96 through 06-30-97
Contact: Doug Killough, (610) 926-3136

PGC-2508 The PA Game Commission, Southeast Region, is soliciting bids for the pick-up and disposal of dead deer on or along highways within Bucks County. Bidders are required to attend a pre-bid conference, to be held at the Southeast Region Office of the PA Game Commission on April 10, 1996, beginning at 10:00 a.m. For a bid package or directions to the Southeast Region Office, call (610) 926-3136.

Department: Game Commission
Location: Bucks County, on or along roadways
Duration: 07-01-96 through 06-30-97
Contact: Doug Killough, (610) 926-3136

03060312002 Removal of brush and debris. Remove 10 each—20 ton truck loads of debris from Washington Crossing Historical Park. Price to include loading, removal and dumping of debris.

Department: Historical and Museum Commission
Location: Bureau of Historic Sites and Museums, Washington Crossing Historic Park
Duration: Four weeks from date order is awarded
Contact: Eric F. Castle, Historical Site Administrator, (215) 493-4076

Rentals/Leases—37

877A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Health with 3,160 useable square feet of existing office space, in Crawford County, with minimum parking for twenty-two (22) vehicles, within the following boundaries: North: Middle Road to French Creek; South: Krider Road, Bailey Road, and South Watson Run Road; East: French Creek; West: North Watson Run Road. The office must have direct access to I-79 and Route 322. Proposals due: April 15, 1996. Solicitation No.: 092193.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1995-96
Contact: Doris Deckman, (717) 787-4394

880A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania State Police with 10,236 useable square feet of new or existing office space, with minimum parking for fifty-seven (57) vehicles in the Philadelphia, PA area within the following boundaries: (1) North: Oregon Avenue; South and East: Delaware River; West: Schuylkill River or (2) within the Boroughs of Yadon, Sharon Hill, Folcroft, Collingdale, Darby and Lansdowne, and Tinicum Township. Proposals due: May 24, 1996. Solicitation No.: 092213.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1995-96
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

879A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania State Police with 7,639 useable square feet of new or existing office/barracks space, with minimum parking for seventy (70) vehicles in Venango County, PA, within the following boundaries: (1) along or near PA Route 257 between U. S. Route 322 North to Innis Street extended, (2) along or near U. S. Route 322 between Horse Creek Road west to Victory Church Road, (3) Breidinsburg Road, (S. R. 2006) between PA Route 257 west to Big Egypt Road. Proposals due: June 3, 1996. Solicitation No.: 092212.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1995-96
Contact: Doris Deckman or John A. Hocker, (717) 787-4394

Mine Reclamation—38

OSM 63(4748)101.1 Abandoned Mine Reclamation, Granville Hollow. Involves removal of an abandoned metal building and backfilling a mine shaft. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$19 million for Pennsylvania's 1995 AML Grant.

Department: Environmental Protection
Location: California Borough, Washington County, PA
Duration: 45 days after notice to proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 54(2011)101.1 Backfilling Strip Pits, Lorberrry Junction North. Involves an estimated 417,900 c. y. of grading and 35.4 acre of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$19 million for Pennsylvania's 1995 AML Grant.

Department: Environmental Protection
Location: Tremont Township, Schuylkill County, PA
Duration: 280 days after notice to proceed
Contact: Construction Contracts Unit, (717) 783-7994

BF 366-101.1 Abandoned Strip Mine Reclamation, H and D Coal Company Site. Involves an estimated 12,300 c. y. of grading, 1.5 acres of selective grading, 825 c. y. of ditch excavation and 4.5 acres of seeding.

Department: Environmental Protection
Location: Irwin Township, Venango County, PA
Duration: 120 days after notice to proceed
Contact: Construction Contract Unit, (717) 783-7994

OSM 49(2068)105.1 Glen Burn Mine Fire Control, Trench II B/E. Involves an estimated 315,000 c. y. of trench excavation, 33,500 c. y. of clay seal, 33,000 c. y. of grading for access roads, 6 monitoring boreholes and 12 acres of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$19 million for Pennsylvania's 1995 AML Grant.

Department: Environmental Protection
Location: Coal Township, Northumberland County, PA
Duration: 240 days after notice to proceed
Contact: Construction Contracts Unit, (717) 783-7994

BOGM 94-7R Clean out and plug one abandoned gas well estimated to be 2,600 feet in depth.

Department: Environmental Protection
Location: Wetmore Township, McKean County
Duration: 45 days after notice to proceed
Contact: Construction Contract Unit, (717) 783-7994

Drilling Services—39

253 Well drilling. Contractor to drill a 6" well with steel casing installed, to a minimum depth of 30' or greater. Bid specifications available.

Department: Corrections
Location: Correctional Industries, State Correctional Institution Rockview, Box A, Route 26, Bellefonte, Centre County, PA 16823
Duration: April 15, 1996 through June 30, 1996
Contact: Cheryl Snook, Purchasing Agent II, (814) 355-4874, ext. 251

[Pa.B. Doc. No. 96-524. Filed for public inspection March 29, 1996, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|---|--|
| <p>01. BARBER SERVICES general</p> <p>02. PERSONNEL/CLERICAL SERVICES transcribing, telephone answering, radio dispatch, secretarial, temporary help employment agency</p> <p>03. TELECOMMUNICATIONS SERVICES AND EQUIPMENT mobile radios, P. A. systems, televisions, radios and telephones: equipment and repair</p> <p>04. CONSTRUCTION alterations, miscellaneous, roofing, building, flooring, remodeling, asphalt and concrete, paving, highway projects, stream rehabilitation projects</p> <p>05. HVAC air conditioning and heating, water conditioner, miscellaneous repair, refrigeration services, furnace and steam plant</p> <p>06. ELEVATOR MAINTENANCE SERVICES elevator maintenance</p> <p>07. CONSULTING SERVICES miscellaneous, training, workshops, education, research, testing service, technical assistance legal, certified public accountant, management, public relations, bilingual services, planning, financial planning, environmental research</p> <p>08. COURT REPORTING SERVICES hearing</p> <p>09. DEMOLITION AND RENOVATION structure, equipment</p> <p>10. MEDICAL SERVICES medicine and drugs, general, consultant, laboratory, optical, mortuary, dental, ambulance, health care, veterinarian</p> <p>11. ENGINEERING SERVICES miscellaneous, geologic, civil, mechanical, electrical, surveying, solar</p> <p>12. FIREFIGHTING, SAFETY AND RESCUE SERVICES guard, burglar alarm, private investigator, armed courier, miscellaneous equipment</p> <p>13. FOOD SERVICES commodities, surplus food processing, employment opportunities, etc.</p> <p>14. FUEL-RELATED SERVICES installation of fuel tanks, pumping stations, pipe lines for fuel, includes utility related services</p> <p>15. JANITORIAL SERVICES includes general, commercial maintenance, sweeping, cleaning, property maintenance</p> <p>16. LANDSCAPING SERVICES general, pruning, tropical plants, design, harvesting crops</p> <p>17. LAUNDRY AND DRY CLEANING SERVICES linen, laundry</p> <p>18. LODGING/MEETING FACILITIES rooms and service, meals, room and board</p> <p>19. MAIL SERVICES delivery, labeling, stuffing</p> | <p>20. MAINTENANCE AND REPAIR SERVICES installation and/or repair of windows, doors, siding, fencing, walls, tanks, recapping tires, plumbing, electrical, equipment maintenance, painting and restoration, carpeting services, welding, drilling, excavating</p> <p>21. MOVING SERVICES moving, car rental, storage, hauling, flying, bus, freight, travel service</p> <p>22. MUSICAL SERVICES tuning and repair of musical instruments, use of instructors</p> <p>23. PHOTOGRAPHY SERVICES general, aerial, lab development, consultant, blueprint reproduction art studios and schematic, advertising, graphic arts</p> <p>24. SANITATION sanitation, recycling</p> <p>25. SUBSCRIPTION SERVICES textbook educational material, testing material, miscellaneous, newsletter, miscellaneous printing, advertising</p> <p>26. UPHOLSTERING SERVICES repair, refinishing, restoration</p> <p>27. DATA PROCESSING SERVICES computer, keypunch, programming, analysis miscellaneous, equipment rental</p> <p>28. PEST CONTROL SERVICES pest control, termite control, biological pest control</p> <p>29. RELIGIOUS SERVICES contracting various clergy for hospitals, centers, etc.</p> <p>30. AUCTIONEER SERVICES assistance in the sale of motor vehicles, equipment, etc.</p> <p>31. CHILD CARE SERVICES Statewide child care services</p> <p>32. INSURANCE SERVICES miscellaneous brokerage insurance services</p> <p>33. MECHANICAL MAINTENANCE AND REPAIRS installation of handicap equipment into vehicles, homes, etc.</p> <p>34. RAILROAD SERVICES transporting of goods by rail</p> <p>35. REAL ESTATE SERVICES acquisition, disposition, leasing and appraisals of real estate</p> <p>36. SHOE REPAIRS repair of shoes, braces and prosthetics</p> <p>37. RENTALS/LEASES of medical equipment, construction equipment, movies, canvas tents, laboratory equipment, vehicles, storage facilities, office space</p> <p>38. MINE RECLAMATION backfilling mine openings, extinguishing abandoned mine fires, flushing of mine voids, acid mine drainage abatement, regrading surface mines</p> <p>39. DRILLING SERVICES well drilling, core drilling and exploratory drilling</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 |
|---------------------------------|---------------|--------------------------------|---------------------|
| 1275145-01 | 03/19/96 | Wells Fargo Alarm Serv. | 17,357.00 |
| 1702215-01 | 03/13/96 | J-O-M Pharmaceutical Services | 105,420.00 |
| 1757215-01 | 03/19/96 | J-O-M Pharmaceutical Services | 105,323.49 |
| 1802325-01 | 03/19/96 | Xerox | 18,145.00 |
| 1802325-02 | 03/19/96 | IBM | 41,360.00 |
| 1884355-01 | 03/19/96 | KVB/Analect | 351,148.00 |
| 1951205-01 | 03/13/96 | Ryan International Corp. | 6,065.00 |
| 2006225-01 | 03/19/96 | Griffin Motors Co. | 274,764.00 |
| 2082165-01 | 03/19/96 | Matrix Data | 1,752.36 |
| 2082165-02 | 03/19/96 | Microwarehouse, Inc. | 1,680.00 |
| 2082165-03 | 03/19/96 | MPX | 152.00 |
| 2082165-04 | 03/19/96 | Transnet Corp. | 710.00 |
| 2082165-05 | 03/19/96 | Entre Computer Center | 5,773.80 |
| 2092215-01 | 03/13/96 | Alling & Cory | 11,519.00 |
| 2137075-01 | 03/13/96 | Aladan Corporation | 19,800.00 |
| 2176185-01 | 03/13/96 | Integrated Systems Group, Inc. | 9,108.00 |
| 2190115-01 | 03/13/96 | Thermal Products Company | 8,200.00 |
| 2221215-01 | 03/13/96 | The Trane Company | 7,940.00 |
| 2323215-01 | 03/19/96 | Bergen Brunswig Drug Company | 23,798.88 |
| 2349115-01 | 03/19/96 | Paragon Food Service | 2,700.00 |
| 2382215-01 | 03/19/96 | Associated Steam Specialty Co. | 19,092.00 |
| 2412215-01 | 03/19/96 | Dixon-Shane | 22,226.40 |
| 2465215-01 | 03/19/96 | Gatti Medical Supply | 6,421.84 |
| 5810-03 Rebid No. 2 | 03/18/96 | Memorex Telex | 5,000.00 |
| 5810-03 Rebid No. 2 | 03/18/96 | Unisys Corp. | 5,000.00 |
| 5810-03 Rebid No. 2 | 03/18/96 | Sun Microsystems | 5,000.00 |

| Requisition or Contract # | Awarded On | To | In the Amount Of |
|---------------------------------|---------------|----------------------------------|---------------------|
| 5810-03 Rebid No. 2 | 03/18/96 | Hummingbird Communications | 5,000.00 |
| 5810-03 Rebid No. 2 | 03/18/96 | Synergis Technologies | 5,000.00 |
| 5810-03 Rebid No. 2 | 03/18/96 | Microland of Rockville | 10,000.00 |
| 5810-03 Rebid No. 2 | 03/18/96 | Computer Guidance d/b/a Microage | 15,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Transnet | 12,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Swan Technologies | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Sun Microsystems | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Tangent Computer | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | New MMI Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Gov't Technology Sales-GTSI | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Summit Micro Design | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | R. V. Quinn | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Total Peripherals | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Pentamation Enterprises | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Automated Office Systems | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Zenith Data Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Unisys Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | ABC Computer Co. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Xerox Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Wave Technology | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Sprint United Telephone | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Microage Computer Centers, Inc. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Bell Atlantic Network Integ. | 18,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Inacom Information Systems | 24,000.00 |

STATE CONTRACTS INFORMATION

| Requisition or Contract # | Awarded On | To | In the Amount Of | Requisition or Contract # | Awarded On | To | In the Amount Of |
|---------------------------------|---------------|------------------------------------|---------------------|---------------------------------|---------------|--------------------------------|---------------------|
| 5850-01 Rebid No. 1 | 03/20/96 | Elek Tek, Inc. | 12,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Memorex Telex Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Graybar Elec- tric | 6,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Mantech Solu- tions | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | CHMC | 30,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Compaq Com- puter Corp. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Microage of Lancaster | 42,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Daly Comput- ers | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Cisco Systems, Inc. | 6,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Freedom Sys- tems | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | American Computer Associates | 6,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Dell Market- ing L.P. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Access Sys- tems, Inc. | 6,000.00 | 5850-01 Rebid No. 1 | 03/20/96 | Digital Equip- ment Co. | 6,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | American Power Con- version | 6,000.00 | 6505-00 | 03/08/96 | MSA/Mednet | 13,000,000.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Ameridata, Inc. | 6,000.00 | 7520-10 | 03/15/96 | Camden Bag and Paper Co. | 25,041.00 |
| 5850-01 Rebid No. 1 | 03/20/96 | Lexmark In- ternational | 6,000.00 | | | | |
| 5850-01 Rebid No. 1 | 03/20/96 | Alltel, Inc. | 12,000.00 | | | | |
| 5850-01 Rebid No. 1 | 03/20/96 | Govt. Com- puter Sales | 6,000.00 | | | | |

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 96-525. Filed for public inspection March 29, 1996, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 71—73]

Administration of Sewage Facilities, Planning Program and Standards for Sewage Disposal Facilities (Act 149)

The Environmental Quality Board (EQB) proposes to amend Chapters 71—73 (relating to administration of the sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities). The proposed amendments are designed to implement various amendments to the Pennsylvania Sewage Facilities Act (act) (35 P.S. §§ 750.1—750.20) which were enacted in 1994 under the act of December 14, 1994 (P. L. 1250, No. 149) (Act 149). As more fully described in Section E of this Preamble, the proposed amendments represent significant revisions to the planning, administrative, permitting and technical requirements of the sewage facilities program established under the act. Among the more significant amendments being proposed are provisions relating to procedures for private requests authorized under section 5 of the act (35 P.S. § 750.5); review of official plans, update revisions, special studies and requests for exceptions to the requirement to revise an official plan, responsibilities of and administrative procedures for delegated agencies, reimbursement to and the expanded authority of local agencies under sections 6 and 8 of the act (35 P.S. §§ 750.6 and 750.8); individual spray irrigation systems authorized under section 7.3 of the act (35 P.S. § 750.7c); and fees for the review of planning modules and certain permit applications and certain responsibilities of sewage enforcement officers.

This proposal was adopted by the EQB at a meeting held on January 16, 1996.

A. Effective Date

These proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as a final rulemaking except that the provisions of the proposed amendments relating to spray irrigation systems, particularly §§ 73.161—73.167, will not go into effect until June 17, 1996, or upon publication in the *Pennsylvania Bulletin*, whichever is later.

B. Contact Persons

For further information, the contact persons are Cedric H. Karper, Chief, Division of Municipal Planning and Finance, Bureau of Water Quality Management, P. O. Box 8465, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8465, (717) 787-3481; and William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8464. Information regarding submitting comments on this proposal appears in Section J of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the service relay the call. This proposal is available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

The amendments are being proposed under the authority of section 9 of the act (35 P.S. § 750.9) which authorizes the EQB to adopt rules and regulations relating to the implementation of the act. The amendments are also proposed under the authority of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510.20).

D. Background

During its 1994 session, the General Assembly enacted Act 149, which significantly amended the act. The legislation was signed by then Governor Casey on December 14, 1994. With the exception of two provisions, the provisions of Act 149 became effective on December 15, 1995. The provisions of section 7 of the act (35 P.S. § 750.7), concerning a qualified exemption from the permitting and planning requirements of the act relating to the installation of onlot sewage systems for owners of lots 10 acres or larger became effective upon enactment of Act 149. As more fully explained in this Preamble, the EQB adopted proposed regulations intended to implement this qualified exemption as well as certain other provisions at a meeting held on April 18, 1995. The provisions of section 7.3 of the act relating to individual residential spray irrigation systems, will become effective on June 17, 1996.

As noted in this Preamble, the EQB adopted certain proposed regulations at a meeting held on April 18, 1995. These proposed amendments were published at 25 Pa.B. 3221 (August 5, 1995). The proposed amendments published at 25 Pa.B. 3221 concerned provisions relating to, but not limited to, the qualified exemption for owners of lots 10 acres or larger, permitting of onlot sewage systems in areas where soil mottling is present, financial assurances for onlot sewage systems installed in soils where mottling is present, employment of alternate sewage enforcement officers by local agencies, acceptance of testing data and information utilized by a prior sewage enforcement officer and a time frame for review of new land development revisions by the Department. As noted in the Preamble at 25 Pa.B. 3221, those proposed amendments were intended to make the existing regulations consistent with certain provisions of the act of July 1, 1989 (P. L. 124, No. 26) (Act 26) and certain provisions of that act which were affected by Act 149. See 25 Pa.B. 3221 for a fuller explanation of the rationale for that proposed rulemaking. To provide the appropriate context for this proposal and for ease of reading, the provisions of the proposal published at 25 Pa.B. 3221 are reprinted in bold face in this proposal and are not subject to public comment unless the comments are germane to issues related to this proposal.

The proposed amendments to Chapters 71—73 outlined in this proposed rulemaking address the provisions of Act 149 which were not addressed at 25 Pa.B. 3221. The proposed amendments outlined in this notice are based on State law and there are no comparable Federal regulations. The proposed amendments and their underlying rationale are discussed more fully in Section E of this Preamble.

The proposed amendments outlined in this notice represent a cooperative effort by the Sewage Advisory Committee (SAC) and the Department to update Chapters 71—73 to be consistent with the amendments to the act as effectuated by Act 149. SAC is an advisory committee

established under section 4 of the act (35 P. S. § 750.4). SAC consists of 33 members representing a cross-section of organizations which have a direct interest in water and sewage issues in this Commonwealth. A listing of the SAC membership is available upon request from Cedric H. Karper, whose address appears in Section B of this Preamble.

E. Summary and Purpose of the Proposed Amendments

1. § 71.1 (relating to definitions)

Section 71.1 contains several new or revised definitions relating to the administration of the sewage facilities program. Terms newly defined are: "delegated agency," "individual residential spray irrigation system," "municipality," "supplement and exception to the requirement to revise." Terms revised include: "official plan revision," "update revision," "sewage," "sewage enforcement officer," "individual sewage system," "individual onlot sewage system," "individual sewerage system," "community onlot sewage system," "community sewerage system" and "subdivision." For the most part, the newly defined or revised terms are intended to make the terms consistent with the terms as defined in the act. If applicable, these terms will be added to or revised in the same manner in Chapters 72 and 73.

2. § 71.2 (relating to scope and time periods)

The applicability provisions are proposed to be revised to make it clear that Chapter 71 is applicable to local agencies and delegated agencies as well as the Department. Act 149 greatly expanded the responsibilities of local agencies and created delegated agencies which are responsible for the administration of certain activities related to sewage facilities planning and permitting.

3. § 71.3 (relating to purposes)

This section is proposed to be amended by adding two new paragraphs. The section provides a short description of the six subchapters of Chapter 71. A new subchapter, Subchapter F (relating to fees), is proposed to be added. Section 10(12) of the act (35 P. S. § 750.10(12)) sets forth a fee schedule for the review of sewage facilities planning modules for new land development. In addition, section 7(b)(4.3)(ii) of the act authorizes delegated agencies to assess fees for the review of supplements to official plans.

4. § 71.14 (relating to private request to revise official plans)

Section 5(b) of the act sets forth a procedure whereby a property owner may file a private request with the Department. A private request is an application filed by a property owner with the Department requesting that the Department order a municipality to revise or implement its official plan. The private request procedures were substantially amended as a result of Act 149. Accordingly, the private request procedures outlined in § 71.14 would be amended to be consistent with the provisions of Act 149. Among other things, § 71.14(a) would be amended to make it clear that a person who is a legal or equitable property owner may file a private request with the Department. The addition of the words "legal or equitable" is intended to make this provision consistent with parallel language of the act.

Section 71.14(a) is also proposed to be amended by the addition of language incorporating a requirement of section 5(b) of the act that a person filing a private request with the Department notify the affected municipality in writing of the filing of the request with the Department.

The provisions of subsection (c) are proposed to be deleted. The provisions proposed to be deleted provide

that no private request will be considered by the Department unless the subdivision had received prior approval under municipal or county planning codes under Article VI of the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10601—10620). Section 5(b.2) of the act provides that the Department may not refuse to grant a private request in the event there are any inconsistencies with any applicable zoning, subdivision or land development ordinances, but may instead make its order subject to certain conditions, which are more fully described in the discussion relating to subsection (e) in this Preamble. The remaining subsections will be renumbered to reflect this deletion.

Renumbered subsection (c) and the text would be revised to make it consistent with the provisions of section 5(b.1) of the act. Among other things, the subsection is proposed to be revised to provide that the Department will inform certain enumerated local and county agencies of its receipt of the private request and that written comments these agencies wish to provide shall be submitted to the Department within 45 days of the Department's receipt of the private request application. Currently, these agencies have 60 days following receipt of a request from the Department to submit comments. In addition, the last sentence of the subsection, which provides that comments submitted by local and county agencies include a discussion of the compatibility of a proposed subdivision with municipal or county planning codes, is proposed to be deleted.

Subsection (d), as proposed to be renumbered, outlines the criteria the Department is to consider in deciding on a private request application. For the most part, the existing language of the subsection would be retained. However, existing paragraph (2), which provides that the Department must consider the plan content consistency requirements of § 71.21(a)(5)(i)—(iii), is proposed to be deleted.

Subsection (e) sets forth the time-frame and procedure to be followed by the Department in rendering its decision on private request applications. Currently, in the event no public comments are received regarding a private request, the Department is required to render its decision within 120 days following the expiration of a 60-day comment period regardless of whether comments are received. Act 149 provides a 45-day comment period and requires the Department to render its decision within 120 days after receipt of comments or upon the expiration of the 45 day comment period if no comments are received. Accordingly, this subsection is proposed to be revised. In addition, language would be added to provide that the review period may be extended if agreed to in writing by the person filing the private request, as provided in section 5(b.2) of the act.

Three paragraphs which outline certain procedures required by section 5(b.2) of the act, would be added to subsection (e). In the event the Department orders a requested revision, it must specify the nature of the revisions a municipality must undertake to revise and implement its official plan and set forth time frames for plan completion. In the event the Department refuses to order a requested revision, the Department must specify the reasons for the refusal. If the Department refuses to order a requested revision, it must notify the person who filed the request of the reasons for the refusal in writing. If there is an inconsistency with an applicable zoning, subdivision or land development ordinance, the Department may order a requested revision, but the order would be subject to limitations placed on development of the

property by a municipality under its zoning, subdivision or land development ordinances or by a court order.

5. *§ 71.32 (relating to Department responsibility to review and act upon official plans)*

Certain subsections are proposed to be revised to make the section consistent with the act. Subsection (f), which outlines the consequences to a municipality if it does not have an official plan or fails to revise or implement its official plan as required would be revised. Paragraph (1) is proposed to be amended by deleting the reference to section 7(b)(4) of the act and replacing it with references to § 72.23(a) and (b). Paragraph (1) would thus provide that one of the consequences is that limitations on permit issuance under § 72.23(a) and (b) become effective.

Another consequence of this failure would be that the Department will not issue a permit under section 5 of The Clean Streams Law (35 P. S. § 691.5) for projects in areas where a plan or revision is required. The existing language provides that the Department will not approve a project requiring this permit.

Existing provisions specifying that a revision for new land development will not be approved in those areas of a municipality in which an official plan, update revision or implementation of an official plan is required and that a subdivision plan may not be approved nor a building permit issued in those areas of a municipality where the official plan is inadequate or not being substantially implemented are being deleted. These provisions are inconsistent with the act. Thus, a supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to: (i) submit an update revision or special study; or (ii) to implement its plan as required. This would not preclude the Department from denying a supplement or revision or find an exception to the requirement to revise inadequate where conditions in addition to the failure to submit or implement may warrant.

Similarly, a supplement or revision will not be denied nor would an exception to the requirement to revise be found inadequate solely because an update revision or special study is under review by the Department. This incorporates the requirements of section 7(b)(4.1)(i) of the act.

A new subsection (f)(5) is proposed to be added incorporating the requirements of section 7(b)(4.1)(ii) of the act which contains certain content requirements relating to contracts for the sale of lots within areas where permit limitations are in effect. A contract shall contain a statement in the contract which clearly indicates to the buyer that sewage facilities are not available for that lot and that the facilities will not be not available and construction of a structure on the lot may not begin until the Department has approved a major planning requirement.

A new subsection (g) is proposed to be added which incorporates by reference the limitation on permit issuance provisions of § 72.23(a) and (b). These provisions are discussed more fully in the discussion in Paragraph 21 of this Preamble.

6. *§§ 71.41—71.44 (relating to planning grants)*

The provisions of §§ 71.41—71.44 will remain intact except for proposed minor editorial changes which will not alter the effect of these sections.

7. *§ 71.51 (relating to general provisions relating to new land development plan revisions)*

This section is proposed to be enlarged by adding a new subsection (b), which outlines the procedure for the processing of exemptions from the sewage facilities planning requirements for new land development proposals. In addition, existing subsection (a)(1) is proposed to be amended to provide that a municipality would not be required to revise its official plan if a proposed subdivision meets the requirements of § 71.55 (relating to exceptions to the requirement to revise an official plan for new land development) or the exemption provisions of the subsection (b) which are more fully explained as follows.

Subsection (b) outlines the criteria and procedures specified in section 7(b)(5) of the act which would be utilized by the Department and, in the case of supplements, delegated agencies in processing exemptions from sewage facilities planning for new land developments. There are five criteria: (1) the official plan must show that the areas of the municipality covered by the exemption are to be served by onlot sewage disposal facilities; (2) an area proposed for use of individual or community sewage systems is not underlain by carbonate geology nor within 1/4 mile of water supplies documented to exceed 5 ppm nitrate-nitrogen; (3) the area proposed for development is outside of a high quality or exceptional value watershed; (4) all subdivided lots and the remaining portion of the original tract after subdivision are one acre or larger; and (5) soils testing and site evaluation establish that separate sites are available for both a permittable primary onlot sewage system and a replacement onlot sewage system on each lot of the subdivision. Section 7(b)(5)(ii) of the act provides that permits may be issued if it is determined, that the ". . . geology of the area proposed for use of individual or community systems is not conducive to nitrate-nitrogen groundwater contamination." Both the Department and SAC believe this language is somewhat vague and susceptible to varying interpretations. Accordingly, to provide guidance to potential applicants, that language is proposed to be interpreted as described in the synopsis of criterion (2).

