

# PENNSYLVANIA BULLETIN

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

**No. 261, August 1996**

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**PENNSYLVANIA**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

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**  
**GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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

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# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Motions for Post-Trial Relief; Regulation No. 96-2

##### Order

And Now, this 22nd day of July, 1996, the Board of Judges of Philadelphia County having voted to rescind Phila. Civ. R. No. ★227.1, adopt Phila. Civ. R. No. ★227 and update Phila. Civ. R. No. ★212.2, It Is Hereby Ordered that Phil. Civ. R. No. ★227.1 is rescinded, Phila. Civ. R. No. ★227 is adopted, and Phila. Civ. R. No. ★212.2 amended as follows.

This General Court Regulation is issued in accordance with Phila. Civ. R. No. ★51 and Pa.R.C.P. No. 239 and shall become effective immediately. As required by Pa.R.C.P. No. 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedure Rules Committee. Copies of the Order shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library, and the law library for the First Judicial District.

ALEX BONAVIDACOLA,  
*President Judge*

#### Civil Court Rules Update Itemization of Costs

Cost Categories	Step 1 260 Days	
	Current Annual Cost as of 4/1/96	Daily Rate
Judge's Salary	\$104,000.00	\$400.00
<i>Judicial Staff</i>		
Tipstaff 1 (Judicial)	\$27,469.00	\$105.65
Judicial Secretary 1	\$27,469.00	\$105.65
Law Clerk 1	\$29,539.00	\$113.61
<i>Court Personnel</i>		
Tipstaff 2 (General) (1)	\$0.00	\$0.00
Tipstaff 1 (General) (1)	\$0.00	\$0.00
Court Reporter	\$46,543.00	\$179.01
Jury Selection Staff (2)	\$39,974.00	\$152.57
<i>Total Direct Salary Costs</i>	\$274,994.00	\$1,056.49
Fringe Benefits @ 33%	\$90,748.00	\$349.03
Total Direct Personnel Costs	\$365,742.00	\$1,405.52
Juror Fees (10 @\$9 per day)	—	\$90.00
Space 3,440 sq. ft. @\$20 per sq. ft.	\$68,800.00	\$264.62
Administrative Overhead at 16%	\$58,519.00	\$224.88
General Overhead at 8%	\$29,259.00	\$112.44
<b>Total Costs</b>		<b>\$2,097.46</b>

##### Footnotes:

1) These positions are no longer utilized in civil court-rooms.

2) Both jury selection and court administration were unable to identify staff personnel.

3) Judge's salary, fringe benefits, indirect and administrative costs are not a direct expenditure against the first judicial district's budget.

Adopted by the Board of Judges on May 15, 1996. Effective immediately.

*Phila. Civ. R. No. ★227*

#### Phila. Civ. R. No. ★227 Motions for Post-Trial Relief.

(a) *Time for filing.* All motions for post-trial relief shall be filed within the time limits prescribed by Pa.R.C.P. 227.1(c).

(b) *Filing Procedure.* All motions for post-trial relief shall be filed with the Prothonotary and the Post-Trial Motions Unit of the Motion Court. All motions for post-trial relief shall be accompanied by a certificate of service setting forth the name of the Trial Judge and the names, addresses and telephone number of all counsel and unrepresented parties. The post-trial motions shall be assigned to the Trial Judge immediately upon filing.

(c) *Court En Banc.* Argument before a court en banc as authorized in Pa.R.C.P. No. 227.2 may be requested by the moving party, in writing, attached to the motion for post-trial relief. All requests by opposing parties for argument before a court en banc shall be filed with the Prothonotary and Motion Court within five days of service of the motion for post-trial relief.

(d) *Trial Transcripts.*

(1) Trial transcripts shall be requested as provided in Pa.R.C.P. No. 227.3 and Pa.R.J.A. 5005.5(a) in writing addressed to the Court Reporter and to the Manager of Court Reporters, 1321 Arch Street, 3rd Floor, Philadelphia, PA 19107.

(2) The court reporter shall file the original notes of testimony, or that portion of the record ordered to be transcribed, with the Post-Trial Motions Unit of the Motion Court (for transmission to the Trial Judge) no later than thirty (30) days after the notes of testimony are ordered. The Court Reporter shall contemporaneously with the filing of the notes of testimony deliver a copy to any party who has requested and paid for them and shall advise the Manager of Court Reporters in writing that the requested transcript has been filed and delivered.

(e) *Disposition of Post-Verdict Motions.*

(1) *Oral Argument.* The Trial Judge shall schedule oral argument for a date certain taking into consideration the dictates of Pa.R.C.P. No. 227.4(1)(b).

(2) *Briefs.* The Court may require the parties to submit briefs in support of, or contra, the post-verdict motions.

(3) *Disposition Date.* The Court shall dispose of the post-trial motions within one hundred twenty (120) days of the filing of the first post-trial motion unless the parties agree in writing to waive the application of Pa.R.C.P. No. 227.4(1)(b).

(f) *Notice of the Entry of an Order Disposing of the Post-Verdict Motions.* Notice of the entry of the Order

disposing of the post-verdict motions shall be given as provided by Pa.R.C.P. No. 236.

Adopted by the Board of Judges on May 16, 1996. Effective immediately.

[Pa.B. Doc. No. 96-1293. Filed for public inspection August 9, 1996, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated July 26, 1996, Blaine A. White is suspended from the Bar of this Commonwealth for a period of five (5) years, retroactive to October 5, 1993.

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

[Pa.B. Doc. No. 96-1294. Filed for public inspection August 9, 1996, 9:00 a.m.]

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## SUPREME COURT

**Pilot Program for Allegheny County Providing for Filing and Service of Legal Papers by Electronic Means; No. 173; Doc. No. 1**

### Order

*Per Curiam:*

*And Now,* this 19th day of July, 1996, it is ordered that the Allegheny County Court of Common Pleas by administrative order may provide for a pilot program in which legal papers are filed with the prothonotary and served upon parties by electronic means. The court shall designate the cases to participate in the program with the consent of all parties. The practice and procedure shall follow, as nearly as may be, the Pennsylvania Rules of Civil Procedure.

This Order shall be effective immediately upon publication in the *Pennsylvania Bulletin* and shall be processed in accordance with Rule of Judicial Administration 103(b).

ROBERT N.C. NIX, Jr.,  
*Chief Justice*

[Pa.B. Doc. No. 96-1295. Filed for public inspection August 9, 1996, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF OSTEOPATHIC MEDICINE

#### [49 PA. CODE CH. 25]

#### Renewal Fees

The State Board of Osteopathic Medicine (Board) amends § 25.231 (relating to schedule of fees) by raising the biennial renewal fee for osteopathic physicians for the licensure period which commences November 1, 1996, as set forth at 26 Pa.B. 591 (February 10, 1996).

#### *Comment*

Following publication of proposed rulemaking, the Board did not receive any comment from members of the public. The Board received comments from the House Committee on Professional Licensure (House Committee) on March 19, 1996, and the Independent Regulatory Review Commission (IRRC) on April 10, 1996. Both the House Committee and IRRC requested additional information pertaining to Board expenditures for the biennial cycles 1991-93 and 1993-95.

The House Committee noted that legal office and law enforcement expenses dropped, when considered as a percentage of total Board expenses, from the biennial cycle of FY 1991-93 to FY 1993-95. The House Committee further noted that while the number of disciplinary cases closed increased from 66 in the fiscal year ending 1988 to 97 in the fiscal year ending 1995, hearing expenses dropped by \$3,115.66 from the biennial cycle 1991-93 to 1993-1995. The House Committee asked how the Board's increased disciplinary activity related to legal office and law enforcement expenses and hearing expense costs.

Spending in legal office and law enforcement dropped as a percentage of total Board expenses. However, spending within both legal and law enforcement rose by about 13% between 1991-93 and 1993-95. During the biennial cycle 1993-95 the Board recorded nine license suspensions and revocations, the highest level of such actions throughout the last four biennial cycles. The number of disciplinary actions taken during 1993-95 would have been even greater if it were not for the fire of June 16, 1994, in Board headquarters. Because of the fire legal and law enforcement staff had to spend much of their time reconstructing cases as opposed to investigating and prosecuting new cases. The reduction in costs associated with hearing expenses reflects an increase in the number of cases in which disciplinary action was imposed by means of consent agreements.

Both the House Committee and IRRC noted that the costs for Bureau of Professional and Occupational Affairs (BPOA) administration increased from \$25,270 in 1991-93 to \$66,877 in 1993-95 and costs for central support services went from \$20,750 to \$39,100. The House Committee and IRRC requested further information associated with these two cost centers.

The Board operates within its own accounting structure (See, 26 Pa.B. 591). When expenditures exceed the level of appropriations, the excess expenditure is rolled over into

the next fiscal year and is recorded as that succeeding year's expenditure. The increase in spending for BPOA administration between FY1991-93 and FY1993-95 is due to the rollover of approximately \$25,000 in Board expenses.

The increase in costs for central support services is due mainly to the reclassification of expenses attributable to the Office of Operations and Contract Management, one of the components of the central supporting services cost center. During the 1994-95 fiscal year 14 positions were transferred from BPOA appropriations to the general government operations appropriations. The movement of these positions eliminated direct personnel expenses charged to BPOA. Because these positions directly affect all Department program areas, the total payroll expenses were prorated to each of these areas by increasing the administrative reimbursement. Therefore all boards and commissions experienced increases in their administrative reimbursement expense mainly due to the transfer of these positions.

The House Committee noted that test administration expenses declined from \$5,122.75 in the biennial cycle 1991-93 to \$1,699.19 in the 1993-95 cycle. The Committee further noted that the most recent rulemaking of the Board pertaining to the Osteopathic Manipulative Therapy (OMT) examination required all fees to be submitted directly to the professional testing organization under a new contract, with neither revenue nor expenses accruing to the Board. The House Committee requested the Board to identify test administration costs which constituted Board expenses and were associated with biennial renewal fees.

Prior to the implementation of the new contract, the OMT examination had been administered by the Board. Certain expenses, such as travel, accrued in connection with that examination. Also, the contract with the American Registry of Radiologic Technologists (ARRT) for the radiology examination generated test administration expenses. This contract was formulated differently than most BPOA contracts at the request of ARRT. Under this contract, the BPOA collected all examination revenues from applicants and paid ARRT for its administrative costs. Because the BPOA made payments to ARRT, expense figures appeared in the test administration cost center.

Finally, IRRC questioned why Board administration costs rose from \$120,200.58 in biennial cycle 1991-93 to \$153,547.39 in 1993-95.

The increase is due to three factors. First, the implementation of legislatively mandated continuing medical education requirements for the 1994 renewal required multiple mailings to the licensee population to keep them informed of proposed rulemaking pertaining to continuing education. Second, the amendments to the Osteopathic Medical Practice Act (OMPA) pertaining to the certification and registration of respiratory care practitioners necessitated mass mailings to applicants to inform them of licensure requirements. (See, sections 10.1(c) and 10.2 of the OMPA (63 P. S. §§ 271.10a(c) and 271.10b) and 26 Pa.B. 757 (February 24, 1996)). Additionally, overtime costs accrued on several occasions in order to process all applications. Third, contractual pay and longevity increases for Board staff amounted to about 10% during the 1993-95 cycle.

*Statutory Authority*

Section 13.1(a) of the OMPA (63 P. S. § 271.13a(a)) requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

*Fiscal Impact*

The amendment will increase the biennial renewal fee for osteopathic physicians in this Commonwealth, but should have no other fiscal impact on the private sector, the general public or political subdivisions.

*Paperwork Requirements*

The amendment will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the amendment should not create additional paperwork for the private sector.

*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, published at 26 Pa.B. 591, to IRRC and the House Committee on Professional Licensure and the Senate Committee on Professional Licensure and Consumer Protection.

In compliance with section 5(b.1) of the Regulatory Review Act, the Board provided IRRC and the Committees with a copy of all comments received as well as other documentation.

This final-form regulation was approved by the House Committee on June 26, 1996, and approved by the Senate Committee on June 25, 1996. IRRC met on July 3, 1996, and approved the amendment in accordance with section 5(c) of the Regulatory Review Act.

*Contact Person*

Interested persons are invited to submit questions regarding this regulation to Gina Bittner, Administrative Assistant, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4848.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt an amendment at 49 Pa. Code Chapter 25, was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2.

(2) The regulations of the Board are necessary for the administration of the OMPA (63 P. S. §§ 271.1—271.18).

*Order*

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by amending § 25.231 to read as set forth at 26 Pa.B. 591 (February 10, 1996).

(b) The Board shall submit a copy of 26 Pa.B. 591 to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Board shall certify this order and 26 Pa.B. 591 and shall deposit them with the Legislative Reference Bureau as required by law.