Similarly, subsection (b)(2) incorporates the provisions of section 7(b)(5.1) of the act, which outline the criteria which are to be utilized by the Department and delegated agencies in determining whether a subdivision proposing a connection to or an extension of public sewers would require a revision for new land development or a supplement. These criteria relate to compliance by existing collection, conveyance and treatment facilities with The Clean Streams Law, permittees of the receiving sewerage facilities documenting that the existing collection, conveyance and treatment system do not have an existing or a 5-year projected hydraulic or organic overload, certification from the permittees of the collection, conveyance and treatment facilities regarding the capacity to receive and treat sewage flows from the applicant's proposed development and whether an approved sewage facilities plan update revision is being implemented.

Subsection (b)(3) requires the Department to provide sufficient information to delegated agencies to enable them to make decisions regarding certain enumerated criteria specified in subsection (b)(1) and (2). In addition, when a delegated agency makes a determination under subsection (b)(1) or (2), the delegated agency would be required to submit quarterly reports to the Department, which reports are to contain information relating to the subdivisions, lots and projected sewage flows of the subdivisions exempt from the planning requirements of the act.

Subsection (b)(4) specifies that information regarding a request for an exemption from the sewage facilities planning requirements be on a form provided by the Department.

Subsection (b)(5) incorporates a provision of section 7(b)(5.2) of the act. This subsection provides that proposals for new land development which are intended to be served by sewage facilities which require or which are required to apply to the Department for a new or modified permit under The Clean Streams Law are not eligible for an exemption, under subsection (b)(1) and (2), from the planning requirements of the act.

8. § 71.53 (relating to municipal administration of new land development requirements for revisions)

For the most part, the existing language would be retained. Language is proposed to be added to subsection (b) incorporating time frames for the review of planning modules specified in section 5(a.1) of the act. In addition, language would be added to subsection (b) which outlines the procedure for the review of planning modules by sewage enforcement officers and appropriate planning or zoning agencies. If a planning module has not been received by an appropriate planning or zoning agency 60 days prior to submission to a municipality, or received by a sewage enforcement officer 20 days prior to the submission, or both, the planning module would be considered incomplete and the municipality would be required to submit a copy of the module to the appropriate agencies or the sewage enforcement officer, or both, for their review. A municipality would be required to review and act upon a planning module within 60 days of receipt of a complete application or additional time as the applicant and the municipality may agree to in writing. Failure of a municipality to act within that time period would cause the revision for new land development to be deemed approved by the municipality and the planning module must then be submitted to the Department by either the municipality or the applicant.

For the purposes of determining when a municipality has received a complete application, the term "receipt" would be construed as meaning when an application was determined to be complete by the municipality. This interpretation is consistent with a similar provision in § 71.54(d) concerning the period of review of plan revisions by the Department.

The language of subsection (d)(6)(iii), which specifies that proposals resulting in public expenditures in excess of \$100,000 are among the types of new land development proposals which shall be accompanied by documentation of publication of the proposed adoption of the plan in a newspaper to satisfy one of the criteria for completeness, is being clarified to make it clear that the public expenditure would relate only to the sewage facilities portion of the project, not the entire cost of the project.

In addition, language would be added to subsection (d)(6) which incorporates the newspaper publication provisions of section 5(i) of the act. The language would provide that the applicant, an applicant's agent, the municipality or the local agency may provide the notice required for those planning modules which are subject to public notice by publication in a newspaper of general circulation within the affected municipality. When an applicant or an agent provides the notice, the municipality or local agency shall be notified by the applicant or agent and will be relieved of the obligation to publish. In addition, the notice published shall state where the plan is available for review and indicate that comments re-

garding the proposal shall be sent to the municipality within which the new land development is proposed.

Subsection (h) is proposed to be revised to make it clear that a municipality may not adopt a proposed revision to an official plan unless it has determined that the proposal complies with sewage related provisions of municipal zoning, land use or other comprehensive plans. The existing provision uses the term "applicable" where "sewage related" would appear, thus creating an ambiguity susceptible to varying interpretations.

9. § 71.54 (relating to Department administration of new land development planning requirements for revisions)

The proposed amendments to portions of this section were published previously. Accordingly, the proposed amendments to subsections (b) and (d) are not subject to this rulemaking. Subsection (c), which concerns the effect of the failure of a municipality to have an official plan or to revise or implement a plan, is proposed to be amended by deleting a paragraph which provides that in the event there was a such failure, the municipality could not qualify for an exception to the requirement to revise an official plan for new land development under § 71.55. Subsection (c) provides that in the event a municipality does not have an official plan or fails to revise or implement a plan, the provisions of §§ 71.32(f) and 72.23(a) and (b) apply. Section 71.32(f) outlines the effect of a failure, including permit limitations under § 72.23(a) and (b) and denial of permits issued by the Department for projects in areas of the municipality for which a plan, revision thereto or implementation is required. Section 72.23(a) and (b) outlines those situations when a permit for onlot sewage systems may not be issued. For further information, refer to the discussion under Paragraph 21 of this Preamble for a fuller explanation of the permit limitation provisions of § 72.23.

10. § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development)

The provisions of subsections (a) and (b) will remain largely intact. Minor editorial changes are being proposed to make the language consistent with this title.

Subsection (c) is proposed to be substantially revised. The existing language, which states that municipalities shall comply with § 71.53 when reviewing the proposals, is proposed to be deleted and replaced with language incorporating the provisions of section 5(a.1) of the act. Since the language proposed is almost identical to that proposed for § 71.53(b), refer to the discussion under the first paragraph of Paragraph 8 of this Preamble for an explanation of the procedure for the review of a request for an exception from the requirement to revise an official plan for new land development.

Subsection (d) incorporates the provisions of section 5(e)(2) of the act, which sets forth the time frame for the review by the Department of requests for an exception to the requirement to revise. The Department would have 30 days from its receipt of a complete request accompanied by proper documentation and appropriate processing fees to act on the request. Otherwise, the request would be deemed to have been approved by the Department if it does not act within the 30-day period.

11. § 71.58 (relating to delegation of new land development planning)

The EQB proposes to add § 71.58 relating to the delegation of certain new land development planning responsibilities of the Department. Section 7(b)(4.3) of the

act authorizes the Department to enter into agreements with local agencies which qualify as delegated agencies delegating the Department's authority to require the submittal of and review and approve or disapprove sewage facilities planning for new land developments as outlined in the act.

Subsection (a) sets forth the general principals relating to the delegation of authority. Among other things, planning modules approved by delegated agencies shall be supplements to an official sewage facilities plan, not a revision or an exception to the requirement to revise. A "supplement to an official plan" is defined in section 2 of the act (35 P. S. § 750.2) as a "sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department . . . under the . . . Clean Streams Law . . ." Thus, a delegated agency would not be authorized to review subdivision proposals utilizing a sewage facility subject to permit requirements administered by the Department under The Clean Streams Law. Delegated agencies may assess fees for the review of supplements, which fees may only be used by the delegated agency for the purpose of administering those responsibilities delegated to the agency. The Department is authorized to limit the review of supplements by delegated agencies to specific classifications of sewage facilities or new land developments. A prerequisite to becoming a delegated agency is qualification for 85% reimbursement under § 72.44, as more fully explained in paragraph 30 of this Preamble.

Subsection (a)(5) outlines the documentation necessary for granting delegation to local agencies for the review of supplements. Among the requirements are: having municipal or county-wide subdivision ordinances in effect, a current official sewage facilities plan which is being adequately implemented, municipal or county-wide ordinances in effect which require sewage facilities planning approval as a condition to final plat approval under the Municipalities Planning Code (53 P. S. §§ 10101—10620), coordination procedures with the Department to ensure continued compliance with municipal wasteload management requirements for new land developments which propose to use public sewerage facilities which do not require a permit under The Clean Streams Law, a 3-year history of compliance with the requirements of the act by the local agency and sewage enforcement officers employed by the agency, a workload analysis (including documentation that fees to be charged are adequate to administer the sewage facilities planning reviews), and the administrative procedures, rules, regulations, fee schedules, contracts and applicable municipal ordinances, rules and regulations which the delegated agency intends to utilize in the administration of the authority delegated to the agency.

Supplements to an official plan are to be prepared by the proponent of a new land development proposal and are to be reviewed and acted upon by a delegated agency. Within 10 days of the delegated agency's action, the agency shall submit the supplement to the Department.

The failure or refusal of a municipality, a local agency or another agency authorized to enter into a delegation agreement with the Department will not affect the eligibility of that agency for 85% reimbursement under Chapter 72. Section 6(c) of the act authorizes reimbursement to local agencies of up to 85% of the costs of the expenses incurred in the administration of the act, provided certain qualifications specified in the act and incorporated into Chapter 72 are met.

Subsection (b) provides that the Department will review the performance of the delegated agencies and may revoke a delegation agreement for cause, as provided in section 10(7.1) of the act.

12. § 71.59 (relating to delegated agency administration of new land development planning requirements)

Section 71.59 is proposed to be added. This section will outline the responsibilities of delegated agencies with respect to new land development planning requirements. This section is distinct from the provisions of § 71.58 in the sense that the former section sets forth the requirements, and the documentation necessary, for qualification as a delegated agency.

Once an agency has been delegated the authority to review and approve planning modules relating to subdivisions for new land development, the agency shall utilize the regulatory provisions of §§ 71.54 and 71.55 relating to the administration of new land development planning requirements for revisions and the exceptions to the requirement to revise an official plan for new land development in the same manner as the Department except that the time limits for review are as specified in subsection (c).

A delegated agency is authorized to approve a new land development proposal which is submitted as a revision or an exception to the requirement to revise as the submission of a supplement to the official plan of a municipality. This provision is intended to address those situations when a revision or an exception might qualify as a supplement, but is inadvertently submitted as an application for a revision or an exception.

A delegated agency is required to determine if a submission is complete within 10 days of its receipt and must act on the submission within 60 days of the date of a complete submission or additional time as may be agreed to in writing by the applicant and the delegated agency. The term "60 days of the receipt of a complete submission" means 60 days from the date the submission is determined to be complete, not 60 days from the date the application was submitted.

A copy of each supplement approved by a delegated agency shall be submitted to the Department within 10 days of the action of the delegated agency. Except for planning modules for new land development which propose service by sewerage facilities which require a new or modified permit from the Department under The Clean Streams Law, no additional approval by the Department is required.

13. § 71.63 (relating to retaining tanks)

Minor editorial changes intended for clarity are proposed for subsections (e)—(g). Subsection (e), which exempts certain facilities having a sewage flow of 400 gallons or less from the planning requirements of subsection (c), is being clarified to make it clear that the recreational establishments exempt are those recreational establishments which are recreational vehicle dump stations. The planning requirements of subsection (f), relating to privies and chemical toilets, would not be applicable to chemical toilets, as is presently the case. In addition, subsection (g) provides that the same planning requirements would not be applicable to a privy intended for use on an isolated lot which is 1 acre or larger and will not be served by water under pressure, piped water or piped wastewater. Piped wastewater would be an addition to the existing language.

14. § 71.64 (relating to small flow treatment facilities)

Subsection (b), which limits the use of small flow treatment facilities to use as a replacement or repair system, is proposed to be amended by providing that small flow systems could serve commercial facilities which generate domestic wastewater which does not contain industrial waste, as well as residential dwellings. Currently, these systems may only serve residential dwellings.

The Department proposes to require that official plans or update revisions relating to the use of small flow treatment facilities provide specific responsibilities for the operation and maintenance of the proposed system. Subsection (c)(6) requires that the official plan or revision contain documentation that one or a combination of operation and maintenance requirements would be utilized. The requirements may include: an operation and maintenance agreement between the property owner and an experienced person or entity; an operation and maintenance agreement between the property owner and the municipality or local agency establishing the owner's responsibility for operating and maintaining the system and municipal or local agency oversight of the system; a municipal ordinance requiring the facilities be operated and maintained through a maintenance agreement; municipal ownership of the system; inclusion of the system in a sewage management agency operated by the municipality or a properly chartered association, or both, trust or other private legal entity which is structured to manage the system.

In addition, financial security such as bonding, escrow or other security shall be established prior to planning approval. The financial security shall be for an amount up to a maximum of 50% of the equipment and installation costs of the system for the first 2 years of operation and not more than 10% of the costs each year thereafter. The security shall be forfeited to the municipality upon notice of the continuing noncompliance of the system with certain specified requirements. The forfeited security shall be used to cover the costs of the repair or future operation and maintenance of the system, or both, over its design life.

15. § 71.72 (relating to sewage management programs for Department permitted sewage facilities)

The revisions proposed for this section essentially follow the revisions of § 71.64 described in Paragraph 14 of this Preamble, except that the bonding and sewage management options described therein apply to official plans or new land development proposals which involve the construction of nonmunicipal sewage facilities requiring a permit from the Department. The municipality, prior to adoption of a plan or revision, must require one or more bonding options as well as one or more of the sewage management options.

Subsections (c) and (d) authorize reimbursement of eligible costs related to administration of sewage management programs to local agencies and municipalities whose onlot system permitting program is administered by a local agency other than the municipality, such as a multimunicipal local agency, respectively.

16. Subchapter F (relating to fees)

Proposed §§ 71.81—71.83 relate to the fees which the Department and delegated agencies may charge for the review of sewage facilities planning modules for new land developments.

Delegated agencies shall establish fees for the review of sewage facilities planning modules for new land develop-

ments. The fees must be set forth in a fee schedule formally adopted by the delegated agency and be available to the public. The fees are not specified. However, section 7(b)(4.3)(iv)(F) of the act provides that the fees should "... be sufficient to allow the delegated agency to act upon supplements within the time limits established by this act."

Fees which would be charged by the Department are specified in section 10(12) of the act. Those fees will be shown on and will be specific to each type of planning module. However, fees will not be charged for activities related to the processing of requests for exemptions from the sewage facilities requirements under § 71.51(b).

CHAPTER 72. ADMINISTRATION OF SEWAGE FACILITIES PERMITTING PROGRAM

17. § 72.1 (relating to definitions)

In addition to those terms noted in paragraph 1 of this Preamble, defined terms amended or added to this section include "alternate sewage system," "experimental sewage system," "qualified registered professional engineer," "qualified registered professional geologist," "qualified soils scientist," "person" and "soil mottling."

18. § 72.2 (relating to scope)

Subsection (c) is proposed to be amended to provide that with respect to onlot systems, the chapter governs the issuance of permits for systems which employ renovation of sewage effluent in a soil absorption area or spray field, except for large volume onlot sewage systems. Currently, the chapter pertains to those onlot systems which employ renovation of sewage effluent in a subsurface absorption area. This proposed change is necessitated, in part, because the act authorizes permits for the installation of individual residential spray irrigation systems, which are a type of onlot sewage system.

The subsection also outlines those situations when a local agency may not issue a permit for an onlot sewage system. Those provisions would be retained except that a local agency or a sewage enforcement officer may issue a permit for an individual residential spray irrigation system which is in conformity with the standards established under Chapter 73. In addition, no permit may be issued where there is a violation of Chapters 71—73, the act or The Clean Streams Law.

19. § 72.21 (relating to general)

This section sets forth the general requirements for the administration of an onlot sewage permitting program by a local agency. The existing provisions would be retained. However, a subsection is proposed to be added to incorporate the requirement of section 8(b)(1) of the act (35 P. S. § 750.8(b)(1)) that a local agency employ an adequate number of sewage enforcement officers or have a contractual arrangement with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer applicable provisions of the act.

20. § 72.22 (relating to permit issuance)

Subsection (a) provides, in part, that no person may install or construct an onlot system without first obtaining a permit from a local agency. This portion is proposed to be amended to include the awarding of a contract for construction of that system, incorporating an amendment to section 7(a)(1) of the act.

Subsection (b), which relates to the requirement for permits for certain types of alterations to onlot sewage systems, is proposed to be amended to also provide for permits for certain connections to an existing onlot

system involving not only repair or replacement, but also a disturbance, modification or enlargement of a treatment tank, soil absorption area or spray field. The proposed amendments are intended, in part, to address permitting requirements for individual residential spray irrigation systems which are now authorized under the act.

The provisions of subsection (c) relating to one permit for multiple installations of chemical or other portable toilets is proposed to be deleted. The installation of these toilets would be subject to the requirements of Chapter 73.

A new subsection(g), is proposed to be added incorporating the provisions of section 7(a)(1) of the act which provide that a permit is not required for a sewage system in those situations when a new dwelling is proposed to replace a previously existing dwelling when the size and anticipated use of the new dwelling is the same as the previously existing dwelling and that dwelling was in use within 1 year prior to the anticipated date of the completion of construction of the new dwelling. The local agency would determine the size and anticipated use of the sewage of the new dwelling in accordance with the absorption area and sewage flow criteria of §§ 73.16 and 73.17. This permit exception will not be applicable in those cases where there is an active investigation of a malfunction by either the local agency or the Department.

21. § 72.23 (relating to limitation on permits)

The heading of the section is proposed to be changed to "Limitation on onlot system permit issuance." This change is intended to make it clear that the permit limitation provisions of this section only apply to onlot sewage systems.

Subsection (a) currently provides that a local agency may issue permits for onlot sewage systems if the proposed system is consistent with the method of sewage disposal contained in the official plan of the municipality in which the system is to be located. It also provides that permits may be issued when a municipality is implementing its plan in accordance with a schedule approved by the Department. The provisions are proposed to be revised by specifying that the proposed system shall be consistent with the approved official plan or a special study or update revision. Similarly, a municipality may issue permits if it is implementing the official plan or a special study or update revision. A local agency would also be authorized to issue permits when a municipality has received approval for a revision for new land development or been granted an exception from the requirement to revise by the Department, when a supplement has been approved by a delegated agency or it has been determined by the Department or delegated agency that no sewage facilities planning is required in accordance with § 71.51 which relates to exemptions from sewage facilities planning for new land development.

Section 7(b)(4.1) of the act provides that "[i]n the event that [a] municipality has no plan or has not received department approval of an update revision or special study to the official plan or implemented its plan as required . . . or by order of the department, no permits may be issued . . ." in those areas of the municipality where the Department finds that there is a serious risk to the health, safety and welfare of persons within or adjacent to the municipality. The permit limitations are to remain in effect until the Department has approved or the municipality has commenced implementation of its plan, update revision or special study in accordance with

a schedule approved by the Department. Subsections (b) and (c) incorporate these provisions of section 7(b)(4.1) of the act.

Section 7(b)(4.2) of the act outlines those situations when the permit limitation provisions of section 7(b)(4.1) of the act would not be applicable. Permit limitations are not applicable to: (1) areas of the municipality when there is a finding that a replacement system could be installed in the event that the original system failed; (2) those areas of the municipality outside of areas delineated in an order requiring an update revision; (3) existing subdivisions when lots or homes were sold prior to May 15, 1972; and (4) areas where the Department or local agency finds it necessary to issue permits for the abatement of pollution and/or the correction of health hazards. Subsection (d) incorporates these provisions. However, the language regarding replacement systems in subsection (d)(1) clarifies the language of the act in that it makes it clear that the replacement system relates to a replacement soil absorption area or spray field. In addition, a provision would be added noting that permit limitations would not be applicable in the case of interim repairs or the replacement of existing malfunctioning onlot sewage systems.

22. § 72.24 (relating to applications for permits)

The provisions of section 7(b)(1) of the act which require a local agency to maintain and make available for public inspection a record of all permit applications submitted to the local agency are proposed to be incorporated into a new subsection (c).

23. § 72.25 (relating to issuance of permits)

Under the existing provisions of § 72.25, a local agency is authorized to issue permits for certain types of sewage disposal systems, including experimental or alternate onlot sewage systems. The proposed amendment to this section will clarify that the local agencies are authorized to issue permits for conventional systems under this section, but not experimental systems. Procedures for the approval of alternate systems would be further clarified in a new subsection.

In addition, local agencies are authorized to issue permits for the installation of an individual residential spray irrigation system provided there is documentation that the municipality within which the system is to be located has taken action to assure compliance of the system with the standards of proposed § 73.167 (relating to operations and maintenance). In addition, assurances shall be provided by the municipality through one or more of a combination of options. The options specified in subsection (h) are substantially similar to those established for sewage management programs. Refer to Paragraph 14 for a fuller description of those options.

Section 7(b)(2.2) and (2.3) of the act outlines the procedures for the review and approval of applications for permits for alternate sewage systems. These procedures would be incorporated into a new subsection (e). There is one procedure for municipalities and local agencies which are not delegated agencies and another procedure for those which are delegated agencies. Applications submitted to municipalities or local agencies which are not delegated agencies are to be reviewed for completeness by the municipality or local agency. If the application is found to be complete, it is then submitted to the Department for its review. Permits are then to be issued or denied within 45 days of the transmittal of a complete application to the Department.

Municipalities and local agencies which are delegated agencies are authorized to approve or deny applications for alternate systems in accordance with the procedures specified in section 7(b)(2.3) of the act. Permit applications for alternate systems submitted to delegated agencies do not need to be submitted to the Department. To ensure that the delegated agencies are properly administering the alternate system permitting program the Department is authorized to exercise its authority to revoke a permit in accordance with section 7(b)(2.4) of the act. In addition, the performance of the delegated agencies in the administration of the alternate system permitting program, is subject to ongoing evaluations by the Department.

Section 7(b)(2.4) of the act provides that whenever the Department disagrees with the local agency's basis for the issuance of a permit, the Department may revoke the permit if it provides the local agency justification for its decision based on statutory or regulatory provisions. This authority would be incorporated into a new subsection (j).

24. § 72.26 (relating to denial of permits)

Section 8(c) of the act requires that a sewage enforcement officer accept prior testing data and information obtained by a previous sewage enforcement officer provided the site and prior testing meet all 10 of the criteria specified in that section of the act and the current sewage enforcement officer certifies the same to the local agency. Section 8(c) also establishes a presumption that "... unless the prior sewage enforcement officer's certification has been revoked or suspended by the department or the prior sewage enforcement officer's certification has been voluntarily surrendered, the testing data and information obtained by the prior sewage enforcement officer is valid unless the currently employed sewage enforcement officer finds that one or more of the criteria listed are not met." The 10 criteria relate to the prior soil testing not being cited in a revocation or suspension of the previous sewage enforcement officer's certification, verification of the location of the previous tests, prior testing being done in accordance with applicable regulations, proper recordation of prior tests, prior soil probes within 10 feet of the proposed absorption area, prior percolation tests performed on the site of proposed absorption area, certification of original person observing or conducting test, inaccuracies or falsifications of test data, and no changes materially affecting the siting or operation of an onlot system occurring since the original testing and indemnification relating to the actions of the new sewage enforcement officer. The preceding provisions have been incorporated into a new subsection (b).

Section 8(d) of the act establishes a procedure to be followed in the event that, after verifying that certain criteria described in the preceding paragraph have not been met, a sewage enforcement officer rejects either an application for a permit or tests certified by a prior sewage enforcement officer within the immediately preceding 6 years. If a sewage enforcement officer rejects a permit or test, the retesting and reapplication fees shall be waived to the applicant. However, the fee waiver would not apply if there have been changes in the conditions of the site which would materially affect the siting or operation of a system, when the previous soils testing was conducted by the local agency or when the previous sewage enforcement officer's certification has been revoked or voluntarily surrendered under certain circumstances or been suspended by the Department for actions related to the siting, design or installation inspection of onlot systems. These provisions would be incorporated into new subsections (c) and (d).

25. § 72.32 (relating to sales contracts)

Certain sections of the act require that contracts for the sale of a lot contain provisions relating to the installation of individual sewage systems or holding tanks in certain circumstances as well as in those cases where permit limitations are in effect.

Section 7.1(a.1) of the act provides that every contract for the sale of a lot which is served by an individual sewage system installed under the 10-acre permit exemption provisions of the act shall clearly indicate that soils and site testing were not conducted and that the person who purchases the property or properties which are served by that system may be liable for any contamination, pollution, public health hazard or nuisance which occurs as a result of a malfunction of that system. This requirement is proposed to be incorporated into subsection (a).

Section 7.1(a.2) of the act provides that contracts for the sale of a lot served by a holding tank designed to facilitate ultimate disposal of the sewage at another site shall state that the property is served by the tank and provide an annual maintenance cost history of the tank from the date of installation or from December 15, 1995, whichever is later. This requirement is proposed to be incorporated into subsection (b).

Section 8(f) of the act provides an exception from the requirements of the act relating to isolation distances between a private well and a proposed absorption area. The exception may apply if the local agency finds that the installation of a proposed individual sewage system "does not pose a threat of pollution to any well on the same lot within the distance specified by regulation." Contracts for the sale of lots in which the exception has been granted shall contain a statement clearly indicating to the buyer that isolation distances between the individual onlot system components and the well which are required by the regulations have not been met. This requirement is proposed to be incorporated into subsection (c).

Paragraph 21 of this Preamble describes those situations when a permit for a sewage system may not be issued. Section 7(b)(4.1)(ii) of the act provides that contracts for the sale of lots in areas where permit limitations are in effect shall state that sewage facilities are not available and may not be available for that lot and that construction of any structure on the lot may not begin until the Department has approved a major planning requirement. The contractual requirements are proposed to be incorporated into subsection (d).

Proposed subsection (e) would provide that the sales contracts described previously in this Preamble which do not conform to the requirements outlined in this Preamble may not be enforceable by the seller against the buyer and that any provision in a sales contract purporting to waive the rights of the buyer to the disclosure required is void. This proposal incorporates similar language relating to land sale contracts in each of the sections of the act discussed in this Preamble.

26. § 72.33 (relating to well isolation distance exemption)

As discussed in paragraph 25 of this Preamble, section 8(f) of the act provides an exemption from the requirements relating to isolation distances between private wells and absorption areas specified in Chapter 73. Proposed § 72.33 would implement the provisions of the act relating to this exemption.

If a local agency determines that the installation of a proposed individual sewage system does not pose a threat

to any well on the same lot within the isolation distances between a private well and an absorption area specified in Chapter 73, the isolation distances will not be applicable. However, if a private well is located on another lot, regardless of whether that lot is owned by the owner of the lot to which the exemption applies, the minimum horizontal isolation distances specified in § 73.13 shall be met except in the case of the repair of onlot systems in accordance with the requirements of § 73.3.

The proposals to subsections (c) and (d) set forth the application requirements for a well isolation distance exemption and the time frames for review of the application. A request for an exemption shall contain appropriate ground water studies and be accompanied by appropriate fees or costs. A local agency, other than a delegated agency, shall act upon the application within 45 days of receipt of the required information. A delegated agency shall act within 30 days of receipt of the information.

Section 8(f) of the act further provides that no liability is to be incurred by a sewage enforcement officer, municipality, local agency, delegated agency or the Department as a result of the granting of a well isolation distance exemption. The proposal to subsection (e) incorporates this provision.

27. § 72.41 (relating to powers and duties of sewage enforcement officers)

Section 8(e) of the act contains certain provisions relating to certain potential conflicts of interest with respect to municipalities, local agencies and sewage enforcement officers. Insofar as the provisions apply to sewage enforcement officers, the officer may not suggest, recommend or require the services of a particular consultant, soil scientist, professional engineer or firm providing these services when the services may be required or are subject to review under the act. That section also provides that a sewage enforcement officer may not provide consulting, design and related services regulated under the act within the municipality or local agency by which the officer is employed unless the services are set in a fee schedule, the fees for the services are paid directly to the municipality or local agency and the consulting or design work is reviewed and a permit is issued by another sewage enforcement officer employed by the entity issuing the permit. These provisions are proposed to be incorporated into § 72.41.

28. § 72.42 (relating to powers and duties of local agencies)

The act greatly expanded the powers and duties of local agencies. Prior to the enactment of Act 149, the powers and duties of local agencies were generally limited to activities relating to the administration of the permitting provisions of section 7 of the act. Act 149 expanded the authority of local agencies to include activities relating to applicable provisions of the act pertaining to civil remedies, imposition or assessment of criminal and civil penalties, or both, assessment of fees, disposition of fines, civil penalties and fees and hearings and appeals. When applicable, references to this expanded authority are proposed to be incorporated throughout § 72.42.

Section 8(b)(2.1) of the act requires each local agency to adopt a list of those individuals who are employed as sewage enforcement officers by companies providing these services to the local agency under a contract. The list shall be adopted by a resolution of the local agency. The intent of this requirement is to provide a list of persons authorized to perform the service to those persons served by a local agency. This requirement is proposed to be incorporated into subsection (a)(18).

Section 8(b)(4) of the act authorizes local agencies to charge fees for engineering or consulting services which are necessary for the local agency to complete its review of a permit application. The fees are to be reasonable and in accordance with ordinary and customary charges by the engineer or consultant for services in the community. The fees are not to exceed the rate or cost that would otherwise be charged by the engineer or consultant to the local agency if fees were not reimbursed by or otherwise imposed on applicants. Section 8(b)(4) of the act also sets forth a dispute resolution procedure which shall be utilized in the event an applicant disputes the amount of the fees or charges. These fee and dispute resolution provisions are proposed to be incorporated into subsection (a)(20).

Section 8(b)(5)(i) of the act sets forth a time frame and certain procedures for site suitability review, soil probe testing or soil percolation testing which may be necessary following the receipt of a permit application. A local agency shall complete and provide to the applicant the results of these procedures within 20 working days of its receipt of a permit application unless the procedure are deferred because the applicant requests or agrees to a later date. A one-call system serial number is to be obtained prior to soil testing by the applicant or the contractor retained by the applicant within a specified time period. Failure to obtain this serial number results in the inapplicability of the time limits for local agency review. In accordance with instructions which are to be provided at least 48 hours in advance, an applicant is obligated to have the site prepared for testing. The instructions shall include provisions for deferral of testing due to weather conditions. If a local agency fails to comply with the time limits, the applicant is entitled to a refund of fees paid by the applicant for actual soil testing which was not performed by the local agency and to submit the results of soils tests performed by another certified sewage enforcement officer provided the tests were conducted in a manner consistent with these regulations and on forms provided by the Department. If an applicant does not have the site prepared in accordance with the instructions, the applicant does not have the right to submit soils tests performed by another sewage enforcement officer and is not entitled to a refund for the testing. Finally, the section provides immunity to the municipality, local agency, the local agency's sewage enforcement officer and the Department from any cause of action arising out of the performance of tests by a sewage enforcement officer who is not employed by the local agency. These provisions are proposed to be included in subsection (a)(21).

Section 8(b)(10) of the act authorizes local agencies to make inspections and verify measurements relating to specified isolation distances prior to approval of onlot sewage disposal system usage. The local agency's authorized representative has the right to enter upon lands for these purposes. This authority would be implemented subsection (a)(22).

Section 7.3(5) of the act requires applicants proposing an individual residential spray irrigation system to submit documentation to the local agency that the proposed system will not adversely impact drinking water supplies and will not create a nuisance or a public health hazard. Proposed subsection (a)(23) authorizes the local agency to verify this documentation and to report relevant information to an affected municipality served by the local agency.

Section 7.3(6) of the act requires owners of individual residential spray irrigation systems to test discharges to

the spray irrigation system for fecal coliform, biological oxygen demand, suspended solids and chlorine residuals. Certain provisions proposed for Chapter 73 would establish standards for these particular components of the discharges. The municipality within which the system is to be located is required to assure compliance of the system with the operation and maintenance requirements of Chapter 73. Proposed subsection (a)(24) implements these requirements insofar as they relate to the named components of the discharges.

29. § 72.43 (relating to powers and duties of the Department)

As noted in paragraph 28 of this Preamble, the powers and duties of local agencies have been greatly expanded as a result of the enactment of Act 149. The Department's oversight responsibilities have been expanded accordingly and appropriate references to the Department's duty to oversee the expanded powers and duties of local agencies are proposed to be revised throughout § 72.43.

Section 10(10.1) of the act grants the Department the authority to revoke or suspend the certification of a sewage enforcement officer for cause. Grounds for this action include negligence or providing false information relating to the administration of the act and violations of the act which are not related to the issuance of a permit. A violation of the act not related to the issuance of a permit would generally be some activity undertaken by a sewage enforcement officer outside the scope of the officer's employment as a sewage enforcement officer, such as providing consultation services. These grounds are proposed to be incorporated into the suspension and revocation provisions of subsections (f) and (h) respectively.

Section 10(10) of the act was amended to provide that the Department is to consider complaints relating to the performance of sewage enforcement officers filed by local agencies or the public. This requirement would be incorporated into subsection (i).

Section 10(13) of the act, as amended, requires the Department to establish minimum training requirements for certification as a sewage enforcement officer, including an option for training under the supervision of another sewage enforcement officer selected by the Department. This training requirement would be incorporated into subsection (j).

Section 10(14) of the act, as amended, provides that the Department may require that a sewage enforcement officer, whose performance has been found deficient, undertake training under the direction of another sewage enforcement officer selected by the Department. Training may also be required as an alternative to suspension or a prerequisite for reinstatement of a suspended certification. The costs of the training are to be paid by the Department. The provisions relating to the training would be incorporated into subsection (k).

30. § 72.44 (relating to reimbursement)

Section 6(c) of the act provides that local agencies meeting the qualifications established therein will be reimbursed up to 85% of the costs of expenses incurred in the administration of the act. Local agencies not qualifying for 85% reimbursement will be reimbursed up to half of the eligible expenses.

To qualify for 85% reimbursement, local agencies shall meet the criteria specified in section 6(c)(1)–(7) of the act. Those criteria relate to acceptance, delegation or transfer of certain powers from one or more municipali-

ties, employment of an adequate number of sewage enforcement officers, an alternate sewage enforcement officer and a qualified soil scientist, sufficient administrative staff, submission of specified materials and regulations related to the administration of the act and sufficient technical staff to provide timely service. These criteria are proposed to be incorporated into subsections (c) and (d).

CHAPTER 73. STANDARDS FOR ONLOT SEWAGE TREATMENT FACILITIES

31. The title of the chapter is proposed to be retitled in order to more accurately reflect that the provisions of Chapter 73 establish standards for onlot sewage treatment facilities. Except for the provisions of proposed §§ 73.161–73.167, relating to the technical requirements for individual residential spray irrigation systems, the proposed amendments described as follows are intended to either clarify existing provisions or incorporate advances or changes, or both, in treatment technology.

32. §§ 73.1 and 73.64 (relating to definitions; and chemical toilet or other portable toilet)

Chemical toilets (commonly known as portable toilets) are proposed to be removed from the current classification as a type of retaining tank. This eliminates the need for a permit when the toilets are to be temporarily used at a construction site or certain types of public gatherings. Local agencies would still retain the authority to address any misuse of these units.

33. §§ 73.3 and 73.71 (relating to policy; and experimental sewage systems)

The repair options related to onlot systems are proposed to be expanded and the use of experimental systems is proposed to be clarified. An additional option is proposed to be included for the repair of onlot systems by considering the relocation of a well if the repair results in the absorption area or a spray field encroaching on the isolation distance to a well and using small flow systems with discharges. In addition, provisions clarifying the conditions under which experimental technologies, system components, methods and designs are to be utilized are proposed to be included in § 73.71.

34. § 73.11 (relating to general)

A provision is proposed to be incorporated into subsection (c) which allows a property owner to use a newly installed septic tank pending completion of the rest of a sewage system when weather conditions prevent completion of the sewage system prior to occupancy of the house.

35. § 73.13 (relating to minimum horizontal isolation distances)

Onlot sewage system components are proposed to be isolated from cisterns. In addition, existing isolation distances between system components and wetlands are proposed to be deleted.

36. § 73.14 (relating to site investigation)

The provisions of subsection (a)(1) relating to depth of soil profile are proposed to be amended. The maximum depth required for backhoe excavation to conduct a soil profile is proposed to be reduced from 8 feet to 7 feet. In addition, the conditions under which onlot sewage systems may be placed in disturbed soils are proposed to be clarified in that fill soils shall be undisturbed for a minimum of 4 years unless a sewage enforcement officer determines the fill will not materially effect the system.

37. § 73.15 (relating to percolation tests)

A new method of calculating the results of a percolation test is proposed to be added to paragraph (7). The method would be utilized for percolation tests for holes that drain too slow or too fast. When the rate of drop is too fast, the hole shall be considered a failed hole and may not be used in calculating the arithmetic average percolation rate.

38. § 73.17 (relating to sewage flows)

This section provides for the calculation of sewage flows for different types of facilities. The list of sewage flows are proposed to be updated to include flows related to facilities such as modern mobile homes and condominiums and to clarify the flows for other facilities currently listed.

39. Treatment tanks.

The testing, construction and installation standards for treatment tanks are proposed to be modified by requiring grease traps for tanks proposed to serve a food preparation facility, requiring multiple tanks or compartments, a septic solids retainer at tank outlets and National Sanitation Foundation testing protocols for aerobic treatment tanks and recycling toilets. In addition, siphons on dosing tanks are required to be sized according to the volume of the laterals and pumps in the tanks are to be rated for sewage use and shall be appropriately placed in the tank and a malfunction warning signal would be required. The minimum capacity required for a holding tank is proposed to be changed from 1,000 to 3,000 gallons. Discharges from recycling toilets are prohibited. Sections 73.17(d), 73.21, 73.31, 73.32, 73.45, 73.46, 73.62 and 73.65 are revised accordingly.

40. Section 73.72 and related sections—alternate systems.

A number of system designs and system components currently considered to be alternate systems and which may only be used upon the concurrence of the Department would become standard technology which may be approved by a local agency. These would include leaching chambers used as a substitute for aggregate, elevated sound mounds on very slowly permeable soils and slopes of not more than 12%, adjustable distribution box weirs, increased lateral hole sizes and discharge rates and geotextile fabric used in absorption areas. Accordingly, relevant changes would be made throughout Chapter 73 to acknowledge these changes.

41. Sections 73.161—73.167 (relating to individual residential spray irrigation systems)

Section 7.3 of the act authorizes a local agency to issue permits for the construction of individual residential spray irrigation systems. A prerequisite for the permit issuance is that the site, soil conditions and proposed system design shall meet the Department's standards for these systems. Sections 73.161—73.167 outline the Department's proposed standards. These standards were developed in close consultation with the SAC and are based on relevant technical manuals such as "Guidelines for Design, Installation and Operation of, Small Flow Treatment Facilities, DER, 1992" and "EPA's on-site Design Manual" originally published in October 1980.

F. Benefits and Costs

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

These proposed amendments to Chapters 71—73 are necessary to bring existing regulations into compliance with recent amendments to the act and to update some technical standards for onlot sewage treatment systems.

Some proponents of new residential subdivision plans will experience an elimination of sewage facilities planning for their development. In addition, developers and builders will be able to receive deemed approvals if the reviewing agencies for sewage facilities planning and onlot system permitting do not act in a timely manner. This elimination of some planning and relief from review delays will benefit builders, land developers, realtors and mortgage lenders.

The Department's authority to impose limitations on new land development because of the lack of an adequate municipal comprehensive sewage facilities plan is limited to certain circumstances. This will benefit developers, realtors and mortgage lenders who will be able to sell lots in these areas. There will be a cost to property purchasers and builders who will not have available sewage facilities and will be unable to build on these lots until the municipality complies with planning requirements due to severe public health hazards in the municipality.

Developers will be able to make their own public notifications when they propose significant developments. This will benefit developers, builders, realtors and mortgage lenders because they will not have to wait for municipalities to make this publication, the development will be processed more quickly and construction may begin more quickly.

The Department will initiate a compliance assistance plan related to the proposed regulatory amendments based on both existing and new program initiatives. Municipalities involved in developing official sewage facilities plan update revisions will be eligible for 50% reimbursement from the Department for costs incurred in developing these plans. In addition, penalties assessed for failure to develop or implement the plans will be deposited in a special fund. Municipalities assessed penalties may later apply for return of these moneys to help them correct sewage related problems. The Department will continue to work closely with PENNVEST and other sewerage project funding agencies to assure that viable sewage plans are able to be implemented.

The Department will continue to pay 50% of the costs incurred by local agencies to administer the onlot permitting program. This amount will be increased to 85% for those local agencies with quality programs. In addition, local agencies which assume delegation for the new land development and penalties assessed by local agencies will be returned to the agency for use in administering the program or abating public health hazards. The Department will continue to work with PENNVEST and the Housing Finance Agency to provide low interest loans to property owners experiencing malfunctioning onlot systems.

The Department's ongoing commitment to the research of new and alternative means of onlot systems will allow more property owners to comply with a broader range of options in our regulations. In addition, the Onlot System Hotline will provide a source of independent information on the Department's requirements and thus aid in compliance.

Local agencies which have a quality permitting program will benefit from an opportunity to apply for and receive 85% reimbursement for the cost of these activities instead of the current 50%. This will reduce the cost of

administering the program locally and provide a better local agency to serve the needs of developers, builders, realtors and mortgage bankers.

Local agencies which meet certain criteria will be delegated the authority to give final approvals on new land development sewage facilities planning. Since this authority is currently retained by the Department, developers, builders, realtors and mortgage bankers will benefit from the time saved by the elimination of the Department from the review process. In addition, the local review will allow for a one-stop review process.

The Sewage Facilities Program will benefit from review fees charged to applicants for sewage facilities planning approvals from the Department.

These fees will be deposited in a special fund to be used for sewage enforcement officer training, onlot system research and municipal outreach. Developers will experience an increased cost to pay for the review of their sewage facilities plans.

Individuals who propose to build a new dwelling to replace an existing dwelling will benefit from provisions which allow the activity without the requirement to obtain a permit for sewage facilities. The Commonwealth will experience a cost due to the continued pollution of waste from some of these old, substandard systems.

Some owners of properties which are too small to support both a well and an onlot sewage system will benefit from an exemption from isolation distance standards which will allow them to build a home on their property anyway. These same property owners may experience a cost to treat their water supplies if the expert they hire to determine if the isolation distance can be waived is wrong.

Property owners, developers, builders, realtors and mortgage bankers will benefit from a streamlined review process for alternate onlot system proposals. In addition, the transfer of several alternate systems to the category of standard technology and the new individual residential spray irrigation onlot sewage system will make more land previously unusable, available for development.

The mandatory filing system for permit applications will be a cost to local agencies but will provide for more organized and more readily available information for developers, builders and realtors.

The expanded powers and duties of local agencies will cost the local agencies more to administer, but the power to charge a fee for some of these expanded duties will offset these costs; developers and builders will have to pay these new fees, but will be the recipients of the benefit of improved services from the local agency.

The clarified conflict of interest provisions related to sewage enforcement officer employment will cost local agencies the loss of its sewage enforcement officer when conflicting employment is occurring. Some sewage enforcement officers will not be able to continue their activities related to consulting and still act as the sewage enforcement officer.

Applicants for a permit on a lot which was tested by a previous sewage enforcement officer will benefit from a fairer assessment process for these lots. Local agencies will bear the cost of additional soils testing and administrative fees.

Local agencies applying for reimbursement from the Department for expenses incurred in the administration

of the onlot system permitting program will benefit from the extension of the application deadline.

Sewage enforcement officers and onlot system installers will benefit from the training courses required in the regulations. There will be a cost to the Commonwealth to develop and administer these courses.

Property purchasers will benefit from required sales contract warnings where exemptions under the regulations have been granted which may make their lot unbuildable or otherwise less valuable.

The Department will benefit from provisions which allow actions against sewage enforcement officers who are acting in violation of the law in the capacity of consultant. Developers will benefit from provisions which require the Department to provide technical information regarding sewage treatment systems and the authority of the Department to waive its review of sewage facilities planning.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of these proposed amendments on March 12, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy 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 1982-2, "Improving Government Regulations." 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 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of objections raised.

H. *Sunset Date*

These proposed 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. *Public Hearings*

The EQB intends to hold six public hearings for the purpose of accepting comments on this proposal. The hearings will be held at 7 p.m. at the following locations and dates:

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|----------------|---|
| April 29, 1996 | Crawford County Courthouse Assembly Room 903 Diamond Square Meadville, PA |
| April 30, 1996 | Allegheny County Courthouse The Gold Room, 4th Floor 436 Grant Street Pittsburgh, PA |
| May 6, 1996 | Department of Environmental Protection Northcentral Regional Office Suite 101 208 West Third Street Williamsport, PA |

May 7, 1996 Department of Environmental Protection
Northeast Regional Office
Two Public Square
Wilkes-Barre, PA

May 13, 1996 Department of Environmental Protection
Southeast Regional Office
Suite 6010, Lee Park
555 North Lane
Conshohocken, PA

May 14, 1996 Swatara Township Municipal Building
599 Eisenhower Boulevard
(SW Corner of I-83 and I-283)
Harrisburg, PA

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

CHAPTER 71. ADMINISTRATION OF SEWAGE FACILITIES PLANNING PROGRAM

Subchapter A. GENERAL

§ 71.1. Definitions.

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

* * * * *

Clean Water Act—The Clean Water Act (33 U.S.C.A. §§ 1251—[1376] 1387).

Delegated agency—A municipality, local agency, multimunicipal local agency or county or joint county Department of Health to which the Department has delegated the authority to review and approve subdivisions for new land developments as supplements to the official plan of a municipality in which the subdivision is located.

* * * * *

Individual residential spray irrigation system—An individual onlot sewage system which serves a single family dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

* * * * *

Municipality—A city, town, township, borough or home rule municipality other than a county.

* * * * *

Official plan revision—A change in the municipality's official plan to provide for additional [or], newly identified future, or existing sewage facilities needs, which may include, but not be limited to, one or more of the following:

(i) *Update revision*—A comprehensive revision to an existing official plan required when the Department or municipality determines the official plan or any its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

* * * * *

(iii) *Special study*—A study, survey, investigation, inquiry, research [,] report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.

(iv) *Supplement*—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under the Clean Streams Law, and which is reviewed and approved by a delegated agency.

(v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new

Persons wishing to present testimony at a hearing are requested to contact Sharon Freeman at the EQB, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are required to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at the hearings.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation in order to participate should contact Sharon Freeman at (717) 787-4526, or through the Pennsylvania AT&T Relay Service by calling (800)654-5984 (TDD users) or (800)654-5988 (voice users) and request that the call be relayed to discuss how the Department may accommodate their needs.

J. Public Comments

Written comments—Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the EQB, P. O. Box 8477, Harrisburg, Pa. 17105-8477 (express mail: 15th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301). Comments received by facsimile will not be accepted. Comments, suggestions or objections must be received by May 29, 1996. Interested persons may also submit a summary of their comments to the EQB. The summary will be provided to each member of the EQB in the agenda packet distributed prior to the meeting at which final regulations will be considered. The summary may not exceed one page in length and must also be received by May 29, 1996.

Electronic comments—Comments may be submitted electronically to the Board at RegComments@a1.dep.state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. Comments submitted electronically must be received by the EQB by May 29, 1996.

JAMES A. SEIF,
Chairperson

(Editor's Note: For a proposed rulemaking relating to this proposal see 25 Pa.B. 3219 (August 5, 1995).)

Fiscal Note: 7-294. (1) General Fund; (2) Implementing year 1996-97 is \$209,000; (3) 1st succeeding year 1997-98 is \$600,000; 2nd succeeding year 1998-99 is \$636,000; 3rd succeeding year 1999-00 is \$672,000; 4th succeeding year 2000-01 is \$708,000; 5th succeeding year 2001-02 is \$744,000; (4) FY 1993-94 \$2,522,000; FY 1992-93 \$3,415,000; FY 1991-92 \$1,800,000; (7) Sewage Facilities Enforcement Grants; (8) recommends adoption.

land development) which describes the criteria under which a revision for new land development is not required.

* * * * *

Residential subdivision plan—A subdivision in which at least two-thirds of the proposed daily sewage flows will be generated by residential uses.

Retaining tank—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to, the following:

[(i) Chemical toilet—A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.]

- [(ii) (i) *****
- [(iii) (ii) *****
- [(iv) (iii) *****
- [(v) (iv) *****
- [(vi) (v) *****

Sewage—A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation[, or]. **The term includes any substance** which constitutes pollution under **[The] the** Clean Streams Law.

Sewage enforcement officer—An official of the local agency who **reviews permit applications and sewage facilities planning modules**, issues permits[, **reviews permit applications and sewage facilities planning modules**] as authorized by the act and conducts investigations and inspections **that are** necessary to implement the act and the regulations thereunder.

Sewage facilities—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

(i) **Individual sewage system**—A sewage facility, whether publicly or privately owned, located on a single lot and serving one equivalent dwelling unit and collecting, treating and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance of retaining tank wastes to another site for final disposal. **Individual sewage systems include:**

(A) **Individual onlot sewage system**—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a **[subsurface] soil** absorption area, **spray field** or a retaining tank.

(B) **Individual sewerage system**—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a **[subsurface] soil** absorption area, or retention in a retaining tank.

(ii) **Community sewage system**—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent

dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) **Community onlot sewage system**—A **[community sewage system which uses a]** system of piping, tanks or other facilities **[for] serving two or more lots and** collecting, treating and disposing of sewage into a **[subsurface] soil** absorption area or retaining tank **located on one or more of the lots or at another site.**

(B) **Community sewerage system**—A community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a **[subsurface] soil** absorption area, or retention in a retaining tank.

* * * * *

Subdivision—The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract **or tracts** remaining after other lots have been subdivided therefrom.

* * * * *

(Editor's Note: The definition of "residential subdivision plan" was proposed to be added in the August 5, 1995, proposal.)

§ 71.2. Scope and time periods.

(a) This chapter is adopted in accordance with the duties imposed upon the Department under the act and the Clean Streams Law and applies to municipalities, **local agencies and delegated agencies** administering the planning provisions of the act and to persons subdividing land or planning, designing or installing sewage facilities.

* * * * *

§ 71.3. Purposes.

This chapter is separated into **[five] six** subchapters:

(1) Subchapter A (relating to general) provides general background information.

- [(1) (2) *****
- [(2) (3) *****
- [(3) (4) *****
- [(4) (5) *****

(6) Subchapter F (relating to fees) provides for fees for the review of new land development sewage facilities planning modules.

**Subchapter B. OFFICIAL PLAN REQUIREMENTS
GENERAL**

§ 71.11. General requirement.

Municipalities are required to develop and implement comprehensive official plans which provide for the resolution of existing sewage disposal problems, provide for the future sewage disposal needs of new land development and provide for the future sewage disposal needs of the municipality. Official plans shall be developed, submitted to the Department for approval and implemented by municipalities under the act and **[sections] §§ 71.12—71.14, 71.21, 71.22, 71.31, 71.41—71.44** and Subchapters C—**[E] F.**

§ 71.14. Private request to revise official plans.

(a) A person who is a resident or legal or equitable property owner in a municipality may file a private request with the Department [to] requesting that the Department order the municipality to revise its official plan if the resident or property owner can show that the official plan is not being implemented or is inadequate to meet the resident's or property owner's sewage disposal needs. This request may be made only after a prior written demand upon and written refusal by the municipality to so implement or revise its official plan [and] or failure of the municipality to reply in either the affirmative or negative within 60 days or, failure of the municipality to implement its official plan within the time limits established in the plan's implementation schedule or failure to revise its official plan within the time limits established in this chapter. The request to the Department shall contain a description of the area of the municipality in question and a list of reasons that the plan is believed to be inadequate. The person shall notify the municipality in writing of the filing of the request with the Department.

* * * * *

[(c) No private request to revise an official plan because of the subdivision of land will be considered by the Department unless the subdivision has received prior approval under municipal or county planning codes being implemented through Article VI of the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10601—10619).

(d) [(c) Upon receipt of a private request for revision, the Department will notify the municipality and appropriate official planning agencies within the municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing county or joint county department of health of receipt of the private request and will [request] inform them that written comments [to] shall be submitted to the Department within [60] 45 days after the Department's receipt of the private request for revision. [The comments shall include a discussion of the compatibility of the proposed subdivision with municipal or county planning codes being implemented through the Pennsylvania Municipalities Planning Code.

(e) [(d) In arriving at its decision, the Department will consider [, at a minimum,] the following:

(1) The reasons advanced by the requesting [individual in comparison with comments and the] person.

(2) The reasons for denial advanced by the municipality.

[(2) Whether the proposed land use is consistent with § 71.21(a)(5)(i)—(iii) (relating to content of official plans).]

(3) Comments submitted [as required by subsection (d)] under this section.

(4) Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities are consistent with this part.

[(4)] (5) ***

[(f)] (e) The Department will render its decision, and inform the person requesting the revision and the appropriate municipality, in writing, within 120 days [aften] after either receipt of the comments [required] permitted by [subsection (d)] this section or the expiration of [th 60] the 45-day comment period when no comments have been received or within an extended period if agreed to in writing by the person making the request.

(1) The Department's decision will specify the nature of the revision to the municipality's official plan that the municipality will be required to implement or the reasons for refusal. If the Department orders a requested revision, the order will specify time limits for plan completion, including interim deadlines and compliance schedules the Department deems necessary.

(2) If the Department refuses to order a revision requested under subsection (a), it will notify [th] the person who filed the request, in writing, of the reasons for the refusal.

(3) The Department may not refuse to order a requested revision because of inconsistencies with applicable zoning, subdivision or land development ordinances, but will make its order subject to limitations properly placed on the development of the property by the municipality under its zoning, subdivision or land development ordinances or by court orders.

OFFICIAL PLAN PREPARATION

§ 71.21. Content of official plans.

(a) A municipality shall either meet with the Department prior to completion of a Task/Activity Report or, submit a Task/Activity Report or other appropriate form prior to preparation of an official plan to determine which of the planning elements listed in this section are necessary to meet the specific needs of that municipality. A determination does not constitute a final Department action until the completed plan is submitted by the municipality and acted upon by the Department. If applicable to the specific planning needs of the municipality, as determined by the Department, the completed plan submitted to the Department shall:

* * * * *

(2) Evaluate existing sewage facilities in the planning area through the following:

(i) An identification, mapping and description of municipal and nonmunicipal, individual and community sewerage systems in the planning area including:

* * * * *

(B) A description of problems with the existing facilities, including existing or projected overload under Chapter 94 (relating to municipal wasteload management) or violations of a national pollutant discharge elimination system permit, [the] a Clean Streams Law permit or other permit, rule or regulation of the Department.