(d) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

SILVIA M. FERRETTI, D.O.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 3492 (July 20, 1996).)*

**Fiscal Note:** Fiscal Note 16A-536 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 96-1296. Filed for public inspection August 9, 1996, 9:00 a.m.]

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [67 PA. CODE CH. 105]

#### Mechanical, Electrical and Electronic Speed-Timing Devices

The Department of Transportation, (Department) Bureau of Motor Vehicles, by this order adopts amendments to Chapter 105 (relating to mechanical, electrical and electronic speed-timing devices) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 25 Pa.B. 2993 (July 29, 1995), with an invitation to submit written comments within 30 days of publication. Two comments were received by the Department.

*Comments Received*

The Department received one public comment from John B. Mancke, Esquire, of Mancke, Wagner, Hershey and Tully, who requested a copy of the tests performed on the Enradd speed-timing device, Model EJU-91. The Department informed Mr. Mancke the test results are retained by the Pennsylvania State Police for their records and that he would have to contact the Pennsylvania State Police Legal Services Office which is the repository of the speed-timing device test data.

The Department received comments from the Independent Regulatory Review Commission (IRRC). IRRC pointed out an omission in Appendix A, Figure 7, and two typographical errors which resulted in the wrong words being used in § 105.56(e)(2)(ii) and (iii) (relating to manner of calibration and testing for the Enradd device). In § 105.56(e)(2)(ii) the word "measure" should read "measured" and in § 105.56(e)(2)(iii) the word "computer" should read "computed."

IRRC also requested that the Department indicate in the Figure 7 diagram where the "Chassis Ground" must be connected to the speed-timing device for the accuracy of the testing procedure.

*Additional Modifications to the Proposed Rulemaking*

The final text of the regulations contains modifications, deletions and additions, none of which enlarge the scope of these amendments as originally proposed, and thus may be published as final rulemaking. The following represents a summary of the changes:

1. Section 105.56(e) has been amended by correcting two typographical errors. In § 105.56(e)(2)(ii) the word "measure" should read "measured," and in § 105.56(e)(2)(iii) the word "computer" should read "computed."

2. In Figure 7, which provides the test set up for the SpeedCheck and Enradd speed-timing device, the diagram appearing therein has been amended by inserting the term "Chassis Ground" at the bottom of the drawing to indicate where the chassis ground must be connected to do the speed-timing device for the accuracy of the test procedure.

*Purpose of these Amendments*

The purpose of these amendments is to prescribe the method for calibrating and testing the speed-timing device, Enradd, Model EJU-91, to assure its accuracy under 75 Pa.C.S. § 3368 (relating to speed-timing devices). Further, these regulations will identify this speed-timing device as an approved device which may be used by local enforcement agencies.

The Department has classified this speed-timing device as an electronic device (nonradar), which measures elapsed time between two sensors to calculate vehicle speed on the highways. The device calculates the elapsed time between two timing strips which are spaced at a preestablished measured distance as recommended by the manufacturer's specifications. The timing strips are spaced 5 feet apart and when a vehicle passes over the strips, the unit will record the time interval between the activation of the first and second timing strips. This time interval, with the known distance between the two timing strips, is used to measure the speed of the vehicle. The speed of each vehicle is displayed by the Enradd speed-timing device in miles per hour.

The cost of the Enradd speed-timing device is approximately \$1,200, which is half the cost of other devices in the same category. A prototype of the Enradd speed-timing device was tested by the Pennsylvania State Police, Communications Division, in accordance with the manufacturer's calibration procedure. The tests were performed in a controlled laboratory environment. Additional tests were performed under practical use during inclement weather. The vehicle used during the practical tests was checked for speedometer accuracy prior to these tests.

*Persons and Entities Affected*

These amendments affect drivers of motor vehicles, stations which calibrate and test speed-timing devices, and local police officers.

*Fiscal Impact*

These amendments will not mandate any increased costs on police departments, calibration stations or operators of vehicles in this Commonwealth. Only those police departments which elect to purchase this particular device will incur any costs—approximately \$1,200 which is the purchase price of the device. These amendments will not require the development or completion of any additional forms, reports or other paperwork.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted on July 14, 1995, a copy of the notice of proposed rulemaking, published at 25 Pa. B. 2993 (July 29, 1995), to IRRC and the Chairpersons of the House and Senate Transportation Committees. In preparing these final-form regulations, the Department has considered the comments received from the Commonwealth and the public.

These final-form regulations were deemed approved by the Committees on July 21, 1996, and were approved by IRRC on July 18, 1996, in accordance with section 5(c) of the Regulatory Review Act.

*Sunset Provisions*

The Department is not establishing a sunset date for these regulations since these regulations are needed to administer provisions required under 75 Pa.C.S. (relating to the Vehicle Code). The Department will, however, continue to closely monitor these regulations for their effectiveness.

*Contact Person*

For further information, the contact person is Mary E. Sheriff, Vehicle Control Division, Room G134, Transportation and Safety Building, Harrisburg, PA 17122, telephone (717) 787-2895.

*Authority*

These regulations hereby amended are amended under the authority contained in 75 Pa.C.S. §§ 3368 and 6103 (relating to speed-timing devices; and promulgation of rules and regulations by department).

*Findings*

The Department finds that:

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

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

*Order*

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

(a) The regulations of the Department, 67 Pa. Code Chapter 105, are amended by amending § 105.56 and Appendix A to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

BRADLEY L. MALLORY,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document see 26 Pa.B. 3776 (August 3, 1996).)*

**Fiscal Note:** Fiscal Note 18-332 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 105. MECHANICAL, ELECTRICAL AND ELECTRONIC SPEED-TIMING DEVICES

Subchapter D. ELECTRONIC DEVICES (NONRADAR) WHICH MEASURE ELAPSED TIME BETWEEN TWO SENSORS.

§ 105.56. Manner of calibration and testing.

\* \* \* \* \*

(e) *Enradd, Model EJU-91*—Manufactured by Y.I.S., Incorporated, 1049 Hartley Street, P. O. Box 3044, York, Pennsylvania 17404.

(1) *Required equipment.* The following equipment or an equivalent substitute is required for calibration:

- (i) Two pulse generators.
- (ii) Dual channel oscilloscope or frequency counter with interval capability.
- (iii) Power supply, + 5 volts.

(2) *Calibration procedure.* (See Appendix A, Figure 8 for interconnection diagram). Calibration procedures shall be as follows:

- (i) A single circuit to generate the signals that simulate the front wheels of a vehicle crossing the road sensor shall be set up as set forth in Appendix A, Figure 7.

(ii) The elapsed time between the pulse on Outputs 1 and 2 is measured by the Enradd using the formula  $V \times T = 3408$ . 3408 is the proper constant for a 5-foot timing strip spacing.

V = velocity in mph

T = time in ms

(iii) The elapsed interval time is computed by:

(A) Calculation of the equation:

$$V = 3408$$

T

(B) Comparison of the readout on the oscilloscope/frequency counter to the readout on the Enradd.

(iv) If the readout on the face of the Enradd differs by more than +/- 1 mph, the unit shall be returned to the manufacturer or to a service center approved by the manufacturer and tagged with the date tested, the serial number of the device and a notation of the general condition of the device.

(f) *Equipment, timing strips and other devices.* The calibration and testing of equipment, timing strips and other devices actually used with a particular electronic device—nonradar—shall be performed under specifications provided by the manufacturer of an approved device using equipment specified by the manufacturer or equivalent substitute equipment.

APPENDIX A

\* \* \* \* \*

DEPARTMENT OF TRANSPORTATION

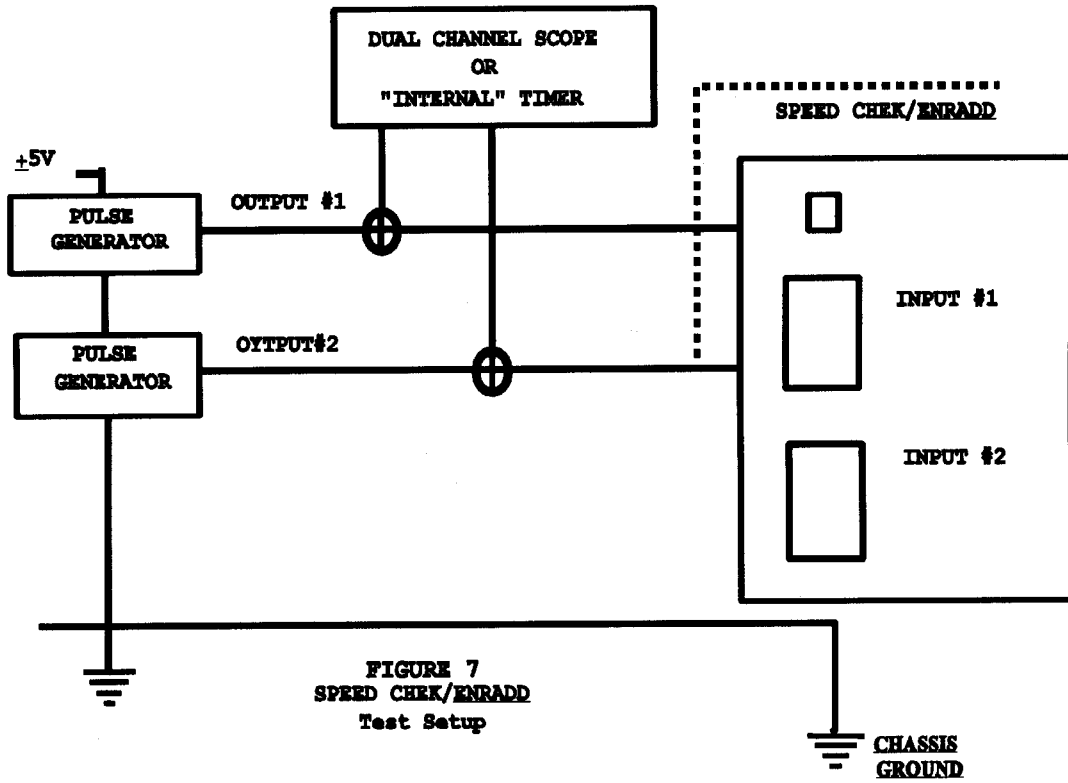


FIGURE 7  
SPEED CHEK/ENRADD  
Test Setup

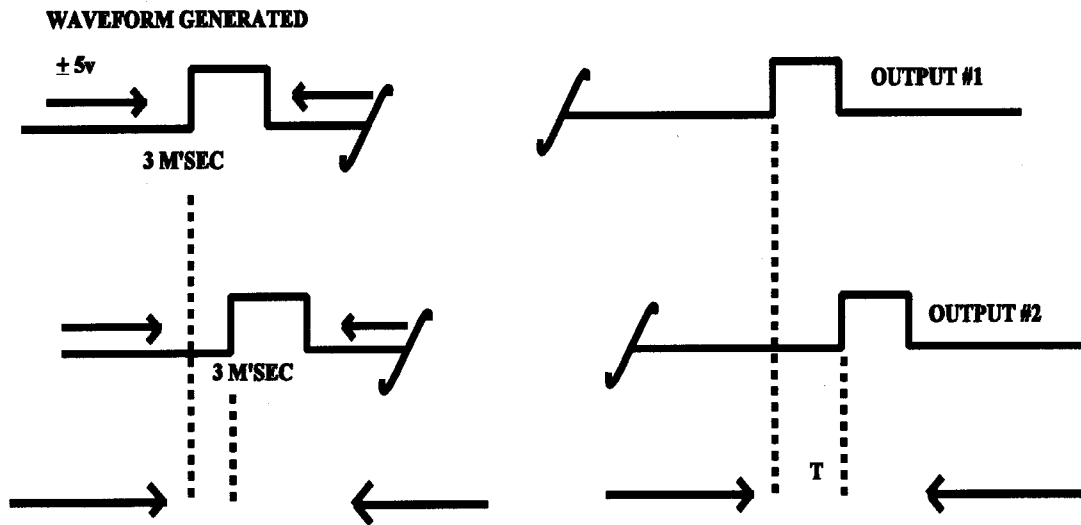


FIGURE 8  
SPEED CHEK/ENRADD  
Interconnection Diagram

[Pa.B. Doc. No. 96-1297. Filed for public inspection August 9, 1996, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 3, 5 AND 7—9]

### Tuberculosis and Brucellosis Testing and Documentation Requirements for Cattle, Goats and Bison

The Department of Agriculture (Department) proposes to amend Chapters 3, 5 and 7—9. The purpose of this proposal is to relieve this Commonwealth's animal production industry of unnecessary test requirements restricting the transportation and marketing of cattle, bison and goats, and the products of these animals.

Section 1702 of The Administrative Code of 1929 (71 P. S. § 442) makes it the duty of the Department to take measures to prevent, control and eradicate diseases of animals. Sections 2, 3 and 9 of the act of April 17, 1929 (P. L. 533, No. 236) (3 P. S. §§ 342, 343 and 349) require the Department to identify dangerous transmissible diseases of animals, authorize the Department to establish and enforce quarantines, prevent or otherwise restrict the transportation of suspect animals into or within this Commonwealth and empower the Department to regulate in this area, respectively. The foregoing comprises the statutory authority upon which these proposed amendments are founded.

Tuberculosis and brucellosis are dangerous transmissible diseases of cattle, bison and goats and are also communicable to humans. In recent years, incidents of tuberculosis or brucellosis infection in cattle, bison and goats have become increasingly infrequent in the United States. These diseases are currently not known to be present in 36 states, including this Commonwealth.

The proposal is consistent with a Nationwide trend toward loosening tuberculosis and brucellosis testing requirements with respect to the intrastate and interstate movement of cattle, bison and goats. The proposed amendments will revise current authority by deleting the requirement that cattle, bison and goats be tested for tuberculosis and brucellosis as a condition of intrastate movement.

The proposal would also amend § 9.34 (relating to milk for human or animal consumption) to delete the requirement that pasteurized milk for human or animal consumption originate from a herd that has been tuberculin tested within 5 years. This requirement was unnecessary in light of the fact that pasteurization would kill any tuberculosis virus present in milk. Raw (that is, unpasteurized) milk for human or animal consumption, though, would have to originate from a herd that was tuberculin tested within the previous year. If brucellosis or tuberculosis recurs, restrictions will be imposed on the disposition of animals and products (milk and meat) originating from exposed herds.

The Department believes the proposal to be a reasonable response to the decreased risk posed by tuberculosis and brucellosis. To the extent that some risk—however slight—still exists, the Department is satisfied that its ongoing disease monitoring efforts and Federal requirements with respect to the interstate shipment of cattle,

bison and goats are adequate to detect, isolate and eradicate any outbreaks of tuberculosis or brucellosis in these animals.

This proposal would decrease brucellosis and tuberculosis testing costs for cattle, bison and goat producers. It would also allow the Department to more efficiently direct its resources toward those diseases which pose a greater threat to this Commonwealth's human and animal populations. These diseases include pseudorabies, rabies, pullorum, influenza and others. In addition, the Department and the United States Department of Agriculture (USDA) must maintain surveillance and emergency preparedness with respect to numerous foreign animal diseases which, although not currently found in this Commonwealth or the rest of the United States, pose a real and constant threat. The proposal would free manpower and financial resources and allow the Department to provide surveillance and response that is more proportional to the various threats to animal and human health posed by transmissible diseases of animals, while decreasing testing expenses and paperwork requirements for this Commonwealth's cattle, bison and goat producers.

The Department believes the proposed amendments address a compelling public interest (that is, the identification, containment and eradication of dangerous transmissible diseases of animals at minimal cost and inconvenience to this Commonwealth's animal producers), and are otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

#### *Fiscal Impact*

##### *Commonwealth*

The proposed amendments will impose no costs and have no fiscal impact upon the Commonwealth, other than to free financial resources to be redirected as necessary to address the identification, containment and eradication of other dangerous transmissible diseases of animals in this Commonwealth.

##### *Political Subdivisions*

The proposed amendments will impose no costs and have no fiscal impact upon political subdivisions.

##### *Private Sector*

The proposed amendments will decrease costs and paperwork requirements previously imposed upon the private sector. In particular, producers of cattle, bison and goats within this Commonwealth would be relieved of the cost of testing animals for tuberculosis or brucellosis prior to intrastate shipment. These costs are not readily measurable.

##### *General Public*

The proposed amendments will impose no costs and have no fiscal impact upon the general public.

##### *Paperwork Requirements*

The proposed amendments will not result in an appreciable increase in paperwork.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed amendments on July 31, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. In addition to the

proposed amendments, the Department 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," and Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

Contact Person

Interested persons are invited to submit written comments regarding the proposed amendments within 30 days following publication in the *Pennsylvania Bulletin*. Comments are to be submitted to the Department of Agriculture, Bureau of Animal Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Phillip DeBok, D.V.M.

Effective Date

The proposed amendments will become effective upon final adoption.

CHARLES C. BROSIUS, Secretary

Fiscal Note: 2-106. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART I. BUREAU OF ANIMAL INDUSTRY

CHAPTER 3. HEALTH REQUIREMENTS FOR IMPORTATION AND INTRASTATE TRANSPORTATION OF ANIMALS

Subchapter A. GENERAL PROVISIONS

§ 3.1. Definitions.

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

\* \* \* \* \*

**Hazardous substance**—A substance, including chemicals, toxins and biologicals, which threatens the health of domestic animals or humans.

\* \* \* \* \*

**Permit**—A document issued by the Department [ of ] or USDA-APHIS authorizing and establishing conditions under which a quarantined or diseased animal may be moved interstate or intrastate.

\* \* \* \* \*

Subchapter I. INTRASTATE TRANSPORTATION OF CATTLE, GOATS AND BUFFALO

§ 3.151. General provisions.

(a) **Identification required.** Cattle, goats and buffalo [ , except feeder steers, spayed heifers and those for immediate slaughter, ] transported within this Commonwealth [ for addition to herds in this Commonwealth shall be accompanied by a Pennsylvania

health certificate indicating compliance with the health requirements of this subchapter and Subchapter A (relating to general provisions) ] described in subsections (b) and (c) shall be identified by an official eartag or other unique identification device approved and recorded by the Department.

(b) [ A Pennsylvania health certificate shall conform with the following:

(1) Cattle, goats and buffalo shall be identified on the health certificate by an eartag. Eartags from other states will be accepted.

(2) Tuberculosis deviators may not be sold but animals tested negative may be sold. Tuberculosis suspects will prohibit the sale of any member of the herd and the herd will be placed under quarantine. Deviators should be retested and suspects shall be retested after 60 days from previous tuberculin test or retested with a comparative cervical test within 10 days of previous injection date. If the tuberculosis suspect is slaughtered and no gross lesions are found on post mortem the herd shall be retested and negative 60 days after previous test before health charts may be issued.

(3) Brucellosis hemolyzed, broken, insufficient serum samples and brucellosis suspects may not be sold but other animals that were tested with negative results may be sold for a period of 60 days after which the suspect shall be retested before charts can be renewed for any member of the herd. If the suspect is no longer in the herd then the entire herd shall be retested and negative before health charts may be issued.

(4) Animals originating from herds that do not qualify for certified or accredited herd status will have area plan status. ]

**Diseased or contaminated animals.** Cattle, goats and buffalo affected with or exposed to diseases or disease agents determined by the Department to be dangerous and transmissible or hazardous to animal or human health shall, when transported within this Commonwealth, be accompanied by a permit issued by the Department.

(c) **Animals for exhibition.** Cattle, goats and buffalo transported within this Commonwealth for exhibition purposes shall meet the applicable requirements of Chapters 3, 5 and 7-9.

§§ 3.152-3.158 (Reserved).

(Editor's Note: The Department is proposing to delete the current versions of §§ 3.152-3.158 as they currently appear in the *Pennsylvania Code* at pages 3-33-3-36 (serial pages (160895)-(160898)).)

CHAPTER 5. ANIMAL MARKETS

Subchapter A. GENERAL PROVISIONS

§ 5.1. Definitions.

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

\* \* \* \* \*

**Permit**—A document issued by the Department or USDA-APHIS authorizing and establishing conditions under which a quarantined or diseased animal may be moved interstate or intrastate.

\* \* \* \* \*

Subchapter D. BREEDING ANIMALS

§ 5.45. Checking of health certificates.

[(a)] Checking of health certificates of animals presented at the animal market is the responsibility of the management of the market and Department personnel.

[(b) Dairy and breeding animals unloaded at an animal market not accompanied by an approved health certificate may not be sold for dairy or breeding purposes and shall be sold for slaughter only or returned to the owner.]

Chapter 7. BRUCELLOSIS REGULATIONS

Subchapter F. CERTIFIED BRUCELLOSIS-FREE AREA

§ 7.53. [Herd additions] (Reserved).

[Cattle may be moved in herds in certified brucellosis-free counties from other certified brucellosis-free counties if they come from individual plan certified herds, or if they come from herds in certified brucellosis-free areas which have been negative to a blood test within 1 year whether tested by the milk ring test or not, the individual animal to be moved shall be negative to a blood test within 30 days prior to movement and must be accompanied by an official health certificate. Additions shall meet the requirements in Chapter 3 Subchapters B and I (relating to importation of cattle, goats and buffalo; and intrastate transportation of cattle, goats and buffalo).]

CHAPTER 8. APPRAISAL AND INDEMNITY FOR DISEASED ANIMALS

Subchapter C. PROVISIONS FOR PAYMENT OF INDEMNITY

§ 8.26. Animals purchased without health certificates.

Animals purchased without approved health certificates required under this title that [became] become diseased and must be condemned are not eligible for indemnity.

CHAPTER 9. CONTROL AND ERADICATION OF TUBERCULOSIS OF LIVESTOCK

Subchapter A. GENERAL PROVISIONS

§ 9.5. Animals to be tested (cattle, goats and buffalo).

\* \* \* \* \*

(b) [Area plan—test animals over 24 months of age.

(c)] Other tests—test animals regardless of age.

§ 9.6. Animals not to be tested.

Retests of tuberculin response [animals] cattle, goats and buffalo may not be conducted for 60 days following [previous] the last test because of desensitization. The exception is the retest of response animals by the comparative cervical test which can be done within 10 days of the previous caudal test by approved regulatory veterinarians only [and if]. If over 10 days, then the comparative cervical test shall be conducted after 60 days.

Subchapter C. RETESTING OF HERDS DISCLOSING REACTORS

§ 9.34. [Milk] Raw milk for human or animal consumption.

[(a)] The sale of raw milk for human or animal consumption is prohibited unless the herd—that is, all animals that have freshened or are over 24 months of age—has been tuberculin-tested within [5 years or within the time stipulated by the current rules of the area plan] 1 year.

[(b) Herds from which milk is sold under a raw milk permit shall be tested annually under the individual herd plan by an accredited veterinarian.]

[Pa.B. Doc. No. 96-1298. Filed for public inspection August 9, 1996, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 43]

Temporary Registration Cards and Plates

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority contained in 75 Pa.C.S. §§ 1310, 1331, 1374 and 6103, proposes to amend Chapter 43 (relating to temporary registration cards and plates) as set forth in Annex A. The statutory provisions, respectively, direct the Department to issue temporary registration cards; require the Department to provide registration plates; set forth requirements for issuing temporary vehicle registration plates; prescribe relevant mitigating events and monetary penalties; and authorize the Department to promulgate regulations to implement the provisions of the Vehicle Code.

Purpose of this Chapter

The purpose of Chapter 43 is to establish rules and procedures governing the issuance of temporary registration plates and cards by designated dealers, manufacturers, full agents and card agents, and to allow vehicle owners the use of their vehicles pending the issuance of permanent registration cards or plates. These regulations help to assure the proper disposition of registration titling, and sales tax fees associated with the sale or transfer of vehicles.

Purpose of These Amendments

The purpose of these amendments is to clarify those who are eligible for authorization as an issuing agent and that an application to become an issuing agent must be completely executed. These amendments also clarify the type of records that issuing agents are required to keep, the type of registration plates that issuing agents may issue and how they may issue them, the type of losses that are covered by a surety bond, and the manner in which claims upon the surety bond will be handled and prioritized. The alternative of obtaining a letter of credit in lieu of a surety bond is eliminated by these regulations, because no one has ever used this alternative due to its cost prohibitiveness.

These amendments also amend the schedules of sanctions appearing in § 43.11 (relating to sanctions for

violations by issuing agents). These amendments provide for the consideration of relevant mitigating events prior to imposing a sanction for certain offenses. If an agent alters the date of purchase upon an application, however, that agent will not be entitled to exoneration or reduction of a monetary penalty. In addition, these amendments authorize the imposition of a monetary penalty instead of a suspension for certain offenses.

The initial impetus for the clarification and amendments was the decision rendered by Commonwealth Court in *Department of Transportation, Bureau of Motor Vehicles v. Century III Chevrolet, Inc.*, 151 Pa. Cmwlth. Ct. 32, 617 A.2d 43 (1992). In that case, Commonwealth Court held that when the term "may," is employed within the same section of the regulations by itself without modification in one subsection, yet with the modifying phrase "in its discretion" in another subsection, the term "may" means "shall" when standing alone, and means "may" when modified by the phrase "in its discretion." The effect of this decision was to make the schedule of penalties found in § 43.11 mandatory and not discretionary.