* * * * *

(ii) An identification, mapping and description of areas that use individual and community onlot sewage systems in the planning area, including:

* * * * *

(C) A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions and Chapter 73 (relating to standards for onlot sewage [disposal] treatment facilities).

* * * * *

§ 71.22. Coordination of official plans with Federally funded sewage facilities planning.

Planning for Federally funded sewage facilities under Subchapter II of the Clean Water Act (33 U.S.C.A. §§ 1281—1299) or State Revolving Funding under Title VI of the Water Quality Act of 1987 (33 U.S.C.A. §§ [1251—1376] 1382—1387) shall meet the requirements of § 71.31 (relating to municipal responsibility to review, adopt and implement official plans) and be approved by the Department as a revision to the municipal official plan.

OFFICIAL PLAN APPROVAL

§ 71.32. Department responsibility to review and act upon official plans.

* * * * *

(b) Within 120 days after submission of a complete official plan or official plan revision, with supporting documentation, the Department will either approve or disapprove the plan or revision, **except as provided in § 71.54(d) (related to Department administration of new land development planning requirements for revisions) for a plan revision for a residential subdivision plan.**

* * * * *

(f) In a municipality that does not have an official plan, or fails to revise or implement its official plan as required by an order of the Department or this part the following apply:

(1) The limitations on the issuance of permits under **[section 7(b)(4) of the act (35 P. S. § 750.7(b)(4))] § 72.23(a) and (b) (relating to limitation on onlot system permit issuance)** are in effect.

(2) The Department will not **[approve a project requiring]** issue a permit under section 5 of the Clean Streams Law (35 P. S. § 691.5) **for projects** in those areas of the municipality for which an official plan, official plan revision or implementation of an official plan is required.

[(3) The Department will not approve a revision for new land development in those areas of the municipality for which an official plan, update revision or implementation of an official plan is required.

(4) The municipality or local planning agency may not approve a subdivision plan nor issue a building permit in those areas of the municipality where the official plan is inadequate or not being substantially implemented.]

(3) A supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to do one of the following:

(i) Submit an update revision or special study.

(ii) Implement its plan as required by an order of the Department or this part.

(4) A supplement or revision for new land development will not be denied, nor will an exception to the requirement to revise be found inadequate, solely because an update revision or special study is under review by the Department.

(5) Every contract for the sale of a lot which is located within an area in which permit limitations are in effect and which is subject to permit limitations under this chapter shall contain a statement in the sales contract that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available. This statement shall also clearly state that construction of a structure on the lot may not begin until the Department has approved a major planning requirement, including, but not limited to, a plan update revision or a special study.

(g) The limitations on permit issuance contained in § 72.23(a) and (b) do not apply when the provisions of § 72.23(d) have been met.

(Editor's Note: Proposed changes to § 71.32(b) appeared in the August 5, 1995, proposal.)

PLANNING GRANTS

§ 71.41. Grants for the preparation of official plans.

Under section 6 of the act (35 P. S. § 750.6) and §§ 71.42 and 71.43 (relating to application for grants; and approval of grants), the Department will administer grants to municipalities, counties and authorities for preparing update revisions and special studies to the extent of the appropriations made by the General Assembly for that purpose. Municipalities, counties and authorities intending to apply for the grants shall submit to the Department an outline of the proposed plan content, time schedule for plan completion and estimated cost by planning task on **[the Department's Task/Activity Report]** a form provided by the Department or other **[acceptable]** form acceptable to the Department prior to beginning the plan. Costs for completion of planning activities outside the scope of the proposed plan content are not eligible for a grant unless proposals for inclusion of additional activities and increased costs associated with these activities have been submitted to and approved by the Department and are within the scope of the act.

§ 71.43. Approval of grants.

* * * * *

(d) The Department may pay planning grants for joint municipal plans submitted under § 71.12(b) (relating to municipal responsibility to revise plans) without official adoption of the plan from participating municipalities when:

* * * * *

(3) The Department has notified the municipality not adopting the joint-municipal plan that **[their]** its official plan is in a disapproved status; or has determined that the municipality's official plan adequately addresses the existing and future sewage disposal needs of the municipality.

* * * * *

§ 71.44. Duplicate planning.

The Department will not pay grants under the act for information which has been completed previously or collaterally under local, State or Federal funding programs. The plan shall incorporate this information by reference.

Subchapter C. NEW LAND DEVELOPMENT

PLAN REVISIONS

§ 71.51. General.

(a) A municipality shall revise its official plan when:

(1) A new subdivision is proposed, except as provided by § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) or subsection (b).

* * * * *

(b) Except for new land developments proposing the use of retaining tanks, exemptions from sewage facilities planning for new land development will be processed as follows:

(1) Revisions for new land development, exceptions to the requirement to revise and supplements are not required, and permits for onlot systems using a soil absorption area or a spray field may be issued without this planning, when the Department or, in the case of supplements, a delegated agency determines that the following have been met:

(i) The official plan shows that those areas of the municipality are to be served by onlot sewage disposal facilities using a soil absorption area or a spray field as confirmed by signature of the municipal officials.

(ii) The area proposed for the use of individual or community sewage systems is not underlain by carbonate geology nor is this area within 1/4 mile of water supplies documented not to exceed 5ppm nitrate-nitrogen as confirmed by the Department from a USGS geology map or sampling data.

(iii) The area proposed for development is outside of high quality or exceptional value watersheds established under the regulations and policies promulgated under the Clean Streams Law as confirmed by the Department from the location of the new land development on a USGS topographic quadrangle map.

(iv) Subdivided lots and the remaining portion of the original tract after subdivision are 1 acre or larger as confirmed by signature of the applicant.

(v) Complete soils testing and site evaluation establish that separate sites are available for both a permissible primary soil absorption area or spray field and a replacement soil absorption area or spray field on each lot of the subdivision as confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed.

(2) Revisions for new land development and supplements are not required for subdivisions proposing a connection to or an extension of public sewers when the following occur:

(i) The Department or delegated agency determines that existing collection, conveyance and

treatment facilities are in compliance with the Clean Streams Law and the rules and regulations promulgated thereunder.

(ii) The Department or delegated agency determines that the permittees of the receiving sewerage facilities have submitted information under Chapter 94 (relating to municipal wasteload management) which documents that the existing collection, conveyance and treatment system does not have an existing hydraulic or organic overload or 5-year projected overload.

(iii) The applicant has provided written certification from the permittees of the collection, conveyance and treatment facilities to the municipality or delegated agency in which the subdivision is located that there is capacity to receive and treat the sewage flows from the applicant's proposed new land development and that the additional wasteload from the proposed new land development will not create a hydraulic or organic overload or 5-year projected overload.

(iv) The municipality has a current approved sewage facilities plan update revision which is being implemented. For the purposes of exempting a subdivision from completing sewage facilities planning under this section, the phrase "a current approved sewage facilities plan update revision which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(3) The Department will provide delegated agencies sufficient information to make the required determinations under paragraph (1)(iii), (2)(i), (2)(ii) and (2)(iv). When the determination under paragraph (1) or (2) is made by a delegated agency, that agency shall submit to the Department quarterly reports which include the names of the subdivisions, location of the subdivisions, number of lots and projected sewage flows for each subdivision exempted from the planning provisions under this subsection.

(4) Information in support of a request for a sewage facilities planning exemption under this section shall be submitted on a form provided by the Department.

(5) This subsection does not apply to new land development proposals intended to be served by sewage facilities which require or which must apply for a new or modified permit from the Department under the Clean Streams Law.

§ 71.53. Municipal administration of new land development planning requirements for revisions.

* * * * *

(b) The municipality shall review [and act upon a complete] sewage facilities planning [module within 60 days of] modules upon receipt and, if appropriate comments have not been received under subsection (d)(2) and (5), shall forward a copy of the sewage facilities planning modules to the sewage enforcement officer and appropriate planning or zoning agencies within 10 days of receipt. The municipality shall determine if the submittal of the sewage facilities planning module is complete within 10 days of the receipt of comments from the

sewage enforcement officer and appropriate planning or zoning agencies. The municipality shall review and act upon a complete sewage facilities planning module proposing a revision for new land development within 60 days of receipt or additional time as the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to extension will cause the revision for new land development to be deemed approved by the municipality and the complete sewage facilities planning module shall be submitted to the Department by the municipality or applicant. Documentation of the period of time the revision was in possession of the municipality shall be in the form of a completeness checklist signed by an official of the municipality confirming that the requirements of subsection (d) have been met.

* * * * *

(d) For the purposes of this section, no plan revision for new land development will be considered complete unless it includes the following:

* * * * *

(6) Evidence documenting newspaper publication [—which meets]. The newspaper publication may be provided by the applicant or the applicant's agent, the municipality or the local agency by publication in a newspaper of general circulation within the municipality affected. When an applicant or an applicant's agent provides the required notice for publication, the applicant or applicant's agent shall notify the municipality or local agency and the municipality and local agency will be relieved of the obligation to publish. The newspaper notice shall notify the public where the plan is available for review and indicate that all comments regarding the proposal shall be sent to the municipality within which the new land development is proposed. The newspaper publication shall meet the requirement of § 71.31(c)[—] and provide notice of the proposed plan adoption action when the proposal involves one of the following:

* * * * *

(iii) Will result in a public expenditure in excess of \$100,000 for the sewage facilities portion of a project.

* * * * *

(f) A municipality may refuse to adopt a proposed revision to [their] its official plan for new land development for the following reasons, including, but not limited to:

* * * * *

(h) A municipality may not adopt a proposed revision to the official plan, conditionally or otherwise, until it determines that the proposal complies with [applicable] sewage related municipal zoning, land use or other municipal comprehensive plans. If changes to the proposed revision or the applicable plan, regulation or ordinance are necessary, the changes shall be completed prior to adoption of the revision by the municipality.

* * * * *

§ 71.54. Department administration of new land development planning requirements for revisions.

(a) [No] A proposed plan revision for new land development will not be approved by the Department unless it contains the information and supporting documentation required by the act, the Clean Streams Law and regulations promulgated thereunder.

(b) [No] A proposed plan revision for new land development will not be considered for approval unless accompanied by the information required in § 71.53(d) (relating to municipal administration of new land development planning requirements for revisions) and processing fees for the Department's review of the sewage facilities planning module. For the purpose of this section, the Department will determine whether a submission for a residential subdivision plan is complete in accordance with § 71.53(d) within 10 working days of its receipt by the Department.

(c) When a municipality does not have an approved official plan, or fails to revise or implement an official plan when required[:

(1) Section] §§ 71.32(f) and 72.23(a) and (b) (relating to Department responsibility to review and act upon official plans; and limitation on onlot system permit issuance) [applies] apply.

[(2) The exceptions to the requirements to revise the official plan for new land development in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) do not apply.]

(d) Within 120 days after [receipt of a complete] the Department has determined that a proposed plan revision and documentation is complete, the Department will approve or disapprove the proposed plan revision, except that the Department will approve or disapprove revisions for residential subdivision plans within 60 days from the date the Department determines a submission is complete.

* * * * *

(Editor's Note: Section 71.54(b) and (d) were proposed to be amended in the August 5, 1995, proposal.)

§ 71.55. Exceptions to the requirement to revise the official plan for new land development.

(a) A municipality does not have to revise its official plan when the Department determines that the proposal is for the use of individual onlot sewage systems serving detached single family dwelling units in a subdivision of ten lots or less and the following apply:

* * * * *

(4) The proposal is consistent with the requirements of § 71.21(a)(5)[(i)—] (iii) (relating to content of official plans).

* * * * *

(c) [Municipalities shall comply with § 71.53(a) and (b) (relating to municipal administration of new land development planning requirements for revisions) when reviewing the proposals.] The municipality shall review sewage facilities planning modules upon receipt. If appropriate documenta-

tion and comments required by subsection (b) were not included in the planning module, the municipality shall forward a copy of the sewage facilities planning module to the sewage enforcement officer and appropriate planning or zoning agency within 10 days of receipt. The municipality shall review and act upon an application for an exception to the requirement to revise an official plan within 60 days of receipt of a complete sewage facilities planning module or additional time that the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to time extension shall cause the application for the exception to the requirement to revise to be deemed approved by the municipality and the complete application shall then be submitted to the Department by the municipality or the applicant. Documentation of the period of time the exception to the requirement to revise was in possession of the municipality shall be in the form of a completeness checklist signed by a municipal official confirming that the requirements of subsections (a) and (b) have been met.

(d) [Proposals qualifying under this section shall be considered adequate if the Department does not respond within 60] The Department may act on requests for exceptions to the requirement to revise official plans within 30 days of the Department's receipt of the properly completed and submitted components of the Department's sewage facilities planning module [along with], proper written documentation and [the sewage facility planning module meets the requirements of this chapter] processing fees for the Department's review of the sewage facilities planning module. If the Department fails to act within the 30-day period, the exception to the requirement to revise the official plan shall be deemed to be applicable.

§ 71.58. Delegation of new land development planning.

(a) The Department may, by agreement, delegate to a local agency, multimunicipal local agency or county or joint county department of health the power and duty to require the submittal of and review, and to approve or disapprove sewage facilities planning modules for new land development which are submitted on planning module forms and other documents provided by the Department. Additionally, the following applies:

(1) Sewage facilities planning modules approved by a delegated agency under this section do not constitute a revision or exception to the requirement to revise under this chapter but shall be a supplement to the official sewage facilities plan.

(2) Delegated agencies may assess fees for the review of supplements under this section. Fees received under this section shall be used solely for the purpose of administering the delegated powers and duties related to the new land development planning provisions of this section.

(3) The Department may limit the review of supplements in the delegation agreements to specific classifications of sewage facilities or new land developments.

(4) When delegation is requested, § 72.44(c) and (d) (relating to reimbursement) shall be met as a prerequisite to the delegation.

(5) Delegation of the review and approval of supplements for new land development may be granted by the Department if the local agency or county or joint county department of health has adequately documented the following to the Department:

(i) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect under the Pennsylvania Municipalities Planning Code (53 P.S. §§ 10101—11202).

(ii) The municipalities to be included in the delegation agreement have a current official sewage facilities plan which is being implemented in accordance with the content of the plan's implementation schedule and the provisions of the act, the Clean Streams Law and this part. For the purposes of determining qualifications for delegation under this section, the phrase "current official sewage facilities plan which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(iii) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect which require:

(A) Sewage facilities planning approval as a condition attached to final plat approval under the Pennsylvania Municipalities Planning Code.

(B) Documentation that sewage facilities planning is not required under this part.

(iv) When delegation is requested for the review of new land developments proposing the use of public sewerage facilities which do not require a new or modified permit under the Clean Streams Law, the delegation agreement includes coordination procedures to be used with the Department to assure continued compliance with the municipal wasteload management provisions of the Clean Streams Law.

(v) The local agency and any sewage enforcement officer employed by the local agency serving the municipalities to be included in the delegation agreement have not been issued a notice of violation or order by the Department for a violation of the act or the rules and regulations promulgated thereunder for the prior 3 years as determined by the Department.

(vi) A workload analysis is completed by the entity requesting delegation which analyzes the volume of work anticipated and the staffing and support resources needed to administer the program and documents that the fees proposed to be charged by the delegated agency to administer the sewage facilities planning reviews are sufficient to allow the delegated agency to act upon supplements within the time limits established by this chapter.

(vii) The administrative procedures, rules, regulations, fee schedules and contracts for services and applicable municipal ordinances, rules and regulations proposed for use by the delegated agency in the administration of the delegated provisions of this chapter are listed. Delegated agencies shall use forms provided by the Department for the submittal and review of all supplements.

(6) Supplements to an official plan shall be prepared by the person proposing the new land development and shall be reviewed and acted upon by the delegated agency. Within 10 days of the approval or disapproval of the supplement, a copy of the completed planning modules and the approval or disapproval letter of the delegated agency shall be submitted to the Department by the delegated agency.

(7) The failure of or refusal of a municipality, local agency, multimunicipal local agency or county or joint county department of health to enter into a delegation agreement may not influence the eligibility of the local agency serving that municipality or the local agency itself to receive 85% reimbursement under Chapter 72 (relating to administration of sewage facilities permitting program).

(b) The Department will review the delegated agencies' performance of the duties established by delegation agreements under this section and may revoke the agreements for cause.

§ 71.59. Delegated agency administration of new land development planning requirements.

(a) When the Department has delegated the authority to review and approve subdivisions for new land developments to a delegated agency, the regulatory provisions of the Department in §§ 71.54 and 71.55 (relating to Department administration of new land development planning requirements for revisions; and exceptions to the requirement to revise the official plan for new land development) shall be administered by the delegated agency except that the time limits for review shall be in accordance with subsection (c).

(b) A new land development proposal submitted as a revision or an exception to the requirement to revise may be approved by the delegated agency as the submission of a supplement to the official plan of the municipality.

(c) The delegated agency shall determine if a submission is complete within 10 days of its receipt. Delegated agencies shall approve or disapprove supplements within 60 days of the date of a complete submission or additional time that the applicant and delegated agency may agree to in writing.

(d) A copy of each supplement approved by a delegated agency shall be forwarded to the Department in accordance with § 71.58(a)(6) (relating to delegation of new land development planning). No additional approval by the Department is required.

(e) Where planning modules for new land development propose service by sewerage facilities requiring a new or modified permit from the Department under the Clean Streams Law, the new land

development planning module shall be forwarded to the Department for final action.

Subchapter D. OFFICIAL PLAN REQUIREMENTS FOR ALTERNATIVE EVALUATIONS

§ 71.62. Individual and community onlot sewage systems.

* * * * *

(b) When an official plan or revision proposes the renovation of sewage effluent by means of a subsurface absorption area or a spray irrigation system, the following shall be provided:

(1) Anticipated raw waste characteristics of the sewage. Where industrial wastes as defined in the Clean Streams Law are expected to be present in the raw sewage, § 72.25 [(f)](g)(2) (relating to issuance of permits) applies.

(2) Documentation that the soils and geology of the proposed site are generally suitable for the installation of the systems including:

* * * * *

(iii) Soil profiles as described in Chapter 73 (relating to standards for onlot sewage [disposal] treatment facilities) shall be performed to insure that an adequate area with suitable soils is available in the area of the proposed system. These profiles shall be approximately equally distributed among the various soils mapped in the area. For the purpose of this section, each change of slope or change in erosion characteristic specified as part of the soil classification system of the United States Soil Conservation Service will be equivalent to a change in soil type.

* * * * *

(c) This chapter does not preclude the use of individual and community onlot sewage systems using subsurface soil absorption areas on lots less than 1 acre in size or the use of large volume onlot sewage systems. Because of the potential for the creation of a public health hazard or pollution of the waters of this Commonwealth from high density use, improper system siting or inadequate maintenance of individual and community onlot systems, particular attention shall be given in official plans and revisions to the technical and institutional feasibility of using the systems.

(1) Additional permeability testing is required when an official plan or revision proposes the use of a large volume onlot sewage system or a community onlot system with a sewage flow in excess of 10,000 gallons per day [or less], and may be required for other onlot system proposals where the total absorption area is greater than 5,000 square feet or where soil profiles or geology reveal slowly permeable conditions below the depth at which the percolation test was performed. Sufficient testing shall be conducted to:

* * * * *

(2) A preliminary hydrogeologic evaluation is required when the use of subsurface soil absorption areas is proposed and one of the following exists:

* * * * *

(ii) A subdivision of more than 50 equivalent dwelling units with a density of more than one [lot including] equivalent dwelling [units] unit per acre is proposed.

* * * * *

§ 71.63. Retaining tanks.

* * * * *

(b) General requirements for retaining tank use are as follows:

* * * * *

(3) A municipality, sewer authority or sewage management agency may delegate or contract for the collection and disposal of the contents of the retaining [tanks' contents] tanks except that the ultimate responsibility for the proper collection and disposal of the contents shall remain with the municipality, authority or agency.

* * * * *

(e) The restrictions in subsections (c)(1) and (2) do not apply to holding tanks when the use is for [an institutional] institutions, recreational vehicle dump stations or commercial [establishment] establishments with a sewage flow of 400 gallons per day or less.

(f) A privy [or chemical toilet] is designed to receive sewage where there is no water under pressure and no piped wastewater. Privies shall be used in lieu of other methods of sewage disposal only when the following conditions are met:

(1) The applicable official plan or the revision thereto indicates the use of privies for that lot and documents that soil and site suitability testing of that lot under §§ 73.11—73.16 has been conducted, and the site meets the requirements for the ultimate sewage disposal by one of the systems described under §§ 73.51—73.55 (relating to construction of absorption areas) to assure that adequate sewage facilities will be available if water under pressure [or], piped water or piped wastewater becomes available to that lot in the future.

(2) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed responsibility for the removal of a privy and the installation of an approved onlot sewage disposal system when water under pressure [or], piped water or piped wastewater is provided to the lot.

(g) The restrictions in subsection (f) do not apply[:

(1) To] to a privy [or chemical toilet] when proposed for use on an isolated lot which is 1 acre or larger and is not served [now] currently and will not be served in the future by water under pressure [or], piped water or piped wastewater.

[(2) To temporary use of portable retention tanks or portable chemical toilets when their use is proposed at construction sites or at the site of public gathering and entertainments.]

§ 71.64. Small flow treatment facilities.

* * * * *

(b) Small flow treatment facilities are restricted to use as a replacement or repair system which the Department determines is necessary to abate an existing nuisance or public health hazard or as a system to serve residential dwellings or commercial facilities which generate domestic wastewater not containing industrial waste.

(c) When an official plan or update revision proposes the use of small flow treatment facilities, the official plan

or revision shall, as a minimum, contain the following, in addition to the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions):

* * * * *

(6) An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system which [may] shall include [the requirements of Subchapter E (relating to sewage management programs). When small flow treatment facilities are proposed as an alternative to serve an established needs area, the requirements of Subchapter E shall be met.] Documentation that one or a combination of the following operation and maintenance requirements have been established or approved in writing by the municipality:

(i) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(ii) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(iii) A municipal ordinance which requires that the small flow treatment facilities be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(iv) Municipal ownership of the system.

(v) Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.

(vi) A properly chartered association, trust or other private entity which is structured to manage the system.

(7) Establishment of bonding, escrow or other security prior to planning approval. The bonding, escrow or other security shall be forfeited to the municipality upon notice of continuing noncompliance of the system with the operation, maintenance and monitoring standards contained in the Department's "Design Guidelines for Small Flow Sewage Treatment Facilities" or noncompliance with the municipal assurances for management of the operation and maintenance requirements established through this section. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation and no more than 10% each year thereafter of the equipment and installation cost of the system.

[(7)] (8) ***

[(8)] (9) ***

* * * * *

Subchapter E. SEWAGE MANAGEMENT PROGRAMS

§ 71.72. Sewage management programs for Department permitted sewage facilities.

(a) When an official plan or revision to an official plan for existing needs areas or new land development proposes the construction of Department permitted nonmunicipal sewage facilities, **(except for small flow treatment facilities which shall comply with the management provisions of § 71.64(c)(6)) (relating to small flow treatment facilities)** the official plan or revision shall evaluate the options available to assure the long-term proper operation and maintenance of the proposed sewage facilities. The municipality, prior to adoption of that official plan or revision, shall require one or more of the [following] **bonding options and one or more of the sewage management options described in both subsections (b) and (c).**

(b) Bonding options.

* * * * *

(2) A bond or escrow account sufficient to cover the costs of future operation and maintenance of the sewage facilities under local ordinances. **Bonding, escrow or other security shall be forfeited to the municipality upon notice by the Department of continuing non-compliance of the system with the operation and maintenance standards established through a condition in the permit issued by the Department. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life or until the system is in compliance and being properly operated and maintained. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation and no more than 10% each year thereafter of the equipment and installation cost of the system.**

(c) Sewage management options.

(1) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(2) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(3) A municipal ordinance which requires the system to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

[(3)] (4) ***

[(4)] (5) ***

[(5)] (6) ***

[(6)] (7) ***

[(7) One] **(8) Bonding as described in subsection (b) and one or a combination of the requirements in paragraphs (1)—[(6)](7) or other actions permitted by and consistent with the act and the Clean Streams Law**

found necessary by the Department to insure proper installation, maintenance and operation of the proposed sewage facilities.

§ 71.73. Sewage management programs for sewage facilities permitted by local agencies.

* * * * *

(b) When an official plan or official plan revision shows, or the Department determines, that existing sewage facilities permitted by the local agency need periodic inspection, operation or maintenance to provide long-term proper operation, or are not properly functioning because of inadequate operation and maintenance, the municipality shall revise its official plan to establish a sewage management program for these types of facilities. The update revision shall include the following as a minimum:

* * * * *

(2) Standards consistent with section 8(b)(9) of the act (35 P. S. § 750.8(b)(9)) for operation, maintenance, repair or replacement of sewage facilities which include:

(i) Removal of septage or other solids from treatment tanks once every 3 years or whenever an inspection program reveals **that** the treatment tanks are filled with solids in excess of 1/3 of the liquid depth of the tank or with scum in excess of 1/3 of the liquid depth of the tank.

* * * * *

(iv) Requirements for the operation and maintenance of electrical, mechanical and chemical components of the sewage facilities; collection **and** conveyance piping, pressure lines and manholes; alarm and flow recorded devices; pumps; disinfection equipment and related safety items.

* * * * *

(c) When the official plan update identifies a local agency as the entity responsible for administering a municipal sewage management program and when the local agency identified in the official plan update agrees to administer the program, the local agency is eligible for reimbursement of eligible costs for administrative and personnel expenditures to implement sewage management programs under § 72.44 (relating to reimbursement).

(d) When the official plan identifies the municipality as the entity responsible for administering a municipal sewage management program and when that municipality's onlot system permitting program is administered by a multimunicipal local agency or a county or joint county department of health, the municipality is eligible for reimbursement of eligible costs for the administration and personnel expenditures to implement a sewage management program where these costs are billed to the local agency under § 72.44.

§ 71.75. Private request to require a sewage management program.

A person who is a resident or a legal or equitable property owner in a municipality may [request] file a private request with the Department requesting that the Department [to] order [that] the municipality to revise its official sewage plan under § 71.14 (relating to private request to revise official plans) when the resident or property owner can show one of the following:

* * * * *

Subchapter F. FEES

§ 71.81. General requirements.

Delegated agencies and the Department may charge fees for the review of sewage facilities planning modules for new land development.

§ 71.82. Delegated agency fees.

Delegated agencies shall establish fees for the review of sewage facilities planning modules for new land development in fee schedules formally adopted by the delegated agency and available to the public. Fees may be charged for each review of a planning module.

§ 71.83. Department fees.

(a) Fees charged by the Department for the review of sewage facilities planning modules for new land development shall be in accordance with section 10(12) of the act (35 P. S. § 750.10(12)) and will be shown on and be specific to each type of planning module component.

(b) A subsequent submission following a planning module denial shall be considered a new submission for the purpose of fee assessment. Denial of a planning module does not include the planning module completeness review procedure.

(c) Fees may not be charged for activities relating to determinations by the Department under § 71.51(b) (relating to general).

CHAPTER 72. ADMINISTRATION OF SEWAGE FACILITIES PERMITTING PROGRAM

§ 72.1. Definitions.