The *Century III* decision induced members of the affected industry to contact the Department in an effort to amend the regulations. In addition to an exchange of letters and telephone calls, representatives of the Department met and discussed the regulations with representatives of the Pennsylvania Automotive Association (PAA) and the Pennsylvania Independent Automobile Dealers Association (PIADA) on July 18, August 31 and October 24, 1995, and on January 23, 1996. After extensive consultation with these representatives of the entities who will be affected by these regulations, the Department proposes to amend the schedule of penalties, in order to clarify when a sanction will be mandatory or discretionary. The sanctions prescribed for violations of Category I offenses shall be mandatory; the sanctions prescribed for violations of Category II offenses may be imposed within the discretion of the Department.

By clarifying when the imposition of sanctions for violations of Chapter 43 is mandatory or discretionary, the Department believes that the ambiguity of the current regulations will be eliminated. These proposed amendments will provide express written notice to issuing agents, dealers, manufacturers and other affected persons, that violation of this chapter will result in the imposition of a sanction for a Category I offense and may result in a sanction for a Category II offense.

After consultation with the representatives of the entities affected, the Department has described at § 43.11(h) the relevant mitigating events that the Department will consider for certain offenses. Relevant mitigating events that will result in exoneration are prescribed at § 43.11(h)(1); relevant mitigating events that will result in reduction of a monetary penalty are prescribed at § 43.11(h)(2). Monetary penalties are prescribed at § 43.11(a) for violations of § 43.11(a) Category II(5) (relating to untimely submission of documents, fees or taxes).

These regulations also will delete language relating to a letter of credit, which the Department inadvertently neglected to remove from § 43.9(h) of a final rulemaking published at 23 Pa.B. 3347 (July 10, 1993). When the notice of proposed rulemaking was published at 21 Pa.B. 1316 (March 30, 1991), § 43.9(f) included a proposed amendment to allow a full agent to submit an irrevocable letter of credit in lieu of the bond required by § 43.9(b), subject to Department verification and approval. Section

43.2 (relating to definitions) defines a full agent as "a county treasurer or a person other than a manufacturer authorized by the Bureau to issue temporary registration cards and plates." The Department received comments from the Independent Regulatory Review Commission (IRRC) and the Pennsylvania Association of Notaries, who were concerned that full agents would not utilize this option because of the expense associated with an irrevocable letter of credit. Since many full agents do not issue a high volume of cards and plates, the irrevocable letter of credit would be a cost prohibitive alternative to the bond required by § 43.9(b).

The Department, realizing that the option of obtaining an irrevocable line of credit would occasion additional expense and would likely not be utilized by full agents because of this, eliminated the proposed § 43.9(f) language from the final rulemaking. Subsequent to the publication of the final rulemaking, the Department realized that § 43.9(h)(3), which had also been amended, still contained language referring to a letter of credit. These proposed amendments will delete this language to ensure that full agents are aware that an irrevocable letter of credit is not available as an option to satisfy the bonding requirement of § 43.9(b).

#### *Significant Amendments*

The following represent a summary of the significant amendments to these regulations:

Section 43.4(d) (relating to authorization to issue temporary registration plates) is amended to provide that an application to be an issuing agent may be denied if the applicant's business is operated, managed or otherwise controlled or influenced by a corporate officer or shareholder who is ineligible for authorization. The purpose of this amendment is to close a loophole in existing regulations. For example, an individual may be suspended or revoked as an issuing agent for various violations. The agent may form a corporation, which under the law is considered a separate person. Nevertheless, in reality, the same person who has been suspended by the Department for violations, is actually involved in running the corporation's business. The amendment to § 43.4(d) will prevent prior offenders from using the corporate veil to resume operations prior to serving their suspension for prior offenses.

Section 43.5(d)(ii)(3) (relating to issuance of temporary registration cards) is amended to require issuing agents who are also dealers to keep as part of their records the bill of sale and a copy of the document used for identification. By requiring agents to keep a copy of the document used for identification, the Department will be better able to verify whether an agent is complying with the insurance verification requirements of 75 Pa.C.S. § 1318 (relating to duties of agents). Requiring agents, who are also dealers, to keep copies of the bill of sale of an automobile assists the Department and the State Police in monitoring the accuracy of applications submitted by those issuing agents, who, because they are also dealers, may have a personal, pecuniary interest in the transaction for which they are forwarding the registration documents, taxes and fees to the Department.

Section 43.6 (relating to issuance of temporary registration plates) is amended to clarify that only the Bureau and not issuing agents may issue temporary registration plates for reconstructed and specially constructed vehicles. This amendment is needed because an official inspection mechanic must first inspect the vehicle for road-worthiness under Chapter 19 (relating to specially

constructed vehicles, reconstructed vehicles and street rods). The public safety aspect of Chapter 19 would be undermined if issuing agents are permitted to issue temporary registration for a reconstructed or specially constructed vehicle before the vehicle's road-worthiness is verified by the official inspection mechanic.

Section 43.9(d) (relating to bond) is amended to clarify that the surety bond is only intended to cover losses that result from an issuing agent submitting a dishonored or uncollectible check, failing to remit to the Commonwealth a fee or tax resulting from the issuance of title or registration, or failing to remit a monetary penalty. The bond may not cover losses that are not mentioned in § 43.9(d). This amendment clarifies that the bond is not available for other claims, such as those pertaining to liability incurred by an agent for failing to verify proof of financial responsibility prior to issuing temporary registration.

Because the surety bond is only required to be in the amount of \$20,000, it is not intended to serve as casualty insurance, in the event that an issuing agent failed to verify financial responsibility for a motorist, who was subsequently involved in a motor vehicle accident and did not have insurance. Thus, this amendment makes it clear that the surety bond is only intended to cover taxes, fees and monetary penalties.

Section 43.9(h) (relating to effective dates) is amended to delete the reference to prior effective dates for these regulations which have since expired. Because these regulations are now effective, there is no need to list the prior effective dates. This subsection is replaced with a provision authorizing the Bureau to make and settle claims upon the bond with the surety company on behalf of the Commonwealth and a person who has incurred a monetary loss. This amendment permits a claimant to demand that the Commonwealth assign its right to make claim on the claimant's behalf directly to the claimant. However, in this event the Commonwealth is released from any duty to the claimant towards obtaining satisfaction for that person. This amendment also specifies the priority in which claims will be paid. The order of priority for payment of claims is as follows: claims made by the Commonwealth; claims made by the Commonwealth for aggrieved persons; claims made by persons who obtained assignment from the Bureau.

The purpose of this amendment is as follows. In a situation where a dealer defaults in remitting taxes and fees, many consumers may be involved. In order to reduce litigation and legal fees for the innocent consumers, the Department has historically handled all the paperwork and negotiations with the surety company in order to make whole the innocent consumers. These amendments specifically sanction this practice. However, if a claimant insists on individually pursuing his claim, as is his right, these regulations make clear that he may do so. Of course, if a person does not wish to permit the Department to handle the matter, the amended regulations provide that the Department will be relieved of any responsibility to obtain satisfaction for that claimant.

In addition, a provision for priority of claims is added to make clear that the Commonwealth's claim for sales tax and fees has priority above all others, and that claims made by the Department, for consumers who paid taxes and fees to a dealer, that failed to remit them, take precedence over those persons who do not participate in the Department's program to obtain satisfaction for aggrieved persons. This amendment is necessary because it is in the best interest of the Department, the dealer, the

surety company and the aggrieved consumers that litigation be minimized, by permitting the Department to process the claims. Rather than having to deal with possibly scores of individual claimants, the dealer and surety company may deal exclusively with the Department in settling the claims. The aggrieved persons are relieved of legal fees and incur far less inconvenience and loss of time, if the Department handles their claims upon the surety bond.

Section 43.9(h)(3) is amended by eliminating the option of submitting a letter of credit in lieu of the surety bond. This option was proposed in a notice of proposed rulemaking published at 21 Pa.B. 1316, however the Department was informed that it is costly and difficult for many full agents to obtain a letter of credit. The Department deleted the option from § 43.9(f) when the final rulemaking was published at 23 Pa.B. 3347, yet inadvertently neglected to delete the reference to § 43.9(h)(3). This proposed amendment will rectify the error and ensure that full agents realize that a letter of credit is not available as an alternative to a bond.

The schedule of sanctions set forth at § 43.11(a) (relating to sanctions for violations by issuing agents) is amended, to clarify when a sanction will be mandatory or discretionary. The sanctions prescribed for violations of Category I offenses shall be mandatory; the sanctions prescribed for violations of Category II offenses may be imposed within the discretion of the Department. By clarifying when the imposition of sanctions for violations of Chapter 43 is mandatory or discretionary, the Department believes that the ambiguity of the current regulations will be eliminated. These proposed amendments will provide express written notice to issuing agents, dealers, manufacturers and other affected persons, that violation of these chapters will result in the imposition of a sanction for a Category I offense and may result in a sanction for a Category II offense. Serious offenses are placed in Category I, which mandates sanctions. Less serious offenses are placed in Category II, which gives the Department discretion to sanction or not to sanction the agent. Although no new offenses are created, various offenses within the schedule of sanctions at § 43.11(a), have been transferred between the current Category I and Category II schedules, in order to properly classify the offense, within the revised mandatory Category I and discretionary Category II offenses, depending upon an offense's relative seriousness.

In addition to the provision for a monetary penalty of \$50 to \$100 for a second offense and \$100 to \$200 for a third offense, § 43.11(a) Category I(4) has been transferred to Category II and the sanction for a fourth or subsequent offense has been amended from a "revocation" to a "3-month suspension up to revocation." The Department believes that the current sanction of revocation only for a fourth or subsequent offense is too harsh. Consequently, the sanction for a fourth offense is amended to a 3-month suspension up to revocation. This will permit the Department to exercise discretion based upon the circumstances leading to the violations.

Section 43.11(c) is amended to delete the phrase "in its discretion" in response to the *Century III* case, to clarify that the term "may" truly means "may," when it appears within these regulations. This subsection is additionally amended to provide that when an agent, who is also a dealer, is sanctioned with a monetary penalty as a dealer for a violation under Chapter 53, and for which violation the agent may also be sanctioned with a monetary penalty under Chapter 43, only the monetary penalty

prescribed at Chapter 53 may be imposed. The purpose of this amendment is to prevent the imposition of double monetary penalties upon an issuing agent who is also a dealer.

Section 43.11(h) is added to the regulations in order to prescribe relevant mitigating events for a violation of section 43.11(a) Category II(5) (relating to late submission of documents, fees and taxes). Because the General Assembly has mandated the Department to consider relevant mitigating events for dealers who commit this same type of violation as a dealer, the Department believes that agents should be similarly treated in order for the Department to be consistent and fair when sanctioning those who are subject to regulation by this Department.

Based upon the type of event, the Department deems it reasonable to establish two types of relevant mitigating events: those that are of such a superseding nature as to completely exonerate the agent; and those that are of a negligent nature, yet by which no consumer was harmed, and, further, the agent has subsequently remedied the problem. These latter events will result in reduction of the monetary penalty that otherwise could be imposed by the Department. Superseding events that will result in exoneration are enumerated at § 43.11(h)(1)(i)—(v), and include acts of God, whether the late submissions were caused by criminal or fraudulent action by an employe or authorized messenger of the Department of which the agent was not aware, or by the failure of a lienholder to promptly forward a title to an agent after satisfaction of a lien.

Relevant mitigating events that will result in reduction of a monetary penalty, but not exoneration, are enumerated at § 43.11(h)(2)(i) and (ii), and include whether subsequent to the notice of hearing issued by the Department, the Department's records reflect that the agent has remedied the event which caused the late submissions and that no additional late submissions have occurred; and whether the applications, fees and taxes were less than 40 days late and that no vehicle purchaser or consumer was harmed by the agent's failure to timely submit the applications, taxes and fees. If applications, fees and taxes are submitted more than 40 days late, it is nearly impossible for the Department to process the paperwork, and mail the vehicle purchaser his annual registration before this 60-day temporary registration expires. If an applicant's temporary registration expires, before he has received his annual registration, he is subject to prosecution under 75 Pa.C.S. § 1301 (relating to registration and certificate of title required) for not having his vehicle properly registered. Even if not cited, the stress created for this consumer by the agent's failure to timely deliver the application, taxes or fees, warrants this Department drawing the line at 40 days when determining whether to reduce the monetary penalty.

Section 43.11(i) is added to authorize suspension without a hearing when an agent refuses to allow an inspection of its records under § 43.7(d) (relating to records available for inspection). Because the Department's ability to review documents is the key means of verifying and enforcing compliance with the provisions of this chapter, an immediate and prompt suspension of an agent is most appropriate, if the agent refuses to permit inspection of his records.

The Department is amending § 43.12, use of temporary registration plate, by removing the substance of the existing § 43.12(d), regarding prosecution, to a newly established subsection (e) and by incorporating a new rule

at subsection (d). This amendment will clarify when issuing agents may issue temporary metal registration plates and temporary cardboard registration plates for commercial motor vehicles. Commercial motor vehicles with a gross weight or registered gross weight in excess of 26,000 pounds are required by the International Registration Plan (IRP) to display an apportioned registration plate whenever the vehicle is from an IRP state and is operating in another IRP state. The Commonwealth adopted the IRP under the authority of section 6144 of the Vehicle Code (relating to Vehicle registration and licensing). See also 26 Pa.B. 634 (February 10, 1996). However, if the commercial motor vehicle is not operated outside of its home state and is not operated within an IRP state, it does not have to display an apportioned registration plate. Because temporary registration plates are not apportioned registration plates, § 43.12(d)(1) clarifies that issuing agents may issue these plates for commercial motor vehicles only if the vehicle weighs or is registered at 26,000 pounds or less, or if it is not operated outside of this Commonwealth or is only operated in a non-IRP state.

Section 43.12(d)(2) clarifies that a commercial vehicle may not be laden when displaying temporary cardboard registration plates. Under the definition of temporary registration plate at § 43.2 (relating to definitions), cardboard registration plates may only be used on vehicles that are being driven or moved to another state for the purpose of titling, registration, use or resale in that state. Under § 43.6(g) the maximum fee for this plate is \$10. Because the purpose of the cardboard plate is merely to give the owner authority to drive the vehicle out of the Commonwealth, the normal fee based upon the weight of the vehicle as prescribed at 75 Pa.C.S. § 1916 (relating to passenger cars) is not charged. If the applicant has not requested a commercial registration plate, nor paid the appropriate fees for such a plate, but instead has obtained a cardboard registration plate, the applicant cannot use the cardboard registration plate on a laden commercial vehicle. Consequently, the Department has made this clear by adding § 43.12(d)(2).

#### *Persons and Entities Affected*

These proposed amendments affect all persons who will apply for the authority to issue, or who are currently authorized to issue, temporary registration cards and plates; those vehicle owners who request the issuance of a temporary card or plate; the State Police and local law enforcement agencies.

#### *Fiscal Impact*

These proposed amendments will not impose any costs on the Commonwealth, local municipalities or affected persons who comply with the regulations. Issuing agents, who fail to timely submit documents, taxes and fees to the Department, may be subject to significant fines. These proposed amendments will not occasion the preparation of any additional forms, reports or other paperwork.

#### *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 July 15, 1996, to IRRC and the Chairperson of the House Transportation Committee and the Senate Transportation Committee. In addition to submitting these proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency 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 these proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of these regulations, by the Department, the General Assembly and the Governor of objections raised.

Sunset Provisions

The Department is not establishing a sunset date for these proposed amendments, since these amendments are needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). The Department, however, will continue to monitor these regulations for their effectiveness.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Louis J. Curl III, Director, Bureau of Motor Vehicles, 104 Transportation and Safety Building, Harrisburg, PA 17120, within 30 days of publication of this notice in the Pennsylvania Bulletin.

Contact Person

For further information, the contact person is Linley Oberman, Manager, Customer Service Division, Bureau of Motor Vehicles, Room 104, Transportation and Safety Building, Harrisburg, PA 17122, (717) 783-2780.

BRADLEY L. MALLORY, Secretary

Fiscal Note: 18-337. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE III. REGISTRATION

CHAPTER 43. TEMPORARY REGISTRATION CARDS AND PLATES

§ 43.4. Authorization to issue temporary registration plates.

\* \* \* \* \*

(d) Denial of application. The Department may deny an application for a certificate of authorization on the basis of information revealed in [ the ] an investigation, or if the applicant fails to disclose material information required or if the applicant has made a materially false statement on the application, or if the applicant's business is [ directly or indirectly ] operated, managed or otherwise controlled or influenced by a person who is ineligible for authorization, including a relative, [ or ] family member, corporate officer or shareholder.

\* \* \* \* \*

§ 43.5. Issuance of temporary registration cards.

\* \* \* \* \*

(d) Duty to examine documents. The duty to examine documents includes the following:

\* \* \* \* \*

(2) A temporary registration card may not be issued unless the following items are found to be in order:

\* \* \* \* \*

(ii) Application. The application shall be properly and completely executed and verified or notarized, as required, accompanied by the correct fees, taxes and other required forms or [ document ] documents.

\* \* \* \* \*

(f) Copies of temporary registration card. Copies of the temporary registration card shall be handled as follows:

\* \* \* \* \*

(3) The agent's copy of the temporary registration card, copies of related documents including bills of sale when the agent is also the dealer and a copy of the document used for identification and copies of the documents used for insurance verification shall be retained at the place of business of the issuing agent for at least 3 years and shall be made available for inspection only by police and authorized representatives of the Department. Cards issued in conjunction with the transfer of registration plates shall be kept separate from cards issued in conjunction with temporary registration plates. Cards shall be kept in chronological order according to the date of issuance.

\* \* \* \* \*

§ 43.6. Issuance of temporary registration plates.

(a) Limits on issuance. Temporary registration plates will be issued in the following manner:

(1) Temporary registration plates other than those specified in paragraph (4) will be issued only by the Bureau, approved governmental agencies, dealers, manufacturers and full agents authorized by the Bureau.

\* \* \* \* \*

(4) Temporary registration plates for reconstructed and specially constructed vehicles will be issued only by the Bureau.

\* \* \* \* \*

(f) Issuance of cardboard temporary registration plate. Upon issuance of a cardboard temporary registration plate, the authorized dealer, manufacturer or full agent shall punch out the month, day and year of expiration at the space provided and shall record the following information clearly and indelibly on the face of the temporary plate:

(1) The date of issuance [ in characters at least 1/2 inch high ].

(2) The year, make and model of vehicle.

\* \* \* \* \*

§ 43.9. Bond.

(a) Authorized dealers, manufacturers and full agents to be bonded. Every authorized dealer, manufacturer and full agent shall file and maintain with the Bureau a bond executed by a surety company authorized to transact business in this Commonwealth. The bond shall be for the use and benefit of the Commonwealth and a person who has sustained a monetary loss [ in connection with the issuance of a temporary registration card or plate, or both, or a violation of this chapter, by the authorized dealer, manufacturer or full agent ] within the limitations of the bond as specified at subsection (d).

\* \* \* \* \*

(d) *Limitations of bond.* The bond required under this section shall cover transactions in which the Commonwealth or a person specified in subsection (a) has sustained a monetary loss due to the agent, dealer or manufacturer submitting a dishonored or uncollectible check to the Commonwealth (including protest and uncollectible check fees), or failing to remit to the Commonwealth a fee or tax when the monetary loss is incurred in connection with the business of the dealer or manufacturer. A check which is dishonored upon presentment, or an application for title or registration which is received without a required fee or tax, shall constitute a monetary loss. Failure to pay a monetary penalty within 45 days of assessment shall also constitute a monetary loss. The bond required under this section may not cover a loss for a transaction which is not mentioned in this subsection relating to the issuance of temporary registration cards or plates [ that are entered into ] in connection with the business of the dealer, manufacturer or full agent. If the dealer, manufacturer or full agent has one or more branch offices, the amount of the bond shall be increased by the amount specified in subsection (b) for each branch office, except that the total amount of the bond [ shall be limited to ] will not be required to exceed \$200,000.

\* \* \* \* \*

(h) [ *Effective dates.* This section shall take effect as follows:

(1) Manufacturers and dealers currently authorized under this chapter to issue temporary registration plates, or those filing an initial application for authorization, shall comply with subsection (b) by August 9, 1990.

(2) Full agents filing an initial application for authorization to issue temporary registration plates

after the date of adoption of the amendment to subsection (b), shall comply with subsection (b).

(3) Full agents authorized to issue temporary registration plates prior to the date of adoption of the amendment to subsection (b) shall file a new bond, or a letter of credit, conforming to subsection (b), on a form furnished by the Department, by November 10, 1993. ]

*Authorized claims.* The Bureau has the right to make and settle claims upon the bond with the surety company on behalf of the Commonwealth and a person who has incurred a monetary loss as specified in subsection (a). The Bureau will, upon written request, assign this right to a person for that person's claim; however, in this event, the Commonwealth is released from any duty to the person towards obtaining satisfaction of that person's claim. The Commonwealth will have priority, to the exclusion of all others, in receiving payment from the surety. If the aggregate amount of valid claims exceeds the amount of the bond, priority for the payment of claims shall be as follows:

- (1) Claims made by the Commonwealth.
- (2) Claims made by the Commonwealth for persons.
- (3) Claims made by persons who obtained assignment from the Bureau.

§ 43.11. Sanctions for violations by issuing agents.

(a) *Schedule.* After providing an opportunity for a hearing, the Department [ may ] will impose the suspensions or sanctions on an issuing agent according to the [ following ] schedule of Category I violations [ by the agent ], and may impose suspensions or sanctions on an issuing agent according to the schedule of Category II violations, when the Department finds upon sufficient evidence that:

Reason for [ *suspension* ]  
sanction of agent

[ *Duration of Suspension* ] *Type of Sanction*

	[ 1st ] First Offense	[ 2nd ] Second Offense	[ 3rd ] Third Offense	[ 4th ] Fourth and Subsequent Offense
<i>Category I</i>	* * *	* * *	* * *	
(4) The agent has issued temporary plates but has [ not delivered ] failed to deliver proper documents [ or ], fees [ and ] or taxes to the Department [ within the prescribed time ].	<b>Suspension</b> [ Until ] until the documents, fees or taxes are delivered, plus a written warning.	<b>Suspension</b> [ Until ] until the documents, fees or taxes are delivered, plus 1 Month.	<b>Suspension</b> [ Until ] until the documents, fees or taxes are delivered, plus 6 Months.	<b>Revocation</b>
	* * *	* * *	* * *	
(8) The agent has submitted a document to the Department for processing which has been accompanied by an uncollectible or dishonored check drawn on [ the ] an account [ of ] used by the agent.	<b>Suspension</b> [ Until ] until uncollectible checks, protest fees and collection charges under the act are paid, plus a written warning.	<b>Suspension</b> [ Until ] until uncollectible checks, protest fees and collection charges under the act are paid, plus 1 Month.	<b>Suspension</b> [ Until ] until uncollectible checks, protest fees and collection charges under the act are paid, plus 6 Months.	<b>Revocation</b>



Reason for [ *suspension* ]  
sanction of agent

[ Duration of Suspension ] Type of Sanction

	[ 1st ] First Offense	[ 2nd ] Second Offense	[ 3rd ] Third Offense	[ 4th ] Fourth and Subsequent Offense
	* *	* * *		
(12) [ The agent has failed to retain proper records under 43.5(f) (relating to issuance of temporary registration cards. ]	[ Written warning ]	[ 1 Month ]	[ 6 Months ]	[ Revocation ]
The agent has issued temporary registration plates at a location not approved by the Department.	Written Warning	1 Month Suspension	3 Months Suspension	6 Months Suspension
(13) [ The agent has on two or more occasions violated, or failed to comply with, a provision of 75 Pa.C.S. Chapter 11, 13, 21, 23, or 71, or Departmental regulations promulgated under these Chapters. ]	[ 1 Month ]	[ 6 Months ]	[ Revocation ]	
The agent has operated a branch office without notifying the Department		Suspension until the branch office is approved by the Department or closed by the agent.		
	* *	* * *		
(20) [ The agent has been convicted of a summary offense, relating to the titling, registration or payment of sales tax for a vehicle, which was committed in connection with the business of the issuing agent. ]	[ 1 Month ]	[ 3 Months ]	[ 6 Months ]	[ Revocation ]
The agent has failed to maintain an established place of business.		Suspension until an established place of business is approved by the Department.		
Category II	* *	* * *		
(5) [ The manufacturer, dealer or full agent has failed to notify the Department of a change in ownership or other changes affecting the business of the issuing agent before or within 10 days of the change. ]		[ Until an application related to the change has been approved. ]		