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

* * * * *

Alternate sewage system—A [system employing the use] method of demonstrated [technology in a manner] onlot sewage treatment and disposal not [specifically recognized by this title] described in this part.

Bonded disposal system—An individual onlot sewage system located on a single lot serving a single family residence, where soil mottling is within 20 inches of the mineral soil surface except for spray irrigation system installations.

* * * * *

Clean Streams Law—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Conventional sewage system—A system employing the use of demonstrated onlot sewage treatment and disposal technology in a manner specifically recognized by this part. The term does not include alternate sewage systems or experimental sewage systems.

* * * * *

Delegated agency—A municipality, local agency, multimunicipal local agency or county or joint county department of health to which the Department has delegated the authority to review and approve subdivisions for new land developments as supplements to the official plan of a municipality in which the subdivision is located.

[*Department*—The Department of Environmental Resources of the Commonwealth.

Environmental Hearing Board—The board established under section 1921-A of The Administrative Code of 1929 (71 P. S. § 510-21) for the purposes set forth in that section.]

Experimental sewage system—A method of onlot sewage treatment and disposal not described in this title which is proposed for the purpose of testing and observation.

Individual residential spray irrigation system—An individual onlot sewage system which serves a single family dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

* * * * *

Municipality—A city, town, township, [or] borough or home rule municipality other than a county.

* * * * *

Official plan revision—A change in the municipality's official plan to provide for additional, newly identified future or existing sewage facilities needs, which may include one or more of the following:

(i) *Update revision*—A comprehensive revision to an existing official plan required when the Department or municipality determines an official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

(ii) *Revision for new land development*—A revision to a municipality's official plan resulting from a proposed subdivision as defined in the act.

(iii) *Special study*—A study, survey, investigation, inquiry, research report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.

(iv) *Supplement*—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under the Clean Streams Law, and which is reviewed and approved by a delegated agency.

(v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

Person—An individual, association, public or private corporation for-profit or not-for-profit, partnership, firm, trust, estate, department, board, bureau or agency of the United States or the Commonwealth, political subdivision, municipality, district, authority or other legal entity which is recognized by [statute] law as the subject of rights and duties. [When used in a clause prescribing and imposing a penalty or imposing a fine or imprisonment, the] The term includes the members of an association, partnership or firm and the officers of a local agency or municipal, public or private corporation for profit or not-for-profit.

Qualified registered professional engineer—A person registered to practice engineering in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

Qualified registered professional geologist—A person registered to practice geology in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

Qualified soil scientist—A person certified as a sewage enforcement officer and who has documented 2 years' experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems and either a bachelor of science degree in soils science from an accredited college or university or certification by the American Registry of Certified Professionals in Agronomy, Crops and Soils.

* * * * *

Retaining tank—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to, the following:

[(i) **Chemical toilet**—A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.

(ii)] (i) ***

[(iii)] (ii) ***

[(iv)] (iii) ***

[(v)] (iv) ***

[(vi)] (v) ***

Sewage—A substance that contains waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes substances which constitute pollution under [The] the Clean Streams Law [(35 P. S. §§ 691.1—691.1001).]

Sewage Enforcement Officer—[The] An official of the local agency who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the act and conducts investigations and inspections that are necessary to implement the act and the regulations thereunder.

Sewage facilities—A [method] system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

(i) **Individual sewage system**—A sewage facility, whether publicly or privately owned, located on a single lot and serving one equivalent dwelling unit and collecting, treating and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance of re-

taining tank wastes to another site for final disposal. Individual sewage systems include:

(A) **Individual onlot sewage system**—[A] An individual sewage system which uses a system of piping, tanks or other facilities [serving a single lot and] for collecting, treating and disposing of [domestic] sewage into a [subsurface] soil absorption area, spray field or retention in a retaining tank [located on that lot].

(B) **Individual sewerage system**—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a [subsurface] soil absorption area, or retention in a retaining tank.

(ii) **Community sewage system**—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) **Community onlot sewage system**—A system of piping, tanks or other facilities serving two or more lots and collecting, treating and disposing of domestic sewage into a [subsurface] soil absorption area or retaining tank located on one or more of the lots or at another site.

(B) **Community sewerage system**—A community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

Sewage management program—A program conforming to Chapter 71, Subchapter E (relating to sewage management programs), authorized by the official action of a municipality for the administration, management and regulation of the disposal of sewage.

Soil horizon—A layer of soil approximately parallel to the soil surface, the chemical and physical characteristics of which are distinguishable by observation or other method of analysis, from the chemical and physical characteristics in adjacent layers of soil.

Soil profile—The collection of soil horizons, including the natural organic layers on the surface.

Soil mottling—A soil color pattern consisting of patches of different color or shades of color interspersed with the dominant soil color and which results from prolonged saturation of the soil.

Subdivision—The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land[. The term includes] including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

* * * * *

(Editor's Note: The definition of "bonded disposal system" was proposed to be added in the August 5, 1995, proposal.)

§ 72.2. Scope.

(a) This chapter is adopted in accordance with the duties imposed upon the Department under the act and [The] the Clean Streams Law [(35 P. S. §§ 691.1—

691.1001] and applies to local agencies and Sewage Enforcement Officers administering the act and to persons installing individual or community onlot sewage systems.

* * * * *

(c) This chapter governs the issuance of permits for retaining tanks, or for individual and community onlot sewage systems which employ renovation of sewage effluent in a [**subsurface**] **soil** absorption area or **spray field**, except for large volume onlot sewage systems. The use of large volume onlot sewage systems creates a danger of pollution of the waters of this Commonwealth, regulation of large volume onlot sewage systems by the Department is necessary to avoid the pollution, and large volume onlot sewage systems require permits issued by the Department under sections 201, 202, 207 and 402 of [**The**] **the** Clean Streams Law (35 P. S. §§ 691.1, 691.201, 691.202, 691.207 and 691.402). No local agency or Sewage Enforcement Officer may issue a permit for an individual or community onlot sewage system which does one of the following:

(1) Discharges directly to the surface of the ground or to the surface waters of this Commonwealth **except when the proposed sewage system is an individual residential spray irrigation system which conforms with the standards established under Chapter 73 (relating to standards for onlot sewage treatment facilities).**

* * * * *

(3) Is proposing or designed for the disposal of substances defined as industrial wastes under [**The**] **the** Clean Streams Law [(35 P. S. §§ 691.1—691.1001)].

(4) **Violates this chapter, Chapters 71, 73, the act or the Clean Streams Law.**

Subchapter B. PERMIT REQUIREMENTS

§ 72.21. General.

(a) A local agency shall employ or contract with at least one [**Sewage Enforcement Officer**] **sewage enforcement officer and one alternate sewage enforcement officer** who [**has**] **have** been certified by the Certification Board under Subchapter D (relating to certification of sewage enforcement officers). **References to sewage enforcement officer in this part also apply to alternate sewage enforcement officers.**

(b) A local agency shall employ an adequate number of sewage enforcement officers or contract with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer the applicable provisions of this chapter within the time periods set forth in this chapter and in accordance with this chapter and Chapter 73 (relating to standards for onlot sewage treatment facilities).

[(b)] (c) No local agency may issue a permit for the installation of an individual or community onlot sewage system except by and through a certified Sewage Enforcement Officer employed or contracted by [**them**] **the local agency.**

[(c)] (d) ***

[(d)] (e) ***

(f) **The property owner shall bear the cost of activities associated with conducting, observing or confirming percolation tests.**

(Editor's Note: Subsection (f) was originally proposed as subsection (e) in the August 5, 1995, proposal.)

§ 72.22. Permit issuance.

(a) No person may install, **award a contract for construction** or construct an individual or community on-lot sewage system, or install, construct, occupy or use a building to be served by that system without first obtaining a permit from the local agency, except as provided in subsections (c) [(d) and (e)]—(e).

(b) A permit [**is**] **shall be** required by the local agency for alterations or connections to an existing individual or community on-lot sewage system when the alteration or connection requires the repair, replacement, **disturbance, modification** or enlargement of a treatment tank, [**subsurface**] **soil** absorption area or **spray field, soil within or under the soil absorption area, spray field** or retention tank.

(c) [**Multiple installations of chemical toilets or other portable toilets proposed for temporary use at a construction site, a recreation activity or a temporary facility shall be covered by one permit.**

(d)] ***

[(e) **Unless a local agency requires a permit by ordinance, no permit is required for the installation of an individual onlot sewage system under this section if:**

(1) **The onlot sewage system is for a residential structure occupied or intended to be occupied by no more than two families one of whom is the property owner on a contiguous tract of land of 10 acres or more.**

(2) **The owner of the property is the owner of record as of January 10, 1987.**

(3) **The property owner completes the construction of the structure and the individual onlot sewage system serving the structure by January 10, 1989.]**

(d) **Except when a local agency or municipality requires a permit by ordinance, no permit or official plan revision will be required for the installation of an individual onlot sewage system for a residential structure occupied or intended to be occupied by the property owner or a member of the owner's immediate family on a contiguous tract of land 10 acres or more if the owner of the property was the owner of record as of January 10, 1987. For the purposes of this subsection, the term "immediate family" means a brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the property owner.**

(e) **The installation of a permit-exempt system is not required to be approved by or meet the standards of the Department or local agency under their rules and regulations for the siting, design or installation of onlot sewage systems, except for the siting requirements of subsection (g), unless a permit is required by a regulation or ordinance of a local agency or municipality, or the person qualifying for the permit exemption chooses to not use the permit exemption. A permit exemption may also be granted where a 10-acre parcel or lot is subdivided from a parent tract after January 10, 1987. When one permit exemption has been granted for a lot, tract or parcel under this section, any lot, tract or**

parcel remaining after subdivision of the lot or parcel which received the permit exemption or lots or parcels subdivided from either lot, tract or parcel in the future will not be eligible for a 10-acre permit exemption and shall meet the planning, permitting, siting and construction standards of the Department relating to onlot sewage systems. Owners of a lot, tract or parcel which otherwise qualified for the permit exemption, who do not choose to use the permit exemption remain exempt from the planning requirements of the act with respect to that lot, tract or parcel.

(f) Owners of property qualifying for a permit exemption under subsections (d) and (e) shall install permit-exempt systems in accordance with the following siting requirements:

(1) The perimeter of the septic tanks and absorption area shall be located at least 200 feet from the perimeter of any property line, nonutility right-of-way, 100-year flood plain or any river, stream, creek, impoundment, well, watercourse, storm sewer, lake, dammed water, pond, spring, ditch, wetland, water supply or any other body of surface water and 10 feet from any utility right-of-way.

(2) Before a person who meets the requirements of subsections (d) and (e) for a permit-exempt system installs such a system, the person shall notify the local agency of the installation. The local agency may charge a fee, not to exceed \$25, to verify that the system is located in accordance with the siting requirements of this subsection.

(g) A permit is not required when a new dwelling is proposed to replace a previously existing dwelling when the local agency determines that the size and anticipated use of the new dwelling, as determined under §§ 73.16 and 73.17 (relating to requirements for absorption areas requirements; and sewage flows), are the same size and use or lesser size and use as the previously existing dwelling and the previously existing dwelling was in use within 1 year of the anticipated date of completion of construction of the new dwelling. This exception does not apply when an active investigation of a malfunction is under way by the local agency or the Department.

(Editor's Note: Subsections (d)—(f) were originally proposed as subsections (e)—(g) in the August 5, 1995, proposal).

§ 72.23. Limitation on [permits] onlot system permit issuance.

(a) The local agency may not issue permits for individual or community onlot sewage systems unless the following exist:

(1) The proposed system is consistent with the method of sewage disposal contained in the **approved** official plan, **special study or update revision** of the municipality in which the system is to be located.

(2) The municipality is implementing its official plan, **special study or update revision** in accordance with a schedule approved by the Department.

(3) The municipality has received approval of a revision for new land development or exception to the requirement to revise from the Department, a supplement for new land development has been approved by the delegated agency serving the municipality or the Department or delegated agency

has determined that no planning is required under § 71.51(b) (relating to general).

(b) [The limitations on permit issuance contained in subsection (a) do not apply when one or more of the conditions of section 7(b)(5) of the act (35 P. S. § 750.7(b)(5)) are met.]

Permits may not be issued when the municipality has one or more of the following:

(1) No approved official plan.

(2) Not received Department approval of an update revision or special study to the official plan.

(3) Not implemented its plan as required by this part or by an order of the Department.

(c) Permit limitations shall be restricted to those areas of the municipality identified in writing to the municipality by the Department as posing a serious risk to the health, safety and welfare of persons within or adjacent to the municipality because of the municipality's failure to revise or implement its plan. The limitations shall remain in effect until the municipality has submitted the official plan, update revision or special study to the official plan to, and received the approval of the Department, or has commenced implementation of its plan, update revision or special study in accordance with a schedule approved by the Department.

(d) The limitation on permit issuance contained in this section do not apply:

(1) To those areas of the municipality when the Department or the local agency finds that a replacement soil absorption area or spray field could be installed on the lot if the original system failed. This determination shall be based on the results of a minimum of two complete soils and site evaluations confirmed by the local agency's sewage enforcement officer.

(2) To those areas of the municipality outside of the areas delineated in an order of the Department as requiring an update revision.

(3) To existing subdivisions or sections thereof when the Department or delegated agency finds that either lots or homes in the subdivision or sections thereof have been sold in good faith to a purchaser for value prior to May 15, 1972, and not for the purpose of avoiding the permit limitation provisions of this section. This paragraph does not relieve the municipality of its planning responsibilities as specified in the act.

(4) When the Department or the local agency finds it necessary to issue permits for the abatement of pollution or the correction of health hazards, or both.

(5) To interim repairs to or the replacement of existing malfunctioning onlot sewage systems.

§ 72.24. Applications for permits.

* * * * *

(c) The local agency shall maintain and make available for public inspection a permanent record of all permit applications submitted, indicating the date received, type of submission and date of disposition.

§ 72.25. Issuance of permits.

* * * * *

(b) The local agency shall issue or deny a permit for a conventional system in writing within 7 days after receiving a complete initial application.

(c) If the local agency determines that an initial application is incomplete or that it is unable to verify the information contained in an application, the local agency shall notify the applicant in writing within 7 days of receipt of the application. The notice shall include the reasons why the application is not acceptable. When the required information is received, the local agency shall act upon the application within 15 days.

(d) A person desiring to install an experimental [or alternate] on-lot sewage system shall submit complete preliminary design plans and specifications to the Sewage Enforcement Officer and the Department for review and comment at least 60 days prior to submitting an application for a permit. The Department [shall] will determine if classification as an experimental [or alternate] system is appropriate for the submission and provide review comments within 60 days to the sewage enforcement officer.

(e) Applications for alternate system permits submitted to municipalities or local agencies which are not delegated agencies, shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated by the municipality or local agency to the applicant in writing within 15 days.

(1) Applications for alternate system permits found to be complete shall be submitted to the Department within 5 days of the determination of completeness by the local agency or authorized representative for the Department's determination whether the classification as alternate is appropriate for the submission and the Department's review of comments.

(2) Permits for alternate systems shall be issued or denied by the local agency within 45 days of transmittal of a complete application to the Department. The local agency shall consider the written comments submitted by the Department regarding the application.

(3) In municipalities or local agencies which are delegated agencies or which employ or contract with sewage enforcement officers authorized to review alternate sewage systems under § 72.43(1) (relating to powers and duties of the Department), permit applications for alternate systems shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated to the applicant in writing within 15 days of receipt of the application. Permits for alternate systems shall be issued or denied by the local agency within 30 days of receipt of a complete application.

[(e)] (f) ***

[(f)] (g) A local agency may not issue individual or community on-lot sewage system permits for the following systems; permits for these systems are issued by the Department:

* * * * *

(2) Subsurface disposal or other method of disposal of a substance defined as industrial waste under the Clean Streams Law [(35 P. S. §§ 691.1—691.1001)].

(3) A method of sewage disposal other than renovation of sewage in a subsurface absorption area, an individual residential spray irrigation system or temporary storage in a retaining tank.

(h) Prior to the issuance of a permit for an individual residential spray irrigation system, the local agency shall require documentation that the municipality in which the system is to be located, has taken action to assure compliance of the system with § 73.167 (relating to operation and maintenance) for the life of the system. The assurance shall be established through one or a combination of the following options which have been established or approved in writing, by the municipality:

(1) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(2) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(3) A municipal ordinance which requires individual residential spray irrigation systems to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(4) Municipal ownership of the system.

(5) Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.

(6) A properly chartered association, trust or other private legal entity which is structured to manage the system.

(i) Bonding, escrow or other security shall be established prior to the issuance of a permit for an individual residential spray irrigation system and must be forfeited to the municipality upon notice of continuing noncompliance of the system with the operation and maintenance standards in § 73.167 (relating to operation and maintenance), monitoring standards in § 72.42(a)(24) (relating to powers and duties of local agencies) and municipal assurances for management of the operation and maintenance requirements established through the provisions of subsection (h). The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation and no more than 10% each year thereafter of the equipment and installation cost of the system.

(j) When a local agency has issued a permit under this section and the Department disagrees with the basis for the issuance of the permit, the Department will not require the revocation of that permit

unless the Department has provided to the local agency justification for its decision based on the specific provisions of statute or regulation.

§ 72.26. Denial of permits.

* * * * *

(b) The sewage enforcement officer shall accept prior testing data and information obtained by a previous sewage enforcement officer, provided that the site and prior testing is certified by the previous Sewage Enforcement Officer and meets all of the criteria contained in paragraphs (1)—(10) and the current Sewage Enforcement Officer certifies the same to the local agency using a "verification of prior testing" form provided by the Department. There shall be a presumption that, unless the prior Sewage Enforcement Officer's certification has been revoked or suspended by the Department or the prior Sewage Enforcement Officer's certification has been voluntarily surrendered to the Department or Certification Board, the testing data and information obtained by the prior Sewage Enforcement Officer is valid unless the currently employed Sewage Enforcement Officer finds that one or more of the criteria in the following paragraphs are not met:

(1) The soil testing performed on the property in question has not been cited in a revocation, suspension or other agreement to surrender certification which indicates violations of soil testing procedures by the previous Sewage Enforcement Officer.

(2) The exact location of the test to be used for issuance of a permit shall be verifiable by at least one of the following methods:

(i) Location of the test pit and percolation hole remnants on the lot by the current sewage enforcement officer.

(ii) The existence of recorded measurements from at least two permanent landmarks on the property in question establishing the original test location.

(iii) A scale drawing of the lot or property in question indicating the location of the tests by reference to at least two permanent landmarks.

(iv) Identification of the exact location of the tests by the prior Sewage Enforcement Officer, provided that his certification has not been revoked, suspended or voluntarily surrendered to the Department or Certification Board.

(3) Verification that the percolation test and soils evaluation were conducted in accordance with the applicable regulations.

(4) Soils description and percolation test data are available and recorded on the prescribed form, or its equivalent, in sufficient quantity and quality to be interpreted by others.

(5) The soil probes were conducted within 10 feet of the proposed absorption area.

(6) The percolation test on the lot was performed on the site of the proposed absorption area.

(7) The person who originally observed or conducted the testing was certified under the current certification requirements of the act.

(8) No inaccuracies or falsifications of the test data are apparent or identifiable.

(9) No changes to the site have occurred since the time of the original testing which will materially affect the siting or operation of an individual or community onlot sewage disposal system.

(10) Receipt of a notarized statement from the property owner which indemnifies and holds harmless the new Sewage Enforcement Officer, municipality and local agency for the actions of the new Sewage Enforcement Officer in verifying the prior testing data and information obtained by a previous Sewage Enforcement Officer.

(c) If, after conducting a verification of prior testing under subsection (b), a Sewage Enforcement Officer denies an application for a permit or rejects the previous tests performed within the immediately preceding 6 years, retesting and reapplication fees shall be waived to the applicant and the local agency shall pay for any equipment and operators required for a retest and for any necessary redesign of the system if:

(1) The tests were certified by signature of a Sewage Enforcement Officer.

(2) Local agency records document that the Sewage Enforcement Officer who certified the tests was employed or under contract with the local agency at the time the testing was conducted and certified.

(3) The testing documents soils and site suitability for onlot sewage disposal.

(d) The provisions of subsection (c) do not apply if the local agency documents that one of the following exists:

(1) Changes have occurred in the physical condition of lands which will materially affect the siting or operation of an individual or community onlot sewage disposal system covered by a permit as verified by the Sewage Enforcement Officer conducting the testing in accordance with the criteria outlined in subsection (b).

(2) The original soils testing was performed by a Sewage Enforcement Officer whose certification was one of the following:

(i) Revoked by the Department and any subsequent appeal denied.

(ii) Voluntarily surrendered to avoid prosecution or a hearing.

(iii) Suspended by the Department for violations related to the siting, design or installation inspection of onlot systems.

(3) The soils testing and redesign required by the new Sewage Enforcement Officer has been conducted by the local agency using its staff and equipment or contracted services.

(4) The testing under review was conducted more than 6 years prior to the date of the submittal of a permit application for the lot in question.

[(b)] (e) ***

§ 72.27. Expiration and transfer of permits.

(a) A permit shall expire if construction or installation of an individual or community onlot sewage system and the structure for which the system is to be installed has not begun within [2] 3 years after permit issuance. A new permit shall be obtained prior to beginning the construction or installation. When issuing a new permit

the local agency may require information necessary to confirm the validity of the original application as provided by § 72.26(b) (relating to denial of permits).

* * * * *

§ 72.28. Revocation of permits.

(a) A permit shall be revoked by the local agency at any time for one or more of the following reasons:

* * * * *

(3) When information [material] relevant to the issuance of the permit has been falsified.

* * * * *

§ 72.31. Conditions related to the installation of permit exempt systems.

A person installing a permit-exempt system shall indemnify and hold harmless the Commonwealth, the Local Agency, the Sewage Enforcement Officer serving the municipality in which the system is located and the municipality where the system is located from and against damages to property or injuries to any persons and other losses, damages, expenses, claims, demands, suits and actions by any party against the Commonwealth, the Local Agency, Sewage Enforcement Officer and the municipality in connection with the malfunctioning of the onlot sewage system installed under the permit exemption provisions of this section. It is the sole responsibility of the property owner who installed or contracted for the installation of a sewage system under the permit exemption provisions of this section or the property owner who accepted responsibility for the system upon purchase of the property under the disclosure provisions of § 72.32(a) (relating to sales contracts) to correct or have corrected any system malfunction which contaminates surface or groundwater or discharges to the surface of the ground. Malfunctions of systems installed under the provisions of this section which contaminate ground or surface water or discharge to the surface of the ground shall constitute a nuisance and shall be abatable in a manner provided by law.

(Editor's Note: The provisions of subsection (b) as originally proposed in the August 5, 1995, proposal has been incorporated in § 72.32(a) and (b). The language of subsection (b) has been retained, except that the reference to § 72.22(e) and (f) has been changed to § 72.22(d)–(f).)

§ 72.32. Sales contracts.

(a) Every contract for the sale of a lot which is served by an individual sewage system which was installed under the 10-acre permit exemption provisions of § 72.22(d)–(f) (relating to permit issuance) shall contain a statement in the contract that clearly indicates to the buyer that soils and site testing were not conducted and that the owner of the property or properties served by the system, at the time of a malfunction, may be held liable for any contamination, pollution, public health hazard or nuisance which occurs as the result of the malfunction of a sewage system installed in accordance with the 10-acre permit exemption provisions of § 72.22(d)–(f).

(b) Every contract for the sale of a lot served by a holding tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system and which is designed and constructed to

facilitate ultimate disposal of the sewage at another site, shall contain a statement in the contract that clearly indicates that the property is served by such a tank and shall provide a history of the annual cost of maintaining the tank from the date of its installation or December 15, 1995, whichever is later.

(c) Every contract for sale of a lot which is served by an individual sewage system which was installed under § 72.33 (relating to well isolation distance exemption) with an isolation distance less than the distance specified by § 73.13 (relating to minimum horizontal isolation distances) shall contain a statement in the contract that clearly indicates to the buyer that the isolation distances required by regulation between the individual onlot system components and the well on the property being sold were not met.

(d) Every contract for the sale of a lot which is within an area in which permit limitations are in effect shall contain a statement in the contract that clearly indicates to the buyer that sewage facilities are not available for that lot and construction of a structure to be served by sewage facilities may not begin until the municipality completes a major planning requirement.

(e) A contract for the sale of a lot which does not conform to the requirements of this section is not enforceable by the seller against the buyer. Any term of such a contract purporting to waive the rights of the buyer to the disclosures required in this section shall be void.

§ 72.33. Well isolation distance exemption.

(a) Any minimum distance requirement between a private well and a proposed absorption area specified in Chapter 73 (relating to standards for onlot sewage treatment facilities) is not applicable if the local agency finds that the installation of a proposed individual sewage system does not pose a threat of pollution to any well on the same lot within the distance specified by regulation. The minimum distance between a proposed individual sewage system on the applicant's lot and any wells on any other lot, regardless of the ownership of that lot, shall meet the minimum horizontal isolation distances in § 73.13 (relating to minimum horizontal isolation distances) except as provided in § 73.3(b) (relating to policy).

(b) If a repair to a malfunctioning onlot system is being considered under § 73.3(b) the requirements of this section may be waived at the sole discretion of the local agency.

(c) The applicant shall submit a formal written request for a well isolation distance exemption to the local agency. The request shall include:

- (1) Appropriate groundwater studies.
- (2) Payment of fees or costs incurred by the local agency to review the groundwater study.

(d) Upon receipt of the items required in subsection (c), a local agency, other than a delegated agency, shall act upon an application for an exception under this section within 45 days after receipt of a request for an exception. A delegated agency shall act on an application for an exception under this section within 30 days after receipt of a request for exception.

(e) The local agency, municipality, Sewage Enforcement Officer and Department will incur no liability as a result of the local agency granting an exception under this section.

Subchapter C. ADMINISTRATION OF PERMITTING REQUIREMENTS

§ 72.41. Powers and duties of Sewage Enforcement Officers.

* * * * *

(b) A Sewage Enforcement Officer shall issue permits only within the jurisdiction of the local agency in which the Sewage Enforcement Officer is employed. When a Sewage Enforcement Officer encounters a conflict of interest as specified in subsections [(e)—(h)] (f)—(k), the local agency shall employ a certified Sewage Enforcement Officer not having a conflict of interest regarding the system or lot. **[The local agency shall notify the Sewage Enforcement Officer and the Department in writing of the specific conditions of employment, including, but not limited to, the following:]**

(c) **The local agency shall notify the Sewage Enforcement Officer and the Department in writing of the specific conditions of employment, including but not limited to, the following:**

* * * * *

[(c)] (d) A Sewage Enforcement Officer shall **[only]** accept payment **only** from the local agency for services performed in conjunction with administration of the act.

(Editor's Note: Subsections (b) and (c) were proposed to be amended in the August 5, 1995, proposal.)

[(d)] (e) ***

* * * * *

(2) The fee is rendered in accordance with the local agency's adopted receipt system as required by § 72.42 **[(a)] (7)** (relating to powers and duties of local agencies).

* * * * *

[(e)] (f) A Sewage Enforcement Officer may advise an applicant regarding available options for the planning, design and construction of an individual or community onlot disposal system, but may not select the final system design, as specified in subsection **[(f)] (g) except as provided by subsection (i).**

[(f)] (g) ***

(h) A Sewage Enforcement Officer may not, orally or in writing, suggest, recommend or require the use of any particular consultant, soil scientist or professional engineer, or an individual or firm providing these services where these services may be required or are subject to review under this article.