Reason for [ *suspension* ]  
sanction of agent

[ Duration of Suspension ] Type of Sanction

	[ 1st ] First Offense	[ 2nd ] Second Offense	[ 3rd ] Third Offense	[ 4th ] Fourth and Subsequent Offense
The agent has issued temporary plates up but has not timely delivered proper documents, fees or taxes to the Department within the time prescribed by law or regulation.	Written Warning	Monetary penalty of \$50 to \$100 per violation; and suspension, for failure to pay the penalty or deliver the documents, fees or taxes within 45 days after the date the notice was sent, or a greater time period as specified by the Department, until the penalty is paid or documents, fees or taxes are delivered to the Department	Monetary penalty of \$100 to \$200 per violation; and suspension, for failure to pay the penalty or deliver the documents, fees or taxes within 45 days after the date the notice was sent, or a greater time period as specified by the Department, until the penalty is paid or documents, fees or taxes are delivered to the Department	3 Months suspension to Revocation
	* *	* * *		
[ (13) The agent has issued temporary registration plates at a location not approved by the Department. ]	[ Written Warning ]	[ 1 Month ]	[ 3 Months ]	[ 6 Months ]
[ (14) The agent has operated a branch office without notifying the Department. ]	[ Until the branch office is approved by the Department or closed by the agent. ]			
[ (15) ] (13) The agent has failed to provide proper security for temporary registration cards and plates.	Written Warning	1 Month suspension	3 Months suspension	6 Months suspension
[ (16) ] (14) The agent has refused to issue, upon request, a temporary registration card to an owner or lessee of a vehicle who possesses proper documentation.	Written Warning	1 Month suspension	3 Months suspension	6 Months suspension
[ (17) ] (15) The agent has failed to maintain an adequate schedule of business hours.	Written Warning	1 Month suspension	3 Months suspension	6 Months suspension
[ (18) ] (16) The agent has issued a cardboard temporary tag without verification that the vehicle will be transported to another state for registration as required by § 43.5(d)(2)(i)(C).	Written Warning	1 Month suspension	3 Months suspension	6 Months suspension
[ (19) The agent has failed to maintain an established place of business. ]	[ Until an established place of business is approved by the Department. ]			

Reason for [ **suspension** ]  
sanction of agent

[ **Duration of Suspension** ] **Type of Sanction**

	[ <b>1st</b> ] <b>First</b> Offense	[ <b>2nd</b> ] <b>Second</b> Offense	[ <b>3rd</b> ] <b>Third</b> Offense	[ <b>4th</b> ] <b>Fourth</b> and Subsequent Offense
[ <b>(20)</b> ] (17) The agent has:				
(i) Failed to furnish receipts as required.	Written Warning	1 Month <b>suspension</b>	3 Months <b>suspension</b>	6 Months <b>suspension</b>
(ii) Failed to retain duplicate copies of receipts for 3 years	Written Warning	1 Month <b>suspension</b>	3 Months <b>suspension</b>	6 Months <b>suspension</b>
[ <b>(21)</b> ] (18) The agent has issued a temporary registration to an applicant without proper documentation.	Written Warning	1 Month <b>suspension</b>	3 Months <b>suspension</b>	6 Months <b>suspension</b>
(19) <b>The manufacturer, dealer or full agent has failed to notify the Department of a change in ownership or other changes affecting business of the issuing agent before or within 10 days of the change.</b>	<b>Suspension until an application related to the change has been submitted to the Department.</b>			
(20) <b>The agent has failed to retain proper records under § 43.5(f) (relating to issuance of temporary registration cards).</b>	<b>Written Warning</b>	<b>1 Month suspension</b>	<b>6 Months suspension</b>	<b>Revocation</b>
(21) <b>The agent has on two or more occasions violated, or failed to comply with, a provision of 75 Pa.C.S. Chapter 11, 13, 21, 23 or 71, or Departmental regulations promulgated under these Chapters, except for untimely submissions as provided at paragraph (5).</b>	<b>1 Month suspension</b>	<b>3 Months suspension</b>	<b>6 Months suspension</b>	<b>Revocation</b>
(22) <b>The agent has been convicted of a summary offense, relating to the titling, registration or payment of sales tax for a vehicle which was committed in connection with the business of the agent, except for untimely submissions as provided at paragraph (5).</b>	<b>Written Warning</b>	<b>1 Month suspension</b>	<b>3 Months suspension</b>	<b>Revocation suspension</b>

\* \* \* \* \*

(c) *Multiple violations.* In the case of multiple violations considered at one time, the Department may impose separate sanctions for each violation under the schedule in subsection (a). The Department may [ , **in its discretion,** ] direct that a suspension or revocation imposed be served concurrently or consecutively. **If an agent, which is also a dealer, has been sanctioned with a monetary penalty as a dealer under Chapter 53 (relating to manufacturers, dealers and miscellaneous motor vehicle businesses registration plates), for a violation that involves the same violation for which a monetary penalty may be imposed under this chapter, only the monetary penalty prescribed at Chapter 53 will be imposed upon the agent, which is also a dealer, for the violations that constitute offenses of both this chapter and Chapter 53. The offenses will be noted upon the record for both this chapter and Chapter 53.**

(d) *Suspension authority reserved.* The description of grounds for suspension [ **shall** ] will not be deemed to

limit the authority of the Department to control the issuance of temporary registration cards and plates as granted by 75 Pa.C.S. §§ 1310 and 1331 (relating to temporary registration cards; and issuance of registration plates). The Department may [ , **in its discretion,** ] suspend an issuing agent for offenses not described in subsection (a), such as any use of temporary registration plates or official documents, or conduct on the part of the issuing agent, that does not conform to the law of the Commonwealth. Sanctions imposed under this subsection shall be consistent with the sanctions imposed under subsection (a) according to the seriousness of the violation as evidenced by factors such as the number of persons or documents involved, the amount of money involved, and the like.

\* \* \* \* \*

(h) *Relevant mitigating events.* For a violation of subsection (a) Category II(5), second, third or subsequent offense, the Department will consider the following relevant mitigating events that serve to

exonerate the agent of the offense or to reduce the monetary penalty that may be imposed. The agent has the burden of establishing the relevant mitigating event and that the relevant mitigating event was the cause of the violation or violations.

(1) *Exoneration.* In determining whether the relevant mitigating events serve to exonerate the agent of the offense, the Department will consider evidence offered by the agent pertaining to the following:

(i) Whether the failure to timely submit the applications, taxes or fees was the result of an Act of God, such as fire, flood or other natural disaster.

(ii) Whether the failure to timely submit the applications, taxes or fees was the result of criminal or fraudulent action by an employe or licensed messenger of which the agent was not aware and could not have prevented and that the agent had in place customary business practices to effectuate the timely submission of taxes, fees and title applications to the Department.

(iii) Whether the failure to timely submit the applications was the result of a lienholder's failure to promptly forward the titles to the agent, and, in this case, whether the lienholder received prompt repayment of the debt from the vehicle owner or licensed dealer and immediately released its liens.

(iv) Whether the agent would have been exonerated of prior sanctions that were issued against the agent within the 3 years prior to \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) had the Departmental regulations that were effective \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) been in effect.

(v) Whether the failure to timely submit the applications was the result of criminal, fraudulent or negligent action by an authorized messenger of the Department. This subparagraph does not apply when the same person controls the agent and the messenger. The agent has the burden of presenting evidence acceptable to the Department that it submitted the documents, taxes and fees to the authorized messenger within 15 days of the date of purchase of the vehicle, transfer of a registration or issuance of a temporary registration plate or card, whichever occurred first.

(2) *Reduction in monetary penalty.* In determining whether the events serve to reduce the monetary penalty that the Department may impose, but which will not exonerate the agent of the offense, the Department will consider evidence offered by the agent pertaining to the following:

(i) Whether subsequent to the applicable notice of hearing issued by the Department, the Depart-

ment's records reflect that the agent has remedied the event which was the cause of the untimely submissions and that no additional late submissions have occurred.

(ii) Whether the applications, taxes or fees were submitted by more than 20 but less than 40 days after the date of purchase of the vehicle, provided that no consumer or vehicle purchaser was harmed by the agent's failure to timely submit the applications, taxes or fees and that the agent had in place customary business practices to effectuate the timely submission of taxes, fees and title applications to the Department. Failure of the consumer or vehicle purchaser to receive the annual registration documents prior to expiration of the temporary registration constitutes harm.

(3) *Preclusion from mitigation.* If the Department discovers that the agent, or an employe of the agent, altered the date of purchase of a vehicle upon any application, the Department will be precluded from exonerating the agent of the offense or reducing the monetary penalty and will impose the sanction prescribed by subsection (a).

(i) *Suspension without hearing.* The Department will suspend an issuing agent without a hearing when the agent refuses to allow inspection of records in accordance with § 43.7(d) (relating to inventory of temporary registration cards and plates).

§ 43.12. Use of temporary registration plate.

\* \* \* \* \*

(d) *Use of temporary registration plates on vehicles transporting a load.* Vehicles transporting a load shall comply with the following:

(1) Temporary metal registration plates may be used on a vehicle transporting a load if the vehicle has a gross vehicle weight rating of 26,000 pounds or less and the vehicle and load have a gross weight of 26,000 pounds or less.

(2) Temporary metal registration plates may not be used on a vehicle transporting a load, if the vehicle has a gross vehicle weight rating in excess of 26,000 pounds or the vehicle and load have a gross weight in excess of 26,000 pounds, unless the vehicle is operating only within this Commonwealth or through jurisdictions which are not members of the International Registration Plan.

(3) Temporary cardboard registration plates may not be used on a commercial vehicle transporting a load.

(e) *Prosecution.* A person who violates subsection (c) shall be subject to prosecution under 75 Pa.C.S. § 1301 (relating to driving unregistered vehicle prohibited).

[Pa.B. Doc. No. 96-1299. Filed for public inspection August 9, 1996, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of State

The Executive Board approved a reorganization of the Department of State effective July 24, 1996.

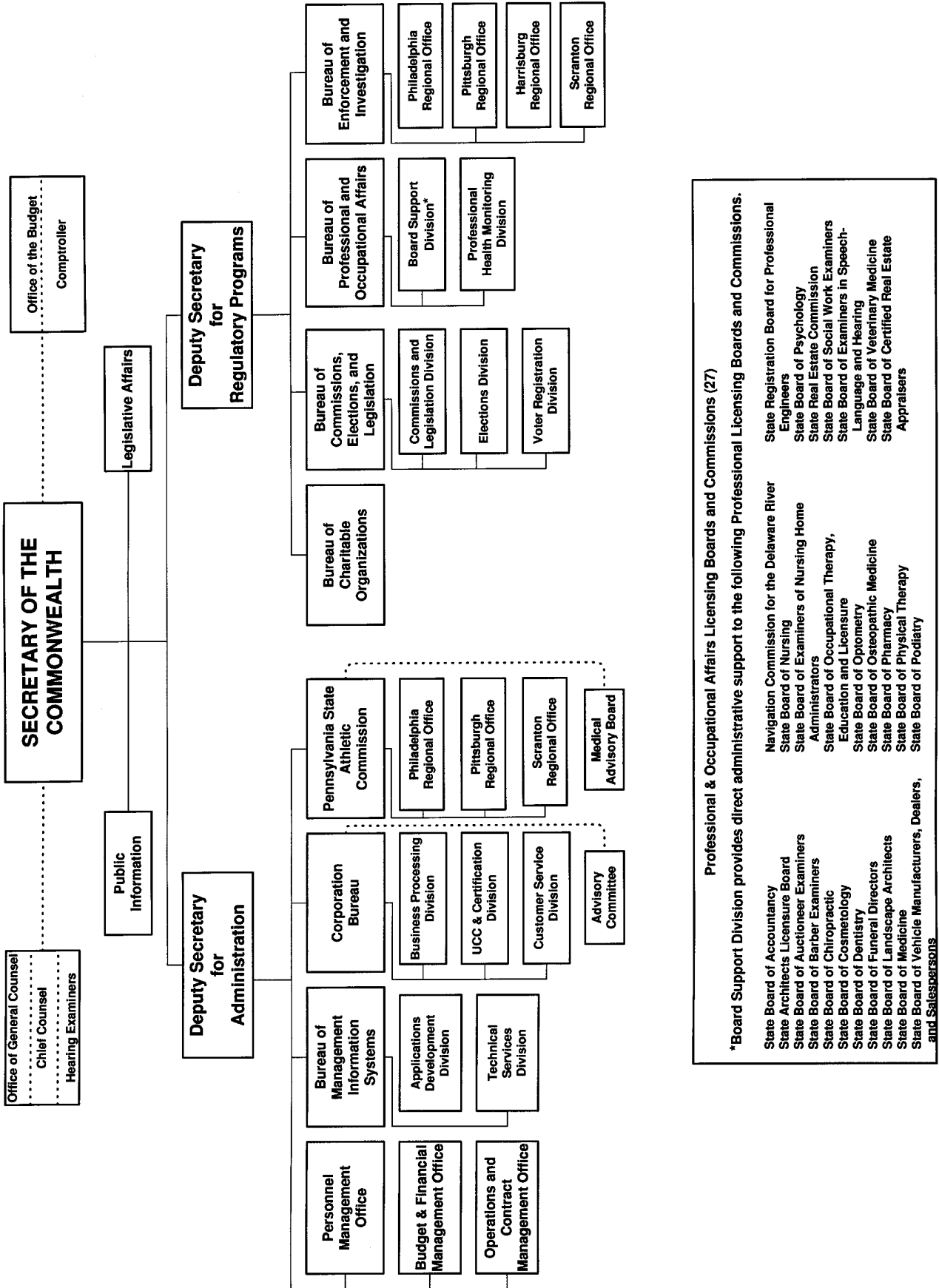
The organization chart at 26 Pa.B. 3850 (August 10, 1996) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(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. 96-1300. Filed for public inspection August 9, 1996, 9:00 a.m.]