(i) A Sewage Enforcement Officer may not perform consulting or design work or related services required or regulated under the act within the municipality or local agency by which he is employed or with which he has a contractual relationship unless the services are set in the fee schedule of the local agency, the fees are paid directly to the local agency and the records and products relating to consultation or design work are reviewed by and any subsequent permit is issued by another Sewage

Enforcement Officer employed by or under contract with the same local agency.

[(g)] (j) A Sewage Enforcement Officer may not conduct a test, issue a permit, participate in the official processing of an application or official review of a planning module for an individual or community onlot sewage system in which the Sewage Enforcement Officer, a relative of the Sewage Enforcement Officer, a business associate of the Sewage Enforcement Officer or an employer of the Sewage Enforcement Officer, other than the local agency, has a financial interest.

(Editor's Note: The provisions of this subsection were renumbered in the August 5, 1995 Pennsylvania Bulletin changing subsection (g) to (h). In this proposed rulemaking (g) is changed to (j).)

[(h)] (k) For purposes of subsection **[(g)] (j)**, a financial interest includes full or partial ownership, agreement or option to purchase, leasehold, mortgage or another financial or proprietary interest in; or serving as an officer, director, employe, contractor, consultant, or another legal or fiduciary representative of a corporation, partnership, joint venture or other legal entity which has a **[property] proprietary** interest in **[any] one or more** of the following:

(Editor's Note: The provisions of this subsection were renumbered in the August 5, 1995 Pennsylvania Bulletin changing subsection (h) to (i). In this proposed rulemaking (h) has been changed to (k).)

* * * * *

[(i)] (l) Prior to issuing a permit, the Sewage Enforcement Officer shall conduct personally, observe or otherwise confirm in a manner approved by the Department all tests used to determine the suitability of a site for an individual or community onlot sewage system. **A Sewage Enforcement Officer shall accept testing conducted by a prior Sewage Enforcement Officer for the local agency provided the site, data and prior testing meet all the criteria specified in [Section 8(c) of the act (35 P. S. § 750.8(c))] § 72.26(b)—(d). When a Sewage Enforcement Officer accepts testing by a prior officer, a copy of the Form ER-BWQ-290, Appendix B or such other form as may be specified by the Department, shall be attached to each copy of the permit application.**

(Editor's Note: The reference to section 8(c) of the act in the August 5, 1995, Pennsylvania Bulletin has been replaced by referring to § 72.26(b)—(d).

[(j)] (m) ***

[(k)] (n) ***

[(1)] (o) ***

[(m)] (p) ***

[(n)] (q) ***

§ 72.42. Powers and duties of local agencies.

(a) The local agency **[shall have] has** the power and duty to:

(1) Employ **or contract with** Sewage Enforcement Officers to administer section 7 of the act (35 P. S. § 750.7) and this part.

(2) Employ **or contract with** other technical and administrative personnel necessary to support the activities of the Sewage Enforcement Officer.

(3) Set rates of compensation for the Sewage Enforcement Officer and other employees necessary for the administration of the act by the local agency.

* * * * *

(11) Submit to the Department annually the name and address of its certified Sewage Enforcement Officer and alternate Sewage Enforcement Officer.

(12) Make or cause to be made inspections and tests necessary to carry out [Section] sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act [(35 P. S. § 750.7)]. For this purpose, the authorized representatives of the local agency have the right to enter upon lands.

(13) Proceed under sections 7, 8, 12, 13, 13.1, 13.2(b) 14, [and] 15 and 16 of the act [(35 P. S. §§ 750.12, 750.14 and 750.15)] to restrain violations of the act and this part, and to abate nuisances in accordance with existing statutes, or as defined in the act.

(14) County or joint county Departments of Health shall administer sections 7, 8, 12, 13, 13.1, 14, 15, and 16 of the act in the area subject to their jurisdiction. A county Health Department and joint county Departments of Health may also administer the continuing maintenance provisions of § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) when the municipality relinquishes and the county Health Department or joint county Department of Health accepts such authority and conforms with the requirements of § 71.73.

[(14)] (15) ***

[(15)] (16) ***

(17) When applicable, establish a program for requiring, verifying, forfeiting, administering and enforcing the provision of financial assurances in accordance with § 73.151 (relating to standards for financial assurances). Costs for administering this program shall be included in the fee schedule of the local agency.

(Editor's Note: This paragraph was proposed in the August 5, 1995, Pennsylvania Bulletin as paragraph (16). The language is otherwise identical.)

(18) Adopt by resolution a list of individuals who are Sewage Enforcement Officers employed by companies or corporations under contract with the local agency to perform the services of Sewage Enforcement Officers.

(19) Set and collect fees necessary to support the administrative and personnel costs of a maintenance inspection and enforcement program.

(20) Charge for engineering or consulting services required by the local agency to complete its review or a permit application. The application or review fees charged for these services shall be reasonable and in accordance with the ordinary and customary charges by the engineer or consultant for similar service in the community, and the fees may not exceed the rate or cost charged by the engineer or consultant to the local agency when fees are not reimbursed by or otherwise imposed on applicants.

(i) If the applicant disputes the amount of any fees or charges, the applicant shall, within 10 working days of the date of billing, notify the local

agency that the fees or expenses are disputed as unreasonable or unnecessary, in which case the local agency may not delay or disapprove an application for any approval or permit due to the applicant's dispute over fees or charges.

(ii) If, within 20 days from the date of billing, the local agency and the applicant cannot agree on the amount of fees or charges which are reasonable and necessary, the applicant and local agency shall comply with the procedure established in section 8(b)(4) of the act (35 P. S. § 750.8(b)(4)) to resolve the fee or charge dispute.

(21) Complete and provide to the applicant the results of any site suitability review, soil probe testing and soil percolation testing within 20 working days of the local agency's receipt of a permit application.

(i) The testing and results of the testing may be deferred to a later date that the applicant may request in writing or by a later date agreed to by the sewage enforcement officer and the applicant, which is confirmed in writing by the Sewage Enforcement Officer.

(ii) A one-call system serial number shall be obtained prior to soil testing by the permit applicant or the contractor retained by the applicant to perform the test excavation. This notification shall take place no less than 3 and no more than 10 working days prior to the excavation. The deadline for permit review by the local agency in this subsection does not apply to an applicant who fails to comply with the one-call system notification requirement.

(iii) It shall be the obligation of the applicant to have the site prepared in the manner required by written instructions provided to the applicant after receipt of at least 48 hours' notice from the local agency or Sewage Enforcement Officer of the anticipated time the soils tests will be performed. Written instructions shall include provisions for deferral of testing due to weather.

(iv) Failure of the local agency to comply with these time limits shall entitle the applicant, upon request, to a refund of fees paid by the applicant for soil testing that was not performed by the local agency, and the applicant shall be entitled to submit results of soils tests, on forms provided by the Department, conducted in a manner consistent with this article by a certified Sewage Enforcement Officer, who need not be employed by or under contract with the local agency. These test results shall be accepted by the local agency and its Sewage Enforcement Officer, who shall rely upon the results of these tests in acting on an application.

(v) If an applicant, after receiving the notice of testing, fails to have the site prepared for soil testing in a manner required by this section, the applicant does not have the right to submit the results of soils testing performed by a certified Sewage Enforcement Officer not employed by or under contract with the local agency, nor is the applicant entitled to a refund of fees paid for soil testing as provided in this section.

(vi) Neither the municipality, local agency, local agency's Sewage Enforcement Officer nor the Department will be held liable on a cause of action arising out of soil tests performed under this sec-

tion by a certified Sewage Enforcement Officer not employed by or under contract with the local agency.

(22) Make inspections of and verify measurements made by applicants on public or private properties which are determined by the local agency's authorized representative to have natural or manmade features from which specific isolation distances are required prior to the approval of onlot sewage disposal system usage in subdivisions or individual lots. The local agency's authorized representative shall have the right to enter upon lands for these purposes.

(23) Determine if a proposed individual residential spray irrigation system will create a nuisance or adversely impact existing and proposed drinking water supplies and report this information to any affected municipality served by the local agency.

(24) Assure that an individual residential spray irrigation system discharge is sampled at least once per year by the property owner through a certified testing laboratory for fecal coliforms, biological oxygen demand, suspended solids and disinfectant residual or effectiveness. Individual effluent samples may not exceed a BOD₅ of 60 mg/l and suspended solids concentration of 100 mg/l. Chlorine residual shall be maintained at a range of 1.0-2.0 ppm unless a higher level is required to control disease producing organisms. This disinfection shall produce an effluent which will contain a concentration not greater than 200/100 milliliters of fecal coliform organisms in a single sample. The local agency shall review the results of these samples and the most recent system inspection conducted under § 73.167 (relating to operation and maintenance) and take necessary action to resolve operational or maintenance problems identified through the sample results. Additional sampling may be required by the local agency if the annual sample documents a problem.

(b) The local agency may offer a program to provide financial assurance, for a fee, for systems installed under § 73.77 (relating to bonded disposal systems). Financial assurance provided by the local agency shall comply with the requirements of § 73.151 (relating to standards for financial assurances).

(c) The local agency may not orally or in writing, suggest, recommend or require the use of a particular consultant, soil scientist or professional engineer, or an individual or firm providing these services where the services may be required or are subject to review under this part.

(Editor's Note: Subsection (b) was proposed to be added in the August 5, 1995, proposal.)

§ 72.43. Powers and duties of the Department.

(a) The Department is empowered to review the performance of local agencies and their Sewage Enforcement Officers in the administration of [section] sections 7, 8, 12, 13, 13.1, 13.2(b), 14, 15 and 16 of the act [(35 P. S. § 750.7)].

* * * * *

(c) If the Department finds that a local agency has failed to effectively administer [section] sections 7, 8, 12, 13, 13.1, 13.2(b), 14, 15 or 16 of the act [(35 P. S.

§ 750.7)] or this part, the Department, in addition to other remedies it may seek at law or in equity, may order the local agency to take actions the Department deems necessary to obtain effective administration. These actions may include, but are not limited to:

* * * * *

(f) The Department will suspend a Sewage Enforcement Officer's certification if the Department determines that the Sewage Enforcement Officer has done one of the following:

* * * * *

(3) Demonstrated negligence or provided false information related to the administration of the act or this part and for knowingly committing violations of this part which are not related to the issuance of a permit.

(g) The Department may reinstate the certification of a person within 2 years from the date of suspension. Prior to reinstatement, the Department will require, as a minimum, that the person take and pass the appropriate certification examination administered by the certification board. The Department may require satisfactory completion of a special training program designed to strengthen a specific weakness in the administration of the act or this part. The program may entail the use of testing procedures including, but not limited to:

* * * * *

(h) The Department will revoke the certification of a Sewage Enforcement Officer whenever the Department determines that the Sewage Enforcement Officer has done one of the following:

* * * * *

(3) Failed to comply with the applicable terms of a Departmental order for effective administration of [section] sections 7, 8, 12, 13, 13.1, 13.2(B), 14, 15 and 16 of the act [(35 P. S. § 750.7)].

* * * * *

(13) Demonstrated negligence or knowingly provided false information related to the administration of the act or this part and for violations of the act or this part which are not related to the issuance of a permit.

(i) The Department will consider complaints filed by local agencies or the public relating to the performance of local Sewage Enforcement Officers as part of the Department's evaluation of the local agency and Sewage Enforcement Officer.

(j) The Department may establish minimum training requirements using a Department curriculum of training as a prerequisite for applicants for certification as Sewage Enforcement Officers. The curriculum may include a period of training under another certified Sewage Enforcement Officer selected by the Department as a prerequisite to certification for candidates who pass the certification test.

(k) The Department may require a certified Sewage Enforcement Officer whose performance has been evaluated and found deficient to complete a training course which may include a curriculum of training or a period of training under the direction of another certified Sewage Enforcement Officer

selected by the Department a time period established by the Department.

(1) The Department may require this training as an alternative to suspension or as a requirement for reinstatement of a suspended certification.

(2) The local agency employing the training Sewage Enforcement Officer shall authorize that officer to provide the training services within the jurisdiction of that local agency.

(3) The costs of Department-required training incurred by the training Sewage Enforcement Officer and the local agency employing the training Sewage Enforcement Officer shall be paid by the Department from funds made available under section 13.2 of the act (35 P. S. § 750.13b).

(l) The Department may delegate the review of certain alternate sewage systems as designated by the Department to Sewage Enforcement Officers, within the area of their jurisdiction, qualified by the Department to review the systems.

(m) The Department has the duty to require local agencies to take necessary action to provide timely service, including, but not limited to, utilizing the services of an alternate Sewage Enforcement Officer, employing temporary Sewage Enforcement Officers and entering into contracts for service.

§ 72.44. Reimbursement.

(a) Reimbursement may not exceed the total program cost minus total program income.

(b) [Reimbursement may not exceed the total program cost minus total program income—net program cost] Except as provided in subsection (c) [The] the Department will reimburse local agencies to the extent of the appropriations made by the General Assembly for that purpose. Reimbursement shall be made annually in an amount equal to 1/2 of eligible expenses of administering and enforcing [section] sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act [(35 P. S. § 750.7)], as defined by subsections [(f)] (h) and [(g)] (i).

(c) A local agency complying with the act in a manner deemed satisfactory by the Department shall be reimbursed in an amount equal to 85% of the cost of the expenses incurred in the administration and enforcement of the act from funds specifically appropriated by the General Assembly for this purpose if the local agency submits documentation which supports that it qualifies for the increased reimbursement as provided in subsection (d). Eligible expenses are defined in subsections (h) and (i).

(d) To qualify for 85% reimbursement, a local agency shall:

(1) Document the acceptance, delegation or transfer of the administration of sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act from one or more municipalities.

(2) Employ or contract with at least one Sewage Enforcement Officer actively engaged in activities related to the administration of the act in that local agency at least 1,200 hours per year, including leave and holidays.

(3) Employ or contract with adequate administrative support staff.

(4) Employ or contract with one alternate Sewage Enforcement Officer.

(5) Employ or contract with a qualified soil scientist. For the purposes of this section, a qualified soil scientist is a person who has documented experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of an onlot sewage system and who has a bachelor of science degree in soils science from an accredited college or university, and certification by the American Registry of Certified Professionals in Agronomy, Crops and Soils or membership in the Pennsylvania Association of Professional Soil Scientists.

(6) Submit to the Department for review and comment administrative procedures, permit procedures, ordinances of the member municipalities related to the administration of the act, rules, regulations, permit-related fee schedules and contracted services proposed for use in the local agency.

(7) Employ or have a contractual arrangement with sufficient technical staff to provide for local agency response to signed written requests for service within the time frames established by the administrative procedures and regulations of the local agency.

[(c)] (e) Applications for reimbursement shall be in quadruplicate, on the appropriate form supplied by the Department, and received by the Department of Environmental [Resources] Protection, Post Office Box 8466, Harrisburg, Pennsylvania 17105-8466, no later than March 1 each year for expenses incurred during the prior calendar year. [With prior approval and for good cause, the Department may extend the March 1 deadline to March 15.] Upon cause shown, the Secretary of the Department may extend the March 1 deadline for the filing of applications for reimbursement for not more than 60 days.

[(d)] (f) Applications for reimbursement shall include the following:

* * * * *

(4) Municipal ordinances, acts, regulations or procedures used in enforcing the act for local agencies applying for reimbursement for the first time or when major changes are made.

* * * * *

(6) Proof of payment of expenses claimed, as specified in subsection [(h)] (j).

* * * * *

[(e)] (g) ***

[(f)] (h) Costs associated with the following are eligible for reimbursement, when related to enforcement and administration of the sewage facilities permitting program or the administration of a sewage management program under §§ 71.64 and 71.72 (relating to small flow treatment facilities Chapter 71 Subchapter E).

* * * * *

[(g)] (i) Ineligible costs include, but are not limited, to the following:

* * * * *

(9) Cost to the local agency to maintain insurance coverage in the following areas:

(i) Errors and omissions except as provided in subsection [(f)] (h)(6)(iv).

* * * * *

(11) Expenses for employe attendance at local agency meetings which do not pertain to administration of sections 7, [and] 8, 12, 13, 13.1, 14, 15 or 16 of the act [(35 P. S. §§ 750.7 and 750.8)].

(12) Fixed or indirect costs other than those in subsection [(f)(5)] (h)(5).

[(h)] (j) Proof of payment of expenses claimed shall, at a minimum, include the following:

* * * * *

(3) Proof of attendance at [Department] training courses **required by the Department**. Reimbursable expenses for attendance at the courses shall be identified separately under "other expenses" in the reimbursement application.

* * * * *

(5) Minutes of local agency meetings for which employe attendance is claimed as a reimbursable expense which reflect discussions involving the administration of sections 7 [and], 8, 12, 13, 13.1, 14, 15 or 16 of the act [(35 P. S. §§ 750.7 and 750.8)].

[(i)] (k) ***

Subchapter D. CERTIFICATION OF SEWAGE ENFORCEMENT OFFICERS

§ 72.52. Conditions of certification.

* * * * *

(b) Certification shall be for a period of up to 2 years. Upon the payment of a fee of [\$5.00] \$50 by the certificate holder, the Certification Board shall renew a valid certificate of a qualified applicant, **except that applicants for renewal who are employed by the Department in administering the act are not subject to the fee requirements of this subsection. Fees collected in excess of the actual administrative cost to the board to process certification renewals shall be dedicated to training Sewage Enforcement Officers.**

(c) **If the Certification Board does not meet within 30 days of receiving the examination results from the certification testing contractor, an applicant for certification who meets the requirements of subsection (a) shall be deemed certified, except that an applicant who is in violation of the regulations under the act or who is restrained from certification by § 72.43 (relating to powers and duties of local agencies) will not be deemed certified.**

(Editor's Note: This section was proposed to be amended in the August 5, 1995, proposal.)

§ 72.53. Certification examination.

* * * * *

(b) The Department will submit the examination to the Certification Board, which shall by letter to applicants [and by publication in the *Pennsylvania Bulletin*]

at least [30] 25 days prior to each examination announce the location, time, scope and passing grade for the examination. **Annually, the Board will publish in the *Pennsylvania Bulletin* the dates, sites, scope and passing grade for all examinations scheduled in that calendar year.**

(c) The Certification Board shall schedule [a date for] the examination at least [once] four times in each calendar year.

* * * * *

(Editor's Note: Subsection (c) was proposed to be amended in the August 5, 1995, proposal.)

§ 72.54. Applications for certification.

(a) Correctly completed applications, **documentation of the successful completion of required pre-certification training courses** and an application fee of [\$10] \$25 shall be received by the Board at least 40 days prior to scheduled examinations.

* * * * *

§ 72.55. Certification renewal.

(a) Application for renewal will be sent to certified **Sewage Enforcement Officers** at least 2 months prior to renewal date. In addition to the application, a [**schedule of future training courses**] **curriculum of mandatory training** will be sent to any Sewage Enforcement Officer who has not completed the required training.

* * * * *

§ 72.56. Change of address.

(a) **The Certification Board shall compile and keep current a register showing the names and addresses of certified Sewage Enforcement Officers. Copies of this register shall be furnished on request.**

(b) The Sewage Enforcement Officer shall promptly notify the Certification Board of a change of address.

(Editor's Note: This section was proposed to be amended in the August 5, 1995, proposal.)

§ 72.58. Certification Board hearings and procedures.

(a) Actions by the Department to revoke or suspend Sewage Enforcement Officer certifications become [**effective**] **final** only after notice and opportunity for a hearing before the Certification Board. **The filing of an appeal with the Board does not operate as an automatic supersedeas of the action of the Department.** If no request for a hearing is filed with the Secretary of the Certification Board within 30 days of receipt of notice of the action by the certificate holder, the action shall [**be effective**] **become final.** Requests for a hearing shall set forth with specificity the grounds for the appeal, including [**all**] objections to the Department's action. Failure to specifically delineate the grounds for the appeal, or to state a legally sufficient basis for relief, constitutes grounds for summary judgment or judgment on the pleadings as provided in 231 Pa. Code (relating to rules of civil procedure).

* * * * *

(Editor's Note: Subsection (a) was proposed to be amended in the August 5, 1995, proposal.)

CHAPTER 73. STANDARDS FOR ONLOT SEWAGE
[DISPOSAL] TREATMENT FACILITIES

GENERAL

§ 73.1. Definitions.

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

* * * * *

Aggregate—Coarse material manufactured from stone, gravel or slag, having Type A or C characteristics as described in the Department of Transportation specifications, Form 408, section 703.3[(a) and (b)], Table B and uniform size and grading equivalent to [PA No. 3A or 2B] American Association of State Highway and Transportation Officials No. 3, 5 or 57, as described in Form 408, section 703.3[(c)], 2 Table C.

Agricultural areas—Areas used primarily for the production of crops and where the soil is without vegetative cover during certain periods of the year.

Alternate sewage system—A [system employing the use] method of demonstrated onlot sewage treatment and disposal [technology in a manner] not [specifically recognized by this title] described in these regulations.

* * * * *

Bonded disposal system—An individual sewage system located on a single lot serving a single family residence, where soil mottling is within 20 inches of the mineral soil surface, the installation, operation and replacement of which is guaranteed by the property owner except for individual residential spray irrigation systems.

Buried sand filter—A system of piping, sand media, aggregate and collection piping in a buried liner used for the intermittent filtration and biochemical treatment of sewage.

Clean Streams Law—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

[**Community sewage system**—A system, whether publicly or privately owned, for the collection of sewage or industrial wastes of a liquid nature from two or more lots, and for the treatment or disposal of the sewage or industrial waste on one or more of the lots or at any other site.]

Conventional sewage system—A system employing the use of demonstrated onlot sewage treatment and disposal technology in a manner specifically recognized by this chapter. The term does not include alternate or experimental sewage systems.

[**Department**—The Department of Environmental Resources of the Commonwealth.]

* * * * *

Filter tank—The tank housing the piping and sand of the free access sand filter.

Forested areas—Areas where the predominant vegetative cover is comprised of trees with a closed canopy.

Free access sand filter—A system of tanks, dose piping, sand media, aggregate and collection piping

used for the intermittent filtration and biochemical treatment of sewage and accessible for maintenance.

Grassed area—Areas where the predominant vegetative cover is comprised of grasses, bushes or trees not forming a closed canopy.

[**Individual sewage system**—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal.]

Individual residential spray irrigation system—An individual onlot sewage system which serves a single family dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

* * * * *

Lift pump—A submersible pump used to convey effluent to the sand filter and from the sand filter to the chlorine/retention tank.

* * * * *

Municipality—A city, incorporated town, township [or] borough or home rule municipality other than a county.

* * * * *

Person—The term includes an individual; association; public or private corporation for-profit or not-for-profit; partnership; firm; trust; estate; department; board; bureau or agency of the United States or the Commonwealth; political subdivision; municipality; district; authority; or other legal entity which is recognized by law as the subject of rights and duties. Whenever used in a clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term includes the members of an association, partnership or firm and the officers of a local agency or municipal, public or private corporation for-profit or not-for-profit.

Qualified registered professional engineer—A person registered to practice engineering in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

Qualified registered professional geologist—A person registered to practice geology in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

Qualified soil scientist—A person certified as a Sewage Enforcement Officer and who has documented 2 years' experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems and either a bachelor of science degree in soils science from an accredited college or university or certification by the American Registry of Certified Professionals in Agronomy, Crops and Soils.

Retaining tank—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, but is not limited to, the following:

[(i) *Chemical toilet.* A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.]

- [(ii)] (i) ***
- [(iii)] (ii) ***
- [(iv)] (iii) ***
- [(v)] (iv) ***
- [(vi)] (v) ***

[*Rural residence*—A structure occupied or intended to be occupied by not more than two families on a tract of land of 10 acres or more.]

* * * * *

Sewage enforcement officer—[The] An official of the local agency who [issues and] reviews permit applications and sewage facilities planning modules and issues permits as authorized by the act and conducts the investigations and inspections [as] that are necessary to implement the act[, Chapter 71 and this chapter] and regulations thereunder.

Sewage facilities—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

(i) *Individual sewage system.* A sewage facility, whether publicly or privately owned, located on a single lot and serving one equivalent dwelling unit and collecting, treating and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance of retaining tank wastes to another site for final disposal.

(A) *Individual onlot sewage system.* An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating or disposing of sewage into a subsurface soil absorption area or a retaining tank.

(B) *Individual sewerage system.* An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a subsurface soil absorption area, or retention in a retaining tank.

(ii) *Community sewage system.* A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) *Community onlot sewage system.* A community sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or retaining tank.

(B) *Community onlot sewerage system.* A community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

[*Sewer authority*—A municipal authority providing sewage facilities.]

Small flow treatment facility—An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using a stream discharge or discharge to the surface of the ground.

* * * * *

Soil mottling—A soil color pattern consisting of patches of different colors or shades of color interspersed with the dominant soil color and which results from prolonged saturation of the soil.

* * * * *

Solids retainer—A deflection device at the outlet tee or baffle of a septic tank designed to deflect buoyed solids from escaping the tank.

Spray field—Piping, spray heads and ground surface to the outside edges of the wetted perimeter, used for the application and treatment of the sewage effluent in an individual residential spray irrigation system.

* * * * *

Undisturbed soil—Soil or soil profile, unaltered by [addition-filling,] removal or other man-induced changes that would adversely affect the siting or operation of onlot systems, other than agricultural activities [for a minimum of 4 years prior to testing].

* * * * *

(*Editor's Note:* Several definitions were proposed to be amended or added in the March 5, 1995, proposal.)

§ 73.2. Scope.

This chapter applies to sewage enforcement officers administering the act, as well as to persons installing individual onlot sewage systems or community onlot sewage systems as defined in [the act] this chapter.

§ 73.3. Policy.

* * * * *

(b) When considering corrective measures for malfunctioning sewage disposal systems which have been constructed in accordance with this chapter or applicable regulations at the time of construction, the efforts of the sewage enforcement officer or the Department's staff [shall] will not be restricted by this chapter. It will be the policy of the Department and sewage enforcement officers administering this chapter to first consider all individual onlot and community onlot sewage systems described in this chapter in the correction of existing malfunctions and, when the systems are not physically possible, to provide the best technical guidance possible in attempting to resolve existing pollution or environmental health problems. When application of best technical guidance results in the absorption area or spray field encroaching on the regulated isolation distance to a well, the proper well abandonment procedure or the relocation of the well should be considered. This policy will not limit or preclude the use of experimental systems as provided in §§ 73.71 and 73.72 (relating to experimental sewage systems; and alternate sewage systems) or small flow treatment systems permitted under the Clean Streams Law.

(c) The Department recognizes the existence of technologies related to onlot sewage disposal which are not specifically addressed in this chapter as well as technologies from other disciplines which may be applied to the design or construction of an onlot sewage disposal system. Experimental sewage system permits provide a method for the testing and evaluation of new concepts and technologies applicable to onlot disposal in this Commonwealth. Experimental permits may be limited in number on a Statewide basis. **The Department will determine the number of experimental permits that may be issued for a specific experimental technology or design. An experimental onlot sewage disposal system permit shall be required for all technologies, methods, system components, systems and designs the Department deems experimental.** Alternate sewage systems provide a classification for innovative and alternative technology which has been developed through the experimental program, by application of existing technologies from other disciplines[,] or through technological advances from other areas of the United States. The alternate sewage system permit will provide a method for utilizing proven technologies within this Commonwealth without constant changes to this chapter. Systems shall be permitted only where it is demonstrated that the proposed system will protect the public health and prevent pollution of the waters of this Commonwealth.