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DEPARTMENT OF STATE



**\*Board Support Division provides direct administrative support to the following Professional Licensing Boards and Commissions (27)**

State Board of Accountancy	Navigation Commission for the Delaware River	State Registration Board for Professional Engineers
State Architects Licensure Board	State Board of Nursing	State Board of Psychology
State Board of Auctioneer Examiners	State Board of Examiners of Nursing Home Administrators	State Real Estate Commission
State Board of Barber Examiners	State Board of Occupational Therapy, Education and Licensure	State Board of Social Work Examiners
State Board of Chiropractic	State Board of Optometry	State Board of Examiners in Speech-Language and Hearing
State Board of Cosmetology	State Board of Osteopathic Medicine	State Board of Veterinary Medicine
State Board of Dentistry	State Board of Pharmacy	State Board of Certified Real Estate Appraisers
State Board of Funeral Directors	State Board of Physical Therapy	
State Board of Landscape Architects	State Board of Podiatry	
State Board of Medicine		
State Board of Vehicle Manufacturers, Dealers, and Salespersons		

# Title 52—PUBLIC UTILITIES

## PENNSYLVANIA PUBLIC UTILITY COMMISSION [52 PA. CODE CH. 69]

[M-960799]

### Rescission of Policy Statement; Implementation of Telecommunications

The Pennsylvania Public Utility Commission (Commission) on May 23, 1996, adopted an order that rescinded the policy statement at § 69.311 (relating to expanded interconnections for intrastate special access—statement of policy). The Commission's action is due to the implementation of the Telecommunications Act of 1996. The contact person is Maureen Scott, Assistant Counsel, Law Bureau, (717) 787-3639.

Public Meeting held  
May 23, 1996

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

#### Order

*By the Commission:*

#### A. Introduction

On February 8, 1996, President Clinton signed the Telecommunications Act of 1996 (Act) into law. As the first legislative reform of the nation's telecommunications industry in 62 years, the Act is a landmark piece of legislation designed to establish a National policy framework to lead the United States into the 21st century. While the Act is generally consistent with the Public Utility Code, including Chapter 30, which, in 1993, provided for telecommunications regulatory reform at the state level, the Act is far reaching and requires all 50 states to take action to accommodate and implement its provisions.

In recognizing the Act's immediate impact, this Commission acted quickly and on March 14, 1996, entered a Tentative Decision at M-00960799 identifying a variety of issues pertaining to the effects and necessary implementation of the Act. While as to some issues the Act's effects seemed relatively clear, the Commission felt it was appropriate to seek comment from interested parties on all issues before finalizing our view on any issue. In the Tentative Decision, the Commission stated as follows:

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 activity 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.

In issuing the Tentative Decision, the Commission solicited public comment in two separate formats. First, on April 3, 1996, the Commission held a public forum on all Federal Act implementation issues. Many interested parties actively participated in the public forum and provided a lively discussion of the Tentative Decision and surrounding issues.

Second, the Tentative Decision was published at 26 Pa.B. 1456 (March 30, 1996) and established a 30-day public comment period from the date of publication. Comments to the Tentative Decision were filed by the Office of Small Business Advocate (OSBA), GTE North, Inc. (GTE), the Pennsylvania Telephone Association (PTA), the Office of Consumer Advocate (OCA), the Pennsylvania Cable and Telecommunications Association (PCTA), the Telecommunications Resellers Association (TRA), Vanguard Cellular Systems, Inc. (Vanguard), Teleport Communications Group, Inc. (TCG), AT&T Communications of Pennsylvania, Inc. (AT&T), the Competitive Telecommunications Association (CompTel), Nextlink Pennsylvania, L.P. (Nextlink), Eastern Telelogic Corporation (ETC), MFS Intelenet of Pennsylvania, Inc. (MFS), The United Telephone Company of Pennsylvania and Sprint Communications Company, L.P. (Sprint/United), the Central Atlantic Payphone Association (CAPA), ALLTEL Pennsylvania, Inc. (ALLTEL), MCI Telecommunications Corporation (MCI) and Bell Atlantic—Pennsylvania, Inc. (Bell). Generally speaking, the comments were well developed and were extremely responsive to the issues and concerns raised by the Commission.

The Tentative Decision structured the debate over implementation of the Act into nine separate sections. We will structure this order similarly in addressing the comments of the parties and in finally resolving these issues.

#### B. Discussions of Issues

##### 1. Entry

##### a. Traditional Procedures

Historically, the Commission has regulated the entry of telecommunications carriers through review of entry applications filed under section 1101 of the Public Utility Code, 66 Pa.C.S. § 1101. Notice of filing is required to be published in the *Pennsylvania Bulletin* and newspapers of general circulation in the proposed service territory pursuant to Commission regulations at 52 Pa. Code § 5.14(a).<sup>1</sup>

Pursuant to 52 Pa. Code § 5.14(b), upon publication, applications are subject to a 15-day protest period. If no protests are filed, the application is reviewed by the Commission on the documents. If one or more protests is filed, the application is referred to the Office of Administrative Law Judge for oral hearing. In either case, the

<sup>1</sup> In 1993, an exception to this general rule was established through exercise of 52 Pa. Code § 5.14(a)(4) for interexchange resellers. Under this exception, resellers' applications are not required to be published and the only required notice is service on the OCA and OSBA.

Commission ultimately formally adjudicates the applications at Public Meeting and, by statute, may not approve an application unless it finds that grant of the application is "necessary or proper for the service, accommodation, convenience or safety of the public." 66 Pa.C.S. § 1103(a).

In applying the "necessary or proper" standard, the Commission has traditionally reviewed the fitness of the entrant (both technical and financial) to provide the proposed services in the application area and the need for the service, taking into account public policy concerns pertaining to the appropriate amount of competition, if any, in various telecommunications markets. Under this scenario, there has historically been two distinct types of protests brought before the Commission—fitness protests challenging the fitness of the application and competitive protests challenging the need or the appropriateness of the service proposed by the applicant.

Under these procedures, applications decided on the documents typically were adjudicated at Public Meeting 90—120 days from the date of filing. Applications decided through the oral hearing process typically were adjudicated at Public Meeting 7—12 months from the date of filing.

b. *Provisions of the Federal Act*

In the Tentative Decision, we acknowledged the likelihood that the Act would require some modification of traditional entry procedures applicable to telecommunications carriers. We noted that interpretation of the extent of required modification was focused on the interplay between Section 253(a) of the Act and Section 253(b) of the Act. In this regard, Section 253(a) of the Act 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.

As read together with Section 253(b) which provides:

(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 on consumers.

Upon initial review of these subsections, we suggested that Section 253(a) could be accommodated through conversion of the traditional certification process to a registration process and requested comment on this issue. Virtually all commentators provided input on the entry issue. The recommendations covered a wide range of potential modifications to the Commission's entry process and contained many helpful suggestions.

OSBA, AT&T, MCI, TRA and ETC opine that Section 253(a) has preempted the certification process and that the Commission must convert to a registration process. Bell, Sprint/United, GTE, ALLTEL and PTA take the position that the certification process can survive as long as the Commission takes steps to abbreviate and streamline entry procedures. OCA argues that certification procedures should not be modified and that a full fitness review and adjudication should continue as a service condition, on a competitively neutral basis. All carriers argue that even if the Commission converts to a registration process, existing carriers should not have to file any additional forms.

c. *New Entry Procedures*

After careful consideration, we believe that a proper balance can be achieved which accommodates Section 253(a)'s prohibition against entry barriers while still safeguarding consumers from potential predatory and illegal practices by irresponsible carriers. The entry procedures we will adopt for all interexchange carrier entrants (both facilities based and resellers) and all local service entrants to non-rural service areas<sup>2</sup> (both facilities based and resellers) are as follows:

1. New entrants seeking to commence the provision of intrastate service in Pennsylvania will file an application with the Commission following the form of application attached as Appendix A to this order. The form of application contains the information required by the Commission to monitor the carrier's activities on an ongoing basis. The form of application includes a fitness affidavit in which the carrier must swear and affirm its ability and commitment to providing the proposed service in full compliance with all provisions of Pennsylvania law. The application shall be accompanied by a proposed or interim tariff, consistent with Commission tariff rules and regulations.

2. An original and two copies of the application must be filed with the Commission's Secretary accompanied by a check for payment of a filing fee in the amount of \$250.

3. The new entrant will serve a copy of the application on the OCA, the OSBA, the Commission's Office of Trial Staff and the Attorney General's Bureau of Consumer Protection.

4. The new entrant may commence the provision of service included in the application immediately upon filing and service.

5. Each application will initially be assigned to the Secretary's Office.

6. Consistent with 52 Pa. Code § 5.14(b), a 15-day protest period will be established commencing on the day the application is filed and served. Any interested party may file a protest to an application. However, protests or interventions may only be filed if the protesting party is contesting the fitness of the entrant. Competitive protests or protests opposing other aspects of the entrant's provision of service may not be filed and, if submitted, will be returned by the Commission. Protests shall fully comply with 52 Pa. Code § 5.52(a) and shall "set out clearly and concisely the facts from which the alleged" challenge to the fitness of the applicant is based. An applicant may file an answer to the protest within 10 days of filing. Protests which do not fully comply with Section 5.52(a) will not be accepted for filing by the Commission's Prothonotary. The Commission may consider the imposition of sanctions for parties who are found to intentionally attempt to misuse the protest process.

7. If no legitimate protest is received, the Secretary's Office will schedule the application for consideration by the Commission at Public Meeting as soon as possible with a recommendation that the Commission adopt a Secretarial Letter which issues a certificate of public convenience to the new entrant consistent with the application.

8. Upon approval by the Commission, the Secretarial Letter and a certificate of public convenience will be issued to the carrier. Within 10 days of receiving a certificate of public convenience, the carrier shall file a

<sup>2</sup> Procedures for carriers seeking local service entry into rural service areas will be discussed subsequently.



final tariff which is identical in content to the proposed or interim tariff with the Commission's Tariffs Division.

9. Following the filing of a protest, the application shall be assigned to the appropriate bureau. Staff shall review the protest and determine if the protest raises legitimate concerns as to the fitness of the new entrant. If legitimate concerns as to the fitness are not present, the staff will prepare a recommendation for Commission consideration dismissing the protest and granting the application. If legitimate concerns are raised, the application shall be transferred to the Office of Administrative Law Judge for the conduct of hearings.

10. Any party desiring to oppose either an applicant's proposed or interim tariff or the entrant's final tariff may file a complaint with the Commission which will be treated consistent with existing procedures except as set forth in the following paragraph.

11. The applicant may continue to operate during the pendency of Commission consideration of the application or interim tariff unless the presiding administrative law judge or the Commission determines that public safety and welfare or the protection of consumer rights requires that the applicant cease operations.

Overall, it is clear to us that these new entry procedures strike a fair balance between Section 253(a) and Section 253(b). These procedures cannot reasonably be considered barriers to entry, but maintain adequate procedures to allow the Commission to exercise its very important residual authority. To the extent any of the procedures established today may be viewed as inconsistent with any provision of the Public Utility Code or Commission regulations, we find that continued compliance with such provisions would result in inconsistency with or violation of the Federal Act.

*d. Effect on Pending Applications*

There are presently several telecommunications carrier applications pending before the Commission for which either protests or interventions have been filed. To the extent any pending protest or intervention is not contesting the fitness of the new entrant, the protestant or intervenor shall withdraw the protest or intervention within 5 days of the date this order is entered. If the protest or intervention is intended to contest fitness, the protestant or intervenor shall file a motion within 5 days of the date this order is entered setting forth specific factual allegations which form the basis for the fitness challenge.

If withdrawal of protests or interventions results in a given application becoming unopposed, the application should be treated consistent with the new entry procedures contained herein. If any pending applications remain contested, the applications shall be referred to staff to determine if the protests or interventions contain legitimate fitness issues. In either case, the applicants may commence operations immediately pending administrative review. Carriers which have not filed proposed tariffs with their applications shall do so within 10 days of the date this order is entered.