GENERAL SITE LOCATION AND ABSORPTION AREA REQUIREMENTS

§ 73.11. General.

* * * * *

(c) [No] A structure may **not** be occupied before the sewage system is finally inspected, approved and covered. **Except when the sewage enforcement officer requires a change to the installation schedule because of weather and soil conditions, the permit may be modified to allow use of a septic tank as a temporary holding tank. In these instances, §§ 73.62 and 71.63(b)(4) and (c)(3) (relating to standards for holding tanks; and standards for privies) apply.** Absorption areas shall be covered by the permittee within 5-calendar days after final inspection and approval to prevent damage.

(d) Liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. [No] A sewage system may **not** discharge untreated or partially treated sewage to the surface of the ground or into the waters of this Commonwealth except as specifically approved by the Department under sections 202 and 207 of [The] the Clean Streams Law (35 P. S. §§ 691.202 and 691.207) **and individual residential spray irrigation systems permitted by local agencies under section 7.3 of the act (35 P. S. § 750.7c).**

* * * * *

(f) Discharge from roof gutters, foundation drainage and surface runoff may not be discharged to a treatment tank; nor may the discharges be permitted to flow over [the] an absorption area or spray fields.

(g) **The discharge of inadequately disinfected effluent or the discharge of effluent in a manner inconsistent with the system design specifications**

from an individual residential spray irrigation system shall constitute a nuisance.

§ 73.12. Site location.

(a) A proposed absorption area or spray field having the following characteristics shall be considered unsuitable for the installation of an onlot system or an individual residential spray irrigation system and a permit shall be denied where:

(1) The slope of the proposed absorption area or spray field is greater than 25%.

* * * * *

(3) Completed flood mapping is not available, but the soil has been mapped or identified as floodplain soil or a floodprone area **except for spray fields serving individual residential spray irrigation systems described in § 73.163 (relating to spray fields).**

* * * * *

(5) In areas underlain by limestone, depressions left by earlier sinkholes exist either in whole or in part within the proposed absorption area or spray field.

(b) Absorption areas or spray fields may not be placed in or on fill unless the fill has remained in place for a minimum of 4 years to allow restoration of natural permeability. The fill shall be composed of clean mineral soil and meet the provisions of § 73.14 (relating to site investigation).

(c) **Absorption areas or spray fields shall be sited only in or on undisturbed soils.**

§ 73.13. Minimum horizontal isolation distances.

(a) Minimum horizontal isolation distances shown in subsections (b) [and (c)]—(e) shall be maintained between the sewage disposal system and the features itemized **except as provided by § 72.32 (relating to sales contracts).** [Where] If conditions warrant, greater isolation distances may be required.

(b) The minimum horizontal isolation distances between the features named and treatment tanks, dosing tanks, lift pump tanks, filter tanks and chlorine contact/storage tanks shall comply with the following:

* * * * *

(6) A cistern used as a water supply—25 feet.

(c) **Building sewers shall meet the isolation distances in subsection (b)(3)—(6).**

[(c)] (d) The following minimum horizontal isolation distances shall be maintained between the features named and the perimeter of the **aggregate in the absorption area [apply]:**

* * * * *

(5) Streams, **water courses, lakes, ponds** or other surface water—50 feet **(for the purposes of this chapter, wetlands are not surface waters).**

* * * * *

(11) A cistern used as a water supply—25 feet.

(e) **The following minimum horizontal isolation distances shall be maintained between the features named and the wetted perimeter of the spray field:**

(1) **The property lines, easements or right of ways—25 feet.**

(2) **The occupied buildings—100 feet.**

(3) An individual water supply or water supply suction line—100 feet.

(4) A cistern used as a water supply—25 feet.

(5) A water supply line under pressure—10 feet.

(6) The streams, watercourses, lakes, ponds or other surface waters—50 feet. For the purposes of this chapter, wetlands are not surface waters.

(7) The mine subsidence, boreholes, sinkholes—100 feet.

(8) The roads or driveways—25 feet.

(9) The unoccupied buildings—25 feet.

(10) The rock outcrop—25 feet.

(f) The area within the wetted perimeter of the spray field may not be sited over an unsuitable soil profile.

§ 73.14. Site investigation.

(a) Absorption area.

[(a)] (1) ***

[(1)] (i) ***

[(2)] (ii) The depth of the excavation shall be to the top of the limiting zone, or a maximum of [8] 7 feet.

[(3)] (iii) ***

[(4)] (iv) Where soil has been removed by grading or excavation, the surface of the undisturbed soil shall be considered to be the point from which the depth to limiting zone is measured. An onlot system may not be installed in fill soil until it has remained undisturbed for a minimum of 4 years or a qualified soil scientist has determined that natural soil conditions have been reestablished nor in soils disturbed by removal of soil or excavation of soil unless a qualified soil scientist has determined that the disturbance will not materially affect the siting or operation of an onlot system. Excavating soil to system installation depth for the purpose of installing the system may not be considered disturbing the soil.

[(b)] (v) When the examination of the soil profile reveals a limiting zone within 20 inches of the mineral soil surface, percolation tests may not be conducted and a permit [shall] will be denied except as provided in § 73.77 (relating to general requirements for bonded disposal systems).

(Editor's Note: This subparagraph was originally proposed as subsection (b) in the August 5, 1995, proposal.)

[(c)] (vi) ***

[(d)] (vii) ***

(b) Spray field.

(1) Soil tests to determine the presence of a limiting zone shall be conducted prior to permit issuance.

(2) A minimum of four soil profile evaluations shall be evenly spaced within 10 feet and outside of the perimeter of the proposed spray field when the spray field is less than or equal to 20,000 square feet.

(3) Spray fields in excess of 20,000 square feet shall be evaluated by evenly spacing the soil profiles within 10 feet and outside of the perimeter of the proposed spray field at least every 100 feet.

(4) Soil profiles shall be evaluated to the depth of bedrock, or rock formation or 40 inches whichever is more shallow.

(5) When the examination of the soil profile reveals a limiting zone of a seasonal high water table within 10 inches of the mineral soil surface or a limiting zone as indicated by bedrock or excessive coarse fragments within 16 inches of the mineral soil surface, a permit for an individual residential spray irrigation system will be denied.

§ 73.15. Percolation tests.

Percolation tests shall be conducted in accordance with the following procedure:

* * * * *

(7) Measurement. After the final presoaking period, water in the hole shall again be adjusted to approximately 6 inches over the gravel and readjusted when necessary after each reading.

(i) Measurement to the water level in the individual percolation holes shall be made from a fixed reference point and shall continue at the interval determined from paragraph (6) for each individual percolation hole until a minimum of eight readings are completed or until a stabilized rate of drop is obtained **whichever occurs first**. A stabilized rate of drop [shall mean] means a difference of 1/4 inch or less of drop between the highest and lowest readings of four consecutive readings.

* * * * *

(iii) [Where no measurable rate is obtained in a percolation hole, the rate of 240 minutes per inch shall be assigned to that hole for use in calculating the arithmetic average percolation rate.] When the rate of drop in a percolation test is too slow to obtain a measurable rate, the rate of 240 minutes per inch shall be assigned to that hole for use in calculating the arithmetic average percolation rate. When the rate of drop in a percolation test hole using 10 minute intervals is too fast to obtain a measurable rate, that hole shall be considered a failed hole and may not be used in the calculation of the arithmetic average percolation rate.

* * * * *

[(8) Acceptance of prior testing results. The sewage enforcement officer may accept the results of percolation tests performed before the effective date of these sections, provided that the tests were observed, conducted or otherwise verified to have been conducted in conformance with the regulations in effect at that time.]

(Editor's Note: Paragraph (8) was proposed to be deleted in the August 5, 1995, proposal.)

§ 73.16. Absorption and spray field area requirements.

(a) [Only the bottom area of the bed or trench shall be used in calculating absorption area requirements.

(b)] **General.** Absorption areas and spray fields for single family dwellings not served by a community sewage system shall be designed based on a minimum flow of 400 gpd for all dwellings having three bedrooms or less. The minimum flow of 400 gpd shall be increased by 100 gpd for each bedroom over three.

(b) Absorption areas.

(1) Only the bottom of the aggregate area of the bed or trench shall be used in calculating absorption area requirements.

[(c)] **(2)** Absorption area requirements for single family dwellings served by a community sewage system and for apartments or nonresidential establishments served by an individual **onlot** or community **onlot** sewage system shall be designed based on flows listed in § 73.17 (relating to sewage flows) for the type of facility to be served.

[(d)] **(3)** For nonresidential establishments, a volume of 200 gpd shall be the minimum volume used in calculating the size of the absorption area.

[(e) The following] **(c) Table A.** Table A shall be used in calculating the square footage of absorption area required based on flows determined in subsections [(b)—(d)] **(a) and (b).** The table includes allowances for garbage grinders, automatic washing machines or dishwashers and water softeners.

(d) Substitute. When a substitute for aggregate, such as a leaching chamber, large diameter pipe or other material or device, is used in the absorption area, the provisions of subsection (b)(1) apply.

(Editor's Note: The Board is proposing to delete the table which appears at 25 Pa. Code page 73-15, serial page (156623) and replace it with the following Table A.)

TABLE A

Minimum Aggregate Absorption Area Requirements for Treatment Tank Effluent:

Square Feet of Aggregate Area Per Gallon per Day

| <i>Average Percolation Rate</i> | <i>All Systems Except Elevated Sand Mounds</i> | <i>Elevated Sand Mounds</i> |
|-------------------------------------|---|--|
| <i>Expressed as Minute Per Inch</i> | | |
| Less than 3.0 | Unsuitable | Unsuitable |
| 3—5 | Unsuitable | 1.50 ^{AB} |
| 6—15 | 1.19 ^B | 1.50 ^{AB} |
| 16—30 | (Ave Perc Rate -30) × (0.040) + 1.19 ^B | 1.50 ^{AB} |
| 31—45 | (Ave Perc Rate -30) × (0.030) + 1.79 ^B | (Ave Perc Rate -30) × (0.026) + 1.50 ^{AB} |
| 46—60 | (Ave Perc Rate -45) × (0.028) + 2.24 ^B | (Ave Perc Rate -45) × (0.022) + 1.89 ^A |
| 61—90 | (Ave Perc Rate -60) × (0.023) + 2.66 ^A | (Ave Perc Rate -60) × (0.020) + 2.22 ^A |
| 91—120 ^C | Unsuitable | (Ave Perc Rate -90) × (0.017) + 2.82 ^A |
| 121—150 ^C | Unsuitable | [(Ave perc rate-120) × (0.015) + 3.33] (1.05) ^A |
| 151—180 ^C | Unsuitable | [(Ave perc rate-150) × (0.014) + 3.78] (1.10) ^A |
| 181—240 ^C | Unsuitable | Unsuitable |
| Greater than 240 | Unsuitable | Unsuitable |

^A Pressure dosing required.

^B One third reduction may be permitted for use of an aerobic tank.

^C May be considered for experimental or alternate proposals.

(e) Spray fields. Table B shall be used in calculating the square footage of spray fields based on flows determined in subsection (a). The table includes allowances for garbage grinders, automatic washing machines, dishwashers and water softeners. The square footage of spray fields for proposals in excess of 4 bedrooms shall be calculated using the incremental difference between the square feet required for 3 bedrooms and 4 bedrooms established in Table B.

(Editor's Note: The following Table B is new. It has been printed in regular type to enhance readability.)

Table B

| <i>Soil Characteristics</i> | <i>Slope</i> | <i>3 brm. (square feet)</i> | <i>4 brm. (square feet)</i> |
|-----------------------------|--------------|-----------------------------|-----------------------------|
| Soil depth > 20" | ≤12% | 10,000 | 12,500 |
| Water table > 20" | >12% | 20,000 | 25,000 |
| Soil depth 16-20" | ≤12% | 15,000 | 18,750 |
| Water table > 40" | >12% | 30,000 | 37,500 |
| Soil depth > 20" | ≤12% | 20,000 | 25,000 |
| Water table 10-20" | >12% | 40,000 | 50,000 |
| Soil depth 16-20" | ≤12% | 40,000 | 50,000 |
| Water table 10-40" | >12% | 80,000 | 100,000 |

§ 73.17. Sewage flows.

(a) The sewage flow from [residences] single family dwellings served by a community sewage system or from apartments, rooming houses, hotels and motels served by an individual or community sewage system shall be determined from the following table:

| <i>Type of Establishment</i> | <i>Gallons/UNIT [person]/day[*]</i> <i>[Lbs. 5-day BOD/person/day*]</i> <i>[unless otherwise noted]</i> | |
|---|---|-----------------|
| | <i>Gal. Unit</i> | <i>BOD/Unit</i> |
| <i>Residential</i> | | |
| [Hotels and motels without private baths | 40 | .15] |
| Hotels and motels [with private baths] | [50] 100 | .15 |
| [Luxury residences and estates | 125 | .17] |
| Multiple family dwellings and apartments including townhouses, duplexes and condominiums | [60] 400 | .17 |
| Rooming houses | [50] 200 | .15 |
| Single family residences | [75] 400* | .17 |

* [1970 census indicates that there are 3.5 people/residence. This figure is used for both single and multiple family dwellings] For units of 3 bedrooms or less; for each bedroom over 3, add 100 gallons.

(b) The sewage flow, which must exclude any industrial waste, for nonresidential establishments served by an individual or community sewage system shall be determined from the following table:

| <i>Type of Establishment</i> | <i>[Gallons/person/day*]</i> <i>[Lbs. 5-day BOD/person/day*]</i> <i>[(unless otherwise noted)]</i> | |
|--|--|----------------|
| | <i>Gal[.]lons/Day</i> | <i>BOD/Day</i> |
| <i>Commercial</i> | | |
| Airline catering (per meal served) | 3 | .03 |
| * * * * * | | |
| One licensed operator Beauty shops [(per operator chair)] | 200 | — |
| Bus service areas not including food (per patron and employe) | 5 | .02 |
| Country clubs not including food (per patron and employe) | 30 | .02 |
| Drive-in theaters (not including food—per space [per day]) | 10 | .06 |
| Factories and plants [(]exclusive of industrial wastes (per employe) | 35 | .08 |
| Laundries, self-service (gallons/washer) | 400 | 2.00 |
| Mobile home parks, independent (per space) | [250] 400 | .06 |
| * * * * * | | |
| Warehouses (per employe) | 35 | — |
| Work or construction camps (semipermanent) with flush toilets (per employe) | 50 | .17 |
| Work or construction camps (semipermanent) without flush toilets (per employe) | 35 | .02 |
| <i>Institutional</i> | | |
| * * * * * | | |
| Churches (additional kitchen waste per meal served) | 3 | — |
| Churches (additional with paper service per meal served) | 1.5 | — |
| * * * * * | | |
| Schools, boarding (per resident) | 100 | .17 |
| Schools, day (without cafeterias, gyms[,] or showers per student and employe) | 15 | .04 |
| Schools, day (with cafeterias, but no gym or showers per student and employe) | 20 | .08 |
| Schools, day (with cafeterias, gym[,] and showers per student and employe) | 25 | .10 |

| <i>Type of Establishment</i> | [Gallons/person/day*] | [Lbs. 5-day BOD/person/day*] |
|---|------------------------------|--------------------------------|
| <i>Recreational and Seasonal</i> | [(unless otherwise noted)] | |
| * * * * * | | |
| Camps, hunting and summer residential (night and day) with limited plumbing including water-carrier toilet wastes (per person) | 50 | .12 |
| * * * * * | | |
| Fairgrounds and parks, picnic—with bathhouses, showers [,] and flush toilets (per person) | 15 | .06 |
| Fairgrounds and parks, picnic (toilet wastes only, per person) | 5 | .06 |
| Swimming pools and bathhouses (per person) | 10 | .06 |

(c) Actual **water meter or sewer meter** flow data [**for any establishment**] indicating peak daily flows **different than those shown in this section** over a 1-year period **for a similar nonresidential establishment** may be accepted for use in sizing the onlot disposal system.

(d) **Establishments with food preparation facilities are required to install adequately designed pretreatment units and traps to reduce greases and BOD prior to discharge to an individual or community sewage system.**

BUILDING SEWERS

§ 73.21. Specifications.

* * * * *

(e) Cleanouts shall be provided at intervals of not more than [**50 feet on lines of 4-inch diameter or less and of not more than**] 100 feet [**in larger pipes**].

* * * * *

(h) [**All building**] **Building** sewers shall be constructed with watertight joints [**and**], shall be of sufficient strength to withstand imposed loads **and installed on material suitable for preventing damage from settling.**

* * * * *

(j) **Building sewers shall be connected to treatment tanks by means of watertight seals. Use of Portland cement grouting is not permitted.**

TREATMENT TANKS

§ 73.31. Standards for septic tanks.

(a) *Capacity.*

(1) The minimum liquid **septic tank** capacity [**of a septic tank**] for any installation shall be 900 gallons.

(2) For single-family dwelling units, not served by a community **onlot** system, a minimum daily flow of 400 gpd shall be used to determine required septic tank capacity. This figure shall be increased by 100 gallons for each additional bedroom over three. The daily flow indicated provides for use of garbage grinders, automatic washing machines [**or**], dishwashers, and water softeners.

(3) The minimum **septic tank** capacity [**of any septic tank**] shall be calculated from the following table using estimated sewage flows from paragraph (2), or § 73.17(a) [**or (b)**]—(c) (relating to sewage flows):

* * * * *

(b) *Construction.*

(1) Tanks shall be watertight and constructed of sound and durable material not subject to excessive corrosion or decay.

* * * * *

(iv) Tanks having a capacity in excess of 5,000 gallons may be constructed onsite to meet the standards of the National Concrete Masonry Association for reinforcement and waterproofing as listed in the **most recent edition of its** publication "Concrete Masonry Foundation Walls," copyright 1957 NCMA.

* * * * *

(4) [**If the tank has more than one compartment, the**] **All septic tank installations shall consist of tanks with multiple compartments or multiple tanks. The first compartment shall have at least the same capacity as the second but [shall] may not exceed twice the capacity of the second. Tanks or compartments shall be connected in series and [shall] may not exceed four in number in any one installation.**

(c) *Inlet and outlet connections.*

(1) The **bottom of the inlet [invert]** shall be a minimum of 3 inches above the **bottom of the outlet [invert]**.

* * * * *

(3) The outlet baffles or vented tees **of each tank or compartment** shall extend below the liquid surface to a distance equal to 40% of the liquid depth. Penetration of outlet baffles or tees in horizontal cylindrical tanks shall be equal to 35% of the liquid depth.

(4) The inlet and outlet baffles or vented tees shall extend above liquid depth to approximately 1 inch from the top of the tank. Venting shall be provided between compartments **and each tank.**

(5) **The outlet baffles or vented tees of the last compartment or tank shall be equipped with a solids retainer.**

(d) *Treatment tank access.*

(1) Access to each tank or compartment of the tank shall be provided by a manhole of at least 20 inches

square or in diameter, with a removable cover. The top of the tank containing the manhole or the top of a manhole extension shall [not] be [more than 12 inches below grade level. If access is] extended to grade [,] and the access cover shall be airtight. Grade level access covers shall be secured by bolts or locking [mechanism] mechanisms, or have sufficient weight to prevent access by children.

* * * * *

[(e) Inspection port. A maximum 4-inch diameter inspection port with sealed cover shall be installed to grade level above the inlet tee.]

§ 73.32. Standards for aerobic treatment tanks.

(a) Capacity shall comply with the following:

* * * * *

(4) For all other installations, the rated treatment capacity shall meet or exceed the estimated daily sewage flow as determined from § 73.17(a) [or], (b) or (c) (relating to sewage flows).

(b) Testing and approval shall comply with the following:

(1) Aerobic treatment tanks serving single family dwellings, or establishments, with flows of 1,500 gpd or less shall [either:

(i) Bear] bear the seal of the National Sanitation Foundation indicating testing and approval by that agency under Standard No. 40.

[(ii) Be tested and approved by an agency other than NSF using procedures equivalent to those of NSF Standard No. 40.]

* * * * *

(3) Aerobic treatment tanks serving establishments with flows exceeding 1,500 gpd shall either:

* * * * *

[(iii) Have performance data certified by a testing agency other than NSF using test procedures equivalent to that of NSF Criteria C-9 or Standard Performance Evaluation Method.

(c) The testing agency and the testing procedures specified in subsection (b)(1)(ii) and (3)(iii) shall have approval by the Department prior to commencement of the test.

(d) Manufacturers, retailers or other persons seeking approval of tanks under subsection (b)(1)(ii), (3)(ii) or (iii) shall submit to the Department for its approval two copies of the complete test procedures and results conducted by the testing agency certifying that such units proposed for installation meet or exceed Class II Effluent Standards as established by NSF Standard No. 40.]

[(e)] (c) ***

[(f)] (d) ***

[(g)] (e)***

DOSING AND DISTRIBUTION REQUIREMENTS

§ 73.41. General.

(a) Effluent from the treatment tank shall be discharged to the dosing tank, to the distribution box, or

directly to the absorption area through a watertight line a minimum of 3 inches in diameter unless otherwise specified by local plumbing or building codes. All lines shall be placed on a minimum grade of at least 1/4 inch per foot, sloping away from the treatment tank. Where a distribution box is used, the lines from that box to the laterals shall meet the same standard. If a free access sand filter or buried sand filter is used, the lines from the treatment tank to the pump station and the filter tank to a lift station or chlorine contact tank or storage tank shall meet the standards of this section. Connections of lines to tanks and distribution boxes shall be made using water tight seals. Use of Portland cement grouting material is not permitted.

(b) When the total absorption area of any system exceeds [5000] 5,000 square feet, the absorption area shall be divided into equal areas not to exceed 5,000 square feet and dosing provided either alternately or simultaneously to each area.

§ 73.42. Gravity distribution.

* * * * *

(e) Distribution boxes shall comply with the following:

* * * * *

(2) Construction shall comply with the following:

* * * * *

(iii) The [inverts] bottom of all outlets shall be at the same elevation, and the bottom of the inlet [invert] shall be at least 1 inch above the bottom of the outlet [inverts]. The bottom of the outlet [inverts] shall be at least 4 inches above the bottom of the distribution box.

* * * * *

(3) Distribution boxes shall be installed on an adequate base of undisturbed or properly compacted earth or aggregate outside of the absorption area. Lightweight nonconcrete distribution boxes shall be anchored or otherwise secured to prevent shifting after installation. Adjustable distribution box weirs may be used on the outlet of the box.

(f) Laterals shall be a minimum of 3 inches in diameter unless [otherwise] a larger diameter is specified by local plumbing or building codes. [All bends] Bends used in the disposal field shall be made with standard fittings.

* * * * *

§ 73.43. Pressurized distribution.

Pressurized distribution shall be required in the following instances:

* * * * *

(4) Individual residential spray irrigation system spray fields and buried sand filters.

§ 73.44. Pressurized distribution design.

(a) General requirements are as follows:

* * * * *

(2) Systems using pressure distribution shall meet the general requirements of §§ 73.52, 73.53 [and], 73.55 and 73.166 [(relating to standard trenches; seepage beds; elevated sand mounds)].

(3) Delivery pipes from dosing pumps shall be installed to facilitate drainage of the distribution piping back to the dosing tank between doses.

(b) Seepage beds of 2,500 square feet or less shall meet the following design standards unless the system has been individually designed under subsection (c).

(1) Conveyance of effluent from the dosing tank to the absorption area shall be through a delivery pipe sized to minimize friction loss. Check valves shall be prohibited on delivery pipes [of 25 feet or less. Check valves may be installed on delivery pipes over 25 feet in length provided the delivery pipe is installed below the frost line].

(2) When equally sized absorption areas are dosed simultaneously, a header pipe shall be used to connect the delivery pipe from the tank to the manifolds. The header pipe shall be sized to minimize friction loss. Effluent application rates per square foot of absorption areas served by a common header shall have a maximum design variation of 10%. If the distance from the treatment tank to the absorption area would cause excessive backflow into the dosing tank, a transfer tank may be used between the treatment tank or storage tank and dosing tank.

* * * * *

(5) Laterals shall consist of 1 1/2 inch diameter pipe, with [3/16] 1/4, 5/16 or 3/8 inch holes placed along the bottom of the pipe; an end cap shall be cemented on the terminal end of the lateral.

* * * * *

(11) All systems shall be designed to maintain a minimum of 3 feet of head at the terminal end of each lateral.

(12) The minimum pump capacity (gpm) shall be calculated by multiplying the total number of discharge holes contained in the laterals of a proposed distribution layout by [a factor of 0.75 gpm] using the following table:

| <i>Hole Size</i> | <i>allons/Minute</i> |
|------------------|----------------------|
| 1/4" | 1.3 |
| 5/16" | 2.0 |
| 3/8" | 2.8 |

* * * * *

(15) When siphons are used in a pressure distribution system each discharge hole shall be at least 5/16 inch in diameter. The discharge from all of the holes in the distribution system may not vary from the average discharge rate of the siphon by more than 20%.

(c) Seepage beds of greater than 2,500 square feet, or individually designed systems, shall meet the following design standards:

(1) The pressurized distribution system shall be designed by a registered professional engineer or by a currently certified Sewage Enforcement Officer with expertise in the area of sanitary sewage system design.

(2) The diameter of individual laterals, size and spacing of discharge holes, and minimum diameter of the distribution manifold may not be restricted by subsection (b) except that no discharge hole may be less than

3/16 inch for systems using pumps or 5/16 inch for systems using siphons.

* * * * *

(6) The design head at the terminal end of the last lateral may not be less than 3 feet [or more than 5 feet].

* * * * *

(d) Design of pressure distribution in trenches shall comply with the following:

* * * * *

(8) The design head at the terminal end of each lateral may be no less than 3 feet.

§ 73.45. Dosing tanks.

Dosing tanks shall be constructed to the following specifications:

* * * * *

(2) [The] For all systems other than individual residential spray irrigation systems, the dosing tank shall be designed so that the estimated daily flow shall be discharged to the absorption area in one or more doses. Minimum dose volume shall be five times the internal liquid capacity of the delivery pipe, manifold[,] and laterals, or 100 gallons, whichever is greater. When a siphon is used in a pressure distribution system, the minimum dose volume shall be equal to the internal liquid capacity of the delivery line plus five times the internal liquid capacity of the manifold and laterals.

(3) The dosing tank shall have a minimum liquid capacity equal to or greater than two times the designed dose volume.

* * * * *

§ 73.46. Dosing pumps, siphons and lift station pumps.

(a) Dosing pumps for all onlot sewage disposal systems except individual residential spray irrigation systems shall meet the following specifications:

(1) The pump shall be sized to deliver a flow in gpm equal to or greater than the combined flows from all discharge holes in the laterals when operating at designed level of head and shall be rated by the manufacturer for handling of sewage effluent.

(2) The intake of the dosing pump shall be at least 6 inches from the bottom of the tank. The intake of any dosing pump shall be at a lower elevation than the lowest lateral.

* * * * *

(5) An effective warning device, as described in § 73.62(c) (relating to standards for holding tanks), shall be installed in the dosing tank to indicate failure of the pump or siphon. Electrically operated warning systems shall be on a circuit and breaker separate from the pump.

* * * * *

(7) A copy of the performance curve of the pump or discharge specifications for the siphon to be used shall be attached to the [permit application, Form ER-BWQ-290] system design prepared by the professional engineer or certified sewage enforcement officer. A copy of the manufacturer's specification showing

that the pump is designed to handle sewage or sewage effluent shall also be attached to the system design prepared by the professional engineer or the certified sewage enforcement officer.

(8) [Where] When an aeration tank [or other batch-type treatment process] is used which results in a periodic pump discharge from the treatment tank, the discharge mechanism may be substituted for a dosing tank and pump if the periodic discharge rate meets the criteria set forth in [paragraph] subsections (a)(1), (b)(3) and § 73.45(2) (relating to dosing tanks).

* * * * *

(12) Siphon discharge lines shall be equipped with an observation port and ball valve. The access to the observation port and ball valve shall be extended to grade, capped and secured to prevent entry by children.

(b) Lift pumps shall meet the following specifications:

(1) Meet the standards in subsection (a)(2)—(5), (7) and (8).

(2) Be designed to deliver a minimum dose of 100 gallons when used to lift effluent to the sand filter.

(3) Be designed to discharge at a rate of 20—30 gallons per minute when used to lift effluent to the sand filter.

(c) Dosing pumps used to pressurize a spray field distribution system shall be designed in accordance with the specifications in subsection (a)(2)—(5) and (7).

CONSTRUCTION OF ABSORPTION AREAS

§ 73.51. General.

(a) In all systems, where an absorption area is proposed, the top of the limiting zone shall be at least 4 feet below the bottom of the aggregate.

* * * * *

(3) [No system] An absorption area may not be installed where less than 20 inches of suitable undisturbed mineral soil exists.

(4) When infiltration chambers or other devices which require no aggregate are used, adequate provisions to protect the infiltrative surfaces from damage by operation of pressure distribution systems shall be made.

[(b) Sand suppliers shall provide certification in writing to the Sewage Enforcement Officer and permittee, with the first delivery to the job site, that all sand to be supplied meets the following gradation and quality specifications:

(1) The following table indicates gradation specifications of sand consisting of natural or manufactured fine aggregate:

| <i>Sieve size</i> | <i>Maximum percentage passing sieve</i> |
|-------------------|---|
| 3/8" | 100% |
| No. 4 | 90—100% |
| No. 30 | 20—60% |
| No. 200 | 0.0—15% |

(2) The fine aggregate may not contain more than 15% by weight deleterious material as determined by Pennsylvania Test Method # 510, AASHTO T-104 or ASTM C-88.

(c) Determination of the gradation and quality specifications of subsection (b) shall be by a sieve test conducted within 30 days prior to delivery and a soundness test for deleterious materials conducted within a 1-year period prior to delivery. The sewage enforcement officer or permittee shall have the option to require quarterly or semiannual soundness testing when deemed necessary.]

[(d)] (b) ***

[(e)] (c) ***

§ 73.52. Standard trenches.

* * * * *

(b) *Construction.* Trenches in an absorption area shall be constructed in accordance with the following:

* * * * *

(7) Minimum width of undisturbed earth between trenches shall be 5 feet. When elevated sand mound trenches are used, this distance shall be measured from the toe of the sand.

* * * * *

(13) The top of the aggregate material shall be covered with geotextile fabric, untreated building paper or a 2-inch layer of hay, straw [,] or similar material to prevent backfill material from settling into the aggregate.

* * * * *

§ 73.53. Seepage beds.

Whenever seepage beds are employed, they shall meet the requirements of § 73.52(b)(5), (6), (8) and (10)—(15) (relating to standard trenches) in addition to the following specifications:

* * * * *

(2) The required absorption area may be provided by one or more seepage beds:

* * * * *

(iii) When elevated sand mound beds are used, this distance shall be measured from the toe of the sand.

(3) The bed shall contain a minimum of two laterals or two opposing sets of laterals when pressure distribution is used.

* * * * *

§ 73.54. Subsurface sand filters.

(a) *General.* Subsurface sand filters without underdrains shall meet the following criteria:

* * * * *

(3) The average percolation rate at a depth between 36 and 72 inches shall be within the range of [3] 6—90 minutes per inch.

* * * * *

(b) *Construction.* Sand filters shall be constructed as follows:

* * * * *

(2) Sand meeting the specifications of § [73.51] 73.55(c) and (d) (relating to [general] elevated sand mounds) shall be placed in the entire bed to a minimum depth of 12 inches.

§ 73.55. Elevated sand mounds.

(a) Design.

* * * * *

(2) The maximum slope of the undisturbed soil, to the extremities of the berm, of a proposed absorption area where an elevated sand mound bed may be permitted is [8.0%] 12%.

* * * * *

(6) Elevated sand mound trenches shall meet the requirements of § 73.52(b) (relating to standard trenches) and this section.

(7) Elevated sand mound beds on slopes up to 8% shall meet the requirements of § 73.53 (relating to seepage beds) and subsection (b). Other sand mound beds shall comply with the requirements in subsection (e).

(b) Construction.

* * * * *

(2) The proposed absorption area not obstructed by stumps or other obstacles shall be roughed or plowed parallel with the contour to a maximum depth of 6 inches, using a multiple share chisel plow or similar implement attached to light-weight equipment. Rotary tilling shall be prohibited.

* * * * *

(10) [Where] When a mound system with trenches is used, the area between the individual trenches shall be filled with mineral soil. A minimum distance of 5 feet shall separate sand of individual trenches. This measurement shall be from the toe of the sand.

* * * * *

(c) Sand suppliers shall provide certification in writing to the sewage enforcement officer and permittee, with the first delivery to the job site, that all sand supplied meets the following gradation and quality specifications:

(1) The following table indicates gradation specifications of sand consisting of natural or manufactured fine aggregate:

| Sieve size | Maximum percentage passing sieve |
|------------|----------------------------------|
| 3/8" | 100% |
| No. 4 | 90—100% |
| No. 30 | 20—60% |
| No. 200 | 0.0—15% |

(2) The fine aggregate may not contain more than 15% by weight deleterious material as determined by Pennsylvania Test Method # 510, AASHTO T-104 or ASTM C-88.

(d) Determination of the gradation and quality specifications of subsection (c) shall be by a sieve test conducted within 30 days prior to delivery and a soundness test for deleterious materials conducted within a 1-year period prior to delivery. A soundness test shall be conducted for all manufactured sand within 6 months prior to delivery. A

Department of Transportation wet sieve analysis shall be conducted for manufactured sand. The sewage enforcement officer or permittee shall have the option to require quarterly or semiannual soundness testing when deemed necessary.

(e) Elevated sand mound beds on slopes greater than 8% shall meet the requirements of § 73.53 (relating to seepage beds) and subsection (b). In addition:

(1) The absorption area shall have a minimum length to width ratio of 4 to 1.

(2) The long axis of the absorption area shall be perpendicular to the slope. The bed construction shall follow the contours.

(3) Upon completion, the outside slope of the berm may be no greater than 33.3%.

(4) Stacking of absorption areas vertically on a slope is prohibited.

(5) An absorption area may not receive more than 500 gallons per day sewage loading.

RETAINING TANKS

§ 73.62. Standards for holding tanks.

* * * * *

(b) The minimum capacity of a holding tank shall be [1,000] 3,000 gallons or a volume equal to the quantity of waste generated in 3 days, whichever is larger.

* * * * *

§ 73.64. Chemical toilet or other portable toilet.

(a) When proposed for use at temporary construction sites, facilities providing temporary recreational or sporting activities (such as a special event) or temporary seasonal facilities other than those intended for human habitation, [Chemical] chemical toilets or other portable toilets are exempt from the onlot permitting requirements of Chapter 72 (relating to administration of sewage facilities permitting program) but improper installation or maintenance of these toilets shall constitute a nuisance under section 14 of the act (35 P. S. § 750.14) and be enforceable by the local agency. [shall meet the installation specifications of the manufacturer and be maintained in a manner that will preclude any potential pollution or health hazards.

(b) Where multiple chemical toilets or other portable toilets are proposed for temporary use at construction sites, recreational activities or seasonal facilities, all units proposed for installation shall be included under one permit.] When permanent use is proposed, chemical toilets or other portable toilets shall be considered retaining tanks.

§ 73.65. Recycling toilet, incinerating toilet or composting toilet.

(a) Recycling, incinerating and composting toilets shall bear the seal of the National Sanitation Foundation indicating testing and approval by that agency under Standard No. 41.

[(a)] (b) ***

[(b)] (c) Where the installation of a recycling toilet, incinerating toilet or composting toilet is proposed for a new residence or establishment, an onlot sewage system or other approved method of sewage disposal shall be

provided for treatment of washwater or excess liquid from the unit, except as provided in subsection [(d)] (e). Both sewage disposal facilities shall be included under one permit.

[(c)] (d) ***

[(d)] (e) [Where] When a composting toilet or incinerating toilet is proposed for installation on a lot meeting the requirements of § 71.63 (relating to retaining tanks), it shall be deemed equivalent to and permitted as a privy; the device shall be operated and maintained in accordance with the manufacturer's specifications. Discharges of liquids from these units, except to onlot sewage systems meeting the requirements of this part or other method of sewage disposal approved under this chapter or approved by the Department is prohibited.

EXPERIMENTAL AND ALTERNATE SYSTEMS

§ 73.71. Experimental sewage systems.

* * * * *

(b) [Any] A person desiring to install an experimental sewage system or alter a component of an existing system using a method, technology or design determined to be experimental by the Department shall submit complete preliminary design plans and specifications to the sewage enforcement officer and the Department for review and comment prior to submitting an application for a permit. The Department will determine if classification as an experimental system method, technology or design is appropriate for the submission and provide review comments to the sewage enforcement officer.

* * * * *

§ 73.72. Alternate sewage systems.

(a) Alternate systems shall be considered for individual onlot or community onlot systems in any of the following cases:

* * * * *

BONDED DISPOSAL SYSTEM

§ 73.77. General requirements for bonded disposal systems.

(a) The local agency shall authorize the performance of a percolation test, at the owner's expense, when one is requested in writing by the owner of the property where the local agency determines soil mottling is present.

(b) When the sole reason for a property not meeting the requirements for the installation of an individual residential onlot sewage system is the presence of soil mottling, the local agency shall issue a permit for an individual residential onlot sewage system designed to meet the Department's standards when the property owner meets the following conditions:

(1) A qualified soil scientist, qualified registered professional geologist, certified sewage enforcement officer or qualified registered professional engineer, not employed by the local agency with jurisdiction over the property in question, confirms in writing that the soil mottling observed in the test pits is not an indication of either a regional or perched seasonal high water table.

(2) The property owner provides evidence of financial assurance satisfactory to the local agency in an amount equal to the cost of replacement of the individual residential sewage system proposed and the reasonably anticipated cost of remedial measures to clean up contaminated groundwater, to replace contaminated water supplies and to repair or replace a malfunction of the onlot system. The local agency will not approve financial assurance in an amount less than \$20,000 or 15% of the appraised value of the lot and proposed residential dwelling. The terms of the financial assurances shall be up to 3 years. The local agency may require a continuation of up to 2 additional years of financial assurance. The local agency may terminate the financial assurance requirement at the end of its term consistent with the act.

(3) The property owner provides notification to the local agency 7 working days prior to conducting soil evaluations under this section and a representative of the local agency may observe the soil evaluations and may review resulting reports and correspondence.

(4) The property owner produces evidence of a clause in the deed to the property that clearly indicates soil mottling is present on the property and that an individual residential onlot sewage system meeting the requirements of this section was installed on the property.

(Editor's Note: Section 73.77 was proposed to be added in the August 5, 1995, proposal.)

§ 73.151. Standards for financial assurances.

(a) Financial assurance shall be sufficient to meet the requirements of section 7.2 of the act (35 P. S. § 750.7b).

(b) The local agency may establish an amount of financial assurance above the minimum established by section 7.2(a)(2)(ii) of the act.

(c) A local agency may accept forms of financial assurance that establish, to the satisfaction of the local agency, its full and unconditional right to demand and receive any sum due it under section 7.2 of the act. A local agency may authorize a property owner to use the financial assurance for the sole purpose of repair or replacement of the onlot system, for remedial measures to clean up contaminated groundwater and to replace contaminated water supplies.

(d) The local agency will forfeit the financial assurance when it determines that one or more of the following apply:

(1) The property owner has violated or continues to violate one of the terms or conditions pertaining to the financial assurance.

(2) The system has malfunctioned.

(3) The permittee has violated a condition of the permit or submitted false information.

(4) The property owner or permittee has failed to properly perform the remedial action required.

INDIVIDUAL RESIDENTIAL SPRAY IRRIGATION SYSTEM STANDARDS

§ 73.161. General.

(a) Individual residential spray irrigation systems shall be designed by a registered professional

engineer with expertise in sanitary sewage system design or by a currently certified sewage enforcement officer who has successfully completed a Department-sponsored course on design of this system. Copies of the plans and specifications along with the designer's report shall be attached to the applicant's copy, local agency's copy and the Department's copy of the application for sewage permit.

(b) Standards for individual residential spray irrigation systems described in the following sections shall also be met: §§ 73.1, 73.12—73.17, 73.21, 73.31, 73.32 and 73.41—73.46.

§ 73.162. Intermittent sand filters.

(a) There are two types of intermittent sand filters available for use with individual residential spray irrigation systems. The standards for free access sand filters and buried sand filters are included in this section.

(b) Free access sand filters shall meet the following standards:

(1) *Filter.* The filter shall be constructed in a tank meeting the following specifications:

(i) The surface area of a filter tank shall be a minimum of 40 square feet for systems using an aerobic treatment tank and serving a single family residence of three bedrooms or less. The filter area shall be increased by 10 square feet for each additional bedroom over three.

(ii) Systems proposing the use of a septic tank to serve a single family dwelling of three bedrooms or less shall be designed using two filter tanks or a single tank with two chambers. Each tank or chamber shall have a surface area of 40 square feet. The filter area of each filter shall be increased by 10 square feet for each additional bedroom over three.

(iii) Tanks shall be watertight and made of a sound, durable material which is not subject to excessive corrosion or decay.

(iv) Concrete tanks shall have a minimum wall thickness of 2 1/2 inches and be adequately reinforced.

(v) Precast slabs used as tank tops which support the access covers and risers shall have a thickness of at least 3 inches and be adequately reinforced.

(vi) Tanks shall have a uniform depth throughout the tank and may not be less than 5 feet in depth, nor greater than 7 feet.

(vii) Tanks shall be designed and constructed so that the depth from the cover to the top of the sand layer is a minimum of 24 inches.

(viii) Access to grade shall be provided by a minimum of two access openings. These access openings shall be a minimum of 36 square inches and provide access to the entire surface of the filter.

(ix) The tank wall shall be extended a minimum of 6 inches above final grade.

(x) Access covers shall be insulated against severe weather, secured by bolts or locking mechanisms, prevent water infiltration and the entrance of debris, and be lightweight to facilitate routine maintenance.

(2) *Media.* Sand suppliers shall provide certification, in writing, to the sewage enforcement officer and permittee, with the first delivery to the job site, that the sand to be supplied meets Department of Transportation specifications for Type A sand in Section 703.1(c), Table A, Fine Aggregate listed in the *Department of Transportation Specifications Handbook*. Limestone sand may not be used.

(3) *Construction.* The sand filter shall be constructed according to the following standards:

(i) A 4-inch diameter perforated underdrain pipe with a minimum 2,500 pound crash test specification shall be placed on the bottom of the tank.

(ii) Two rows of perforations between 1/2 to 3/4 inch in diameter shall be drilled in the underdrain pipe at 6 inch intervals and the pipe shall be placed so the perforations face downward and the rows are approximately 45° from each other.

(iii) Aggregate shall be placed around the underdrain to a total depth of 5 inches from the bottom of the tank.

(iv) A minimum depth of 4 inches of pea gravel (1/4 to 1/8 inch in diameter) shall be placed over the aggregate underdrain material.

(v) Sand shall be placed over the pea gravel to a depth of at least 24 inches.

(vi) The sand in the filter shall be no greater than 36 inches deep.

(vii) The central distribution system shall be designed and installed to convey a minimum 100 gallon flood dose of effluent to the surface of the sand filter. A high water alarm shall be installed in the filter tank which produces an audible and visual alarm when effluent backs up on the filter surface to 12 inches above the surface of the sand.

(viii) When two filters or chambers are required to treat septic tank effluent, the duplicate units shall be flooded alternately.

(ix) The central distribution piping shall be 2 inches in diameter.

(x) The height of the central distribution system's effluent outlet above the sand surface shall allow for the installation of a splash plate and the maximum flooding depth of the sand filter.

(xi) A concrete splash plate shall be located under each effluent outlet to prevent scouring of the sand surface. Movement of the splash plate during the flooding operation shall be prevented.

(c) Buried sand filters shall meet the following standards:

(1) *Location.*

(i) Buried sand filters may not be installed in areas where bedrock is encountered above the proposed depth of the sand filter, or where the seasonal high groundwater table rises above the proposed depth of the sand filter unless a concrete bottom and sides are used.

(ii) A buried sand filter may not be constructed in unstabilized fill.

(2) *Size.*

(i) The size of the sand filter shall be determined on the basis of the appropriate application rate and

the estimated daily sewage flow in accordance with § 73.16(a) (relating to absorption area requirements) but the sand filter area may not be less than 300 square feet for use with either an aerobic treatment tank or septic tank with solids retainers units.

(ii) For a single family residence, the minimum sand filter area shall be based on a maximum hydraulic loading of 0.67 gallons per day per square foot.

(3) *Media.*

(i) At least 2 inches of clean aggregate shall surround underdrains and distribution pipes. A layer of porous geotextile material (such as polypropylene, polyester, nylon) shall be placed on top of both layers of aggregate to prevent migration of soil or sand into the aggregate.

(ii) At least 24 inches of clean sand shall be placed over the underdrain aggregate. The sand shall meet the specifications in subsection (b)(2).

(iii) The minimum depth of earth cover over the coarse aggregate in all installations shall be 12 inches. When the top of the aggregate is less than 12 inches from the undisturbed soil surface, the soil cover shall extend beyond the filter area by at least 3 feet on all sides. The soil over the sand filter shall be so graded that surface water will run off, consist of soil suitable for the growth of vegetation and be seeded to control erosion.

(4) *Underdrain piping.*

(i) Underdrain piping shall be laid on a grade of 3 to 6 inches per 100 feet sloped to the outfall pipe.

(ii) Underdrain piping shall be positioned between the distribution laterals to maximize effluent travel through the filter sand.

(iii) Underdrain piping holes shall be equal or greater in number and size to the distribution piping holes.

(iv) Underdrain piping shall have two rows of holes placed at approximately a 45° angle from each other along the bottom half of the pipe.

(v) The outfall pipe from the underdrain header shall have an antiseep collar and bentonite clay plug, or a leak proof boot sealed as per manufacturer's instructions to the subsurface sand filter liner.

(5) *Filter base and liner.* The base of the filter shall be sloped to the underdrain pipe a maximum of 1%. An impervious liner of hyplon, polyvinyl chloride or polyethylene sheeting of 20 millimeter thickness or equal shall be installed on a tamped earth base to prevent seepage to the groundwater unless a concrete bottom and sides are used. A 2-inch layer of sand or a layer of 10 ounce porous geotextile material shall be provided on each side of the liner to prevent punctures and tears. Seams shall be made according to manufacturer's specifications.

(6) Distribution of effluent to the buried sand filter shall meet the requirements of §§ 73.44—73.46 (relating to pressurized distribution design; dosing tanks; and closing pumps).

§ 73.163. Spray fields.

(a) The maximum slope of the undisturbed soil where a spray field may be permitted is 25%.

(b) Individual residential spray irrigation system spray fields are not permitted on:

(1) Soils with evidence of a seasonal high water table at less than 10 inches from the surface.

(2) Soils with rock formations at less than 16 inches from the surface.

(3) Floodplain soils or floodprone areas unless any required encroachment permits have been obtained from the Department and compliance with local ordinances pertaining to flood areas.

(4) Agricultural areas in active production of food for human consumption.

(c) Slopes shall be as follows:

(1) Open, grassed areas—limited to 12%

(2) Forested areas—limited to 25%

(3) Nonfood producing agricultural areas—limited to 4%

(d) Spray field sizing based upon soils characteristics shall be in accordance with Table B in § 73.16(c) (relating to absorption area requirements).

(e) Construction shall be as follows:

(1) The area upslope of the spray field shall be graded or bermed to divert upland drainage from the spray field site.

(2) The downslope portion of the permitted spray field shall be graded or bermed to retain effluent on the permitted spray site.

(3) The permitted spray field shall be covered with vegetation.

(4) Construction activity within the spray field site should be conducted in a manner which will minimize earth disturbance and compaction.

§ 73.164. Chlorine contact/storage tanks.

(a) The minimum liquid capacity of an individual residential spray irrigation system storage tank serving a three bedroom dwelling, shall be 2,000 gallons. The tank size shall be increased an additional 500 gallons for each additional bedroom over three. Additional increases in size may be required where more than 5 days storage may be needed due to climatic conditions or when spray fields are located in floodplain or floodprone areas.

(b) Storage tanks used in individual residential spray irrigation systems shall meet the construction standards in § 73.45(1) and (4)—(6) (relating to dose tank). When more than one tank is used, the tanks shall be connected together at the bottom to equalize the liquid level in the tanks.

§ 73.165. Disinfection.

(a) Disinfection of effluent is required prior to spraying. The disinfection shall be by chlorination and shall produce an effluent which will contain a concentration not greater than 200/100 milliliter of fecal coliform organisms in a single sample. Disinfection units shall be installed in accordance with the manufacturer's specifications. Disinfection units shall be reliable, able to disinfect sewage effluent and be easily maintained by the property owner.

(b) A chlorinator shall be designed to maintain a chlorine residual of 1 ppm to 2 ppm and provide for a 30 minute contact time.

(1) When an erosion chlorinator is proposed, the base of the unit may be placed no deeper than 36 inches below finished grade or to a shallower depth which allows access for maintenance.

(2) When a lift pump is used to keep the unit no deeper than 36 inches below finished grade, the pump shall have a discharge rate that does not exceed the manufacturer's specifications for the erosion chlorinator and shall meet the appropriate specification of § 73.46 (relating to dosing pumps, siphons and life station pumps).

(3) Chlorine contact time may be obtained using a separate chlorine contact tank or in-line chlorination followed by the storage tank.

(4) Chlorinators shall be housed separately from chlorine contact tanks or storage tanks unless the tanks are specifically designed to house chlorinators.

§ 73.166. Design of pressure distribution for individual residential spray irrigation systems.

(a) Design of pressure distribution in an individual residential spray irrigation system shall comply with the following:

(1) Conveyance of effluent from the storage tank to the spray field shall be through a delivery pipe sized to minimize friction loss.

(2) Check valves shall be prohibited on delivery lines. Air relief valves may be placed at high points in the delivery line to prevent air locks.

(3) The delivery line and lateral shall be designed so that the effluent will drain back to the storage tank.

(4) Individual laterals shall be sized to minimize friction loss. The hydraulic loss (friction and elevation changes) within a lateral shall be less than 20% of the operating head of the sprinklers.

(5) Design of laterals should include consideration of measures to prevent freezing of lines.

(6) Spacing of laterals and sprinklers shall provide for uniform distribution of the effluent over the spray field in accordance with the manufacturer's specifications for spray nozzles proposed for use.

(7) Design of the spray field shall be based on the manufacturer's sprinkler specifications listing operating head, wetted diameter, nozzle size and discharge rate which shall be attached to the system design.

(8) Sprinklers shall be installed on risers 18 inches to 5 feet above grade level.

(9) Sprinklers shall be kept clear of obstructing vegetation for a radius of 5 feet.

(10) The design head of the sprinkler may not exceed the manufacturer's specifications for each system component.

(11) The minimum pump capacity shall equal the total discharge from all sprinklers when operating at design head.

(12) Total pump head shall be calculated by addition of all losses incurred due to elevation changes, pipe and fitting friction losses and the design head of the sprinkler.

(13) The effluent shall be discharged to the spray field once per day. A manual override shall be installed in the system to allow interruption of this spray cycle when weather conditions are not conducive to spraying.

(14) The permittee shall conduct a test pressurization of the completed spray field in the presence of the sewage enforcement officer prior to covering the piping system from view. During the test, the sewage enforcement officer shall confirm that all joints are water tight, the design head is achieved and the manual override is functional.

§ 73.167. Operation and maintenance.

Individual residential spray irrigation systems require periodic maintenance by the property owner and entity established under § 72.25(h) (related to permit requirements for operation and maintenance of individual residential spray irrigation systems). Without proper maintenance, system components will fail and pollution or a public health hazard will occur. This may result in costly repairs and civil penalties. The system designer shall provide an operation and maintenance manual to the permittee which shall include, as a minimum, the following standards for operation and maintenance which shall be met by the permittee:

(1) Septic tanks, dosing tanks, lift tanks and chlorine contact/storage tanks shall be inspected for structural integrity of the tank, inlet and outlet baffles, solids retainer, pumps, siphons and electrical connections.

(2) Aerobic tanks shall be inspected for structural integrity of the tank, inlets and outlet baffles, buoyed solids retainer, pumps, siphons and electrical connections. The inspection and concurrent pumping of excess solids shall be conducted in accordance with manufacturer's and National Sanitation Foundation requirements.

(3) Free access sand filters, buried sand filters chlorinators, the pressurized spray irrigation plumbing and spray nozzles and the spray fields shall be inspected periodically by the property owner and every 6 months by the maintenance entity established under § 72.25(h). Each component shall be inspected for compliance with the following standards:

(i) Chlorine residual sampled after the contact/retention tank shall be maintained at a concentration of at least 1.0 ppm.

(ii) The chlorinator shall be functioning within the specifications of the manufacturer. Bridging of chlorine tablets may not be occurring.

(iii) Solids may not be accumulated on the surface of the sand in the free access sand filter nor may 12 inches of effluent be ponded over the sand. The high water alarm shall be functional.

(iv) The surface of the free access sand shall be raked and porous and any sand removed shall be replaced with sufficient clean sand to maintain the depth at a minimum of 24 inches.

(v) The plumbing in the free access sand filter tank shall be functional and free of leaks and splash plates shall be in place.

(vi) The free access sand filter tank and cover shall be structurally sound and unauthorized access equipment shall be in place. Insulation shall be in place.

(vii) The areas of the buried sand filter shall be free of ponded effluent and downgradient seepage.

(viii) The plumbing to the spray field shall be functional and free of leaks.

(ix) The spray nozzles shall be functioning within the design specifications and the extent of the designed wetted perimeter of each nozzle.

(4) A laboratory shall test the discharge to the system for fecal coliforms, biological oxygen demand (BOD), suspended solids and chlorine residual to determine compliance with Chapter 72 (relating to administration of sewage facilities permitting program). At least annually, a copy of the tests results along with the most recent inspection of the system by the maintenance entity established under § 72.25(f) shall be sent to the local agency.

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