*e. Rural Telephone Company Exemption.*

In our March 14, 1996 Tentative Decision, we discussed in significant detail the provisions of the Federal Act which specifically address rural telephone companies as follows:

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 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.<sup>9</sup> Subsection (e)(1) expressly incorporates by reference the requirements contained in subsections (e)(2) and (e)(3). Section 214(e)(2) provides as follows:

<sup>9</sup> 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.

(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) 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 (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 companies [footnote omitted] 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 [footnote omitted]. 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 non-rural 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 [footnote omitted]. 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 service the rural area.<sup>13</sup> 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).

<sup>13</sup> 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."

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 process.<sup>14</sup> 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.

<sup>14</sup> It 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.

In the PTA's comments to the Tentative Decision, the PTA formally informed the Commission that all Pennsylvania incumbent local exchange carriers, with the exception of GTE and Bell, qualified as rural telephone companies under Section 3 of the Federal Act.<sup>3</sup> The PTA further indicated that 32 of the remaining 36 companies qualified

<sup>3</sup> Under Section 3(a)(47)(A), a rural telephone company is a local carrier which provides service to an area which does not include:

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or  
(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

because they were companies eligible for streamlined regulation under 66 Pa. C.S. § 3006 in that they served less than 50,000 access lines. The other four carriers, ALLTEL, Commonwealth Telephone Company (Commonwealth), North Pittsburgh Telephone Company (North Pittsburgh) and United claimed qualification under one or more of the three remaining standards in the definition. Three of the four, ALLTEL, Commonwealth and United, claimed qualification only under subsection 47(D) on the basis that by their assessment, each company had "less than 15 percent of its access lines in communities of more than 50,000" on the date of enactment.

In order to resolve this issue, the Commission issued a Secretarial Letter on May 3, 1996 to ALLTEL, Commonwealth, North Pittsburgh and United requiring each carrier to supplement the PTA's comments and "to explain in detail the grounds on which rural telephone company status is claimed." The Commission further required that, to the extent the carrier was relying on subsection 47(D), the carrier should specifically identify how the company defined the term "communities" and to identify all communities served by the carrier which exceeded the subsection 47(D) standard. The carriers were required to serve their responses on all active parties at this docket.

On May 8, 1996, United, Commonwealth and North Pittsburgh each filed responses which indicated that they had defined "communities" as the municipalities listed in their respective tariffs and that under this standard, none of the companies served any community with more than 50,000 inhabitants. ALLTEL filed a response on May 10, 1996 which contained a similar explanation.

On May 17, 1996, AT&T, ETC, MCI and OCA filed responses to the supplemental comments. Both AT&T and OCA contest the ILEC interpretation and application of the definition and argue that the definition should be interpreted more restrictively.

We have closely reviewed the Act's definition of "rural telephone company" and find it extremely difficult to identify the intent of the express language. The language of the definition is poorly drafted and arguably internally contradictory. We understand that this is a significant issue and are reluctant to interpret the provision and apply it on a Pennsylvania specific basis at this time, given that we may benefit from additional clarity that may become available as the implementation effort proceeds. It does not appear necessary to reach a definitive conclusion at this time. Furthermore, it will be valuable to monitor the actions of other states in addressing this issue.

Overall, we are satisfied that North Pittsburgh qualifies as a rural telephone company; however, we will defer a decision on the remaining ILECs and, when appropriate, will issue an order resolving this issue either at this docket or at the *Universal Service* docket. In the meantime, interested parties may provide additional input on this issue provided such information is served on all parties on the service list at this docket.

With the exception of the issue of which carriers qualified for rural telephone company status, the comments to the Tentative Decision either accepted or favored the Commission's proposed consolidated procedures under Section 252(g) for review of entry, interconnection and universal service eligibility. We continue to believe that use of such consolidated procedures when appropriate is

(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

in the best interests of administrative efficiency and is otherwise in the public interest. However, at least at this time, we are not convinced that use of consolidated procedures for the larger rural telephone companies is appropriate and believe the consolidated procedures should initially be applied only to the carriers with under 50,000 access lines.<sup>4</sup>

This does not mean that any other rural telephone companies do not receive the general benefits of rural telephone company status as expressly set forth in Sections 251, 253 and 254.<sup>5</sup> It merely means that we will not exercise the option provided state commissions under Section 252(g) for these carriers at this time.

Accordingly, we will adopt our discussion in the Tentative Decision, as recited previously, for all rural telephone companies with less than 50,000 access lines (small LECs). Under these consolidated procedures, a carrier seeking entry into the service territory of a LEC that is eligible for streamlined regulation must file a bona fide request for interconnection under Section 251(f)(1)(A) with the small LEC and a request for universal service eligibility designation under Section 214(e)(2) committing to an obligation to serve throughout the small LEC's service territory with the entry application.<sup>6</sup> Entry applications for small LECs will be subject to normal procedures under 66 Pa.C.S. §§ 1101 and 1103, with publication notice requirements and broader ability to protest, as traditionally utilized.<sup>7</sup> The result will be the degree of protection envisioned by both Congress and our General Assembly for these small, rural carriers.

Implementation of these procedures will have an effect on pending applications. Presently, the Commission has several statewide local service applications pending before it. In order to comply with these procedures, these applicants must either withdraw the portion of their applications which seek entry into small carrier service territories or, in the alternative, supplement their applications with bona fide interconnection requests for each small LEC and a request for universal service eligibility designation for each small LEC's service territory. If an applicant chooses to supplement its application, the statewide application must be bifurcated to accommodate the different procedural requirements and review standards for the small company service area component of the application.

An applicant withdrawing the small LEC service area part of its pending application shall do so within 10 days of the date this order is entered. An applicant supplementing its application shall provide notice of filing of the supplement within 10 days of entry and shall file a supplement within 30 days of entry.

*f. Terms and Conditions of Service—Obligation to Serve in Non-Rural Service Areas and Joint Marketing*

On October 4, 1995, the Commission entered an order in *Application of MFS Intelenet of Pennsylvania, Inc. et*

*al.*, (MFS), A-310203F.002, which for the first time certificated four carriers, MFS, MCI, TCG and ETC, to compete in Pennsylvania local service markets. All four certificates restricted the provision of local service to all or part of Bell's service territory. In granting these four applications, the Commission imposed on the carriers a certificated area wide obligation to serve and prohibited "joint package" marketing of their telecommunications services. In our Tentative Decision, we requested comment as to whether these two requirements should be preserved, post enactment of the Federal Act, as terms and conditions of service under Section 253(b).

Many parties filed comments and provided discussion at the public forum on these two issues. The comments can generally be divided into two categories. Predictably, the IXC/CLEC community opined that under the Federal Act, the obligation to serve could not be imposed as an entry requirement for non-rural LEC service territories and could not be included as a mandatory term and condition until such time as the entrant seeks universal service support eligibility under Section 214(e)(2). The IXC/CLECs also argued that the Commission is preempted from imposing "joint package" marketing restrictions as an entry requirement and that imposing such restrictions as a term or condition of service was generally inconsistent with the Federal Act. Just as predictably, ILEC commentators argued that the Commission could impose both obligation to serve and "joint package" marketing restrictions on all CLECs as entry requirements.

We have carefully considered both of these issues and have determined that in both cases, our prior policies should be modified. As to the obligation to serve, we stated as follows in our October 4, 1995 order at A-310203, F.002:

In conclusion, MFS must expend the same effort to serve a residential customer who requests service as a business customer to whom MFS' marketing strategy is targeted. This shall be characterized as a conditional obligation to serve, pending completion of the incumbent LEC's unbundling of its local loops. Once the local loop is unbundled so that MFS and co-carriers can lease facilities to serve customers, they [all competitive local exchange carriers] should have an unconditional obligation to serve.

While there are important public policy concerns reflected in requiring and promoting obligation to serve commitments, which concerns are shared by the Federal Act—the Federal Act imposes obligation to serve commitments in a different manner than under our initial policy—at least for non-rural LEC service areas. Under the Federal Act, the obligation to serve is expressly divorced from the entry process and is not included as a mandatory initial service commitment. Instead, the obligation to serve commitment is addressed through universal service support eligibility procedures. Under the Federal Act it is envisioned, if not required,<sup>8</sup> that carriers be permitted to initially compete in non-rural service areas without an obligation to serve commitment. An obligation to serve would only be required as a prerequisite to receiving universal service support.<sup>9</sup>

Whether or not we have any option to do otherwise, we will adopt the Federal approach, reconsider and rescind

<sup>4</sup> This decision is supported by Chapter 30 which sets forth the legislative interest in establishing more streamlined regulation for carriers with less than 50,000 access lines. 66 Pa.C.S. § 3006.

<sup>5</sup> Under Section 254(f)(2), local exchange carriers with fewer than 2% of the nation's subscriber lines, which likely would include North Pittsburgh, ALLTEL and Commonwealth, may petition the Commission for suspension of modification of interconnection requirements, including otherwise mandatory unbundled access, resale and collocation. The Commission's review of any such petitions must be completed within 180 days of filing and is subject to a public interest type standard.

<sup>6</sup> Under Section 253(f)(1), consolidation of universal service support eligibility designation with an entry application to serve areas which are served by rural LECs is not appropriate if the rural LEC obtains exemption from the resale requirements of Section 254(c)(4). Accordingly, we will not utilize consolidation procedures for streamlined LECs which obtain a resale requirement exemption.

<sup>7</sup> Consolidated procedures will not be subject to the 120-day time limitation addressed by Section 251(f)(1)(B) of the Act since consolidated procedures will address a wide variety of issues justifying greater time for administrative review.

<sup>8</sup> Section 253(f), as recited previously, expressly indicates that it is not a violation of the Federal Act to impose the obligation to serve requirements of Section 214(e)(1) in the entry process for rural telephone company markets unless the rural telephone company has obtained a resale requirement exemption. The natural inference drawn from such language is that it would be a violation of the Act to impose obligation to serve requirements on carriers entering non-rural markets.

<sup>9</sup> It is unlikely that in the long run a carrier could compete effectively in rural serving areas without being eligible for universal service support.

the language imposing an obligation to serve as an entry requirement and as a term and condition of service in our October 4, 1995 order at A-310003,F.002 and address the obligation to serve commitment in the universal service eligibility context.<sup>10</sup>

As to "joint package" marketing restrictions, in our October 4, 1995 order at A-310203,F.002 we stated that, "Upon the grant of co-carrier status pursuant to this Opinion and Order, MFS [and other CLECs] shall be subject to the same restrictions on interLATA toll service packaging . . . applicable to the other LECs in Pennsylvania absent a specific waiver."<sup>11</sup> Such a marketing restriction was designed to obviate the advantages of CLEC "joint marketing" activities for local, intraLATA and interLATA toll services, since certain ILECs, including Bell, were prohibited from providing interLATA toll services.

The purpose of past imposition of marketing restrictions on LEC long distance reseller affiliates was to decrease any competitive advantage over other long distance carriers a LEC affiliated reseller had with the LEC's customers—particularly since in a monopoly setting the LEC completely controls the presubscription interexchange carrier (PIC) process and has the ability to influence consumer decisions through incomplete or inaccurate disclosure. Upon further review, it appears to us that such a concern becomes less significant as local competition develops. Furthermore, we must keep in mind that in a competitive environment our objective is to decrease regulation for all carriers rather than impose existing requirements on new carriers, except where the requirements are imposed by statute or remain necessary to the public interest.

Of course, we have a desire to treat all carriers competing in a given market fairly. However, pertaining to marketing restrictions, such an objective can be achieved by eliminating any relevant marketing restrictions on a LEC or its affiliate at the time a competing local carrier or carriers enters the LEC's service territory. Such an approach is consistent with both principles of fairness and our desire to reduce regulation where appropriate. Accordingly, we will adopt such an approach in the future and will not impose mandatory restrictions on CLECs entering LEC service territories.

The present marketing restrictions imposed in our *MFS* order raise different concerns because those restrictions only apply to carriers competing in Bell's service territory. Of course, at the present time, Bell cannot provide interLATA service and eliminating marketing restrictions on Bell would be a meaningless gesture.

However, in addressing the issue of whether carriers competing in Bell's local service markets should be subject to continuing market restrictions it is helpful to evaluate the approach taken by the Federal Act in addressing this issue. In this regard, Section 271(e)(1) of the Act provides as follows:

Until a Bell operating company is authorized pursuant to subsection (d) to provide interLATA services

<sup>10</sup> As to rural telephone companies with over 50,000 access lines, where Section 253(f) expressly authorizes the Commission to include the obligation to serve as an entry requirement but where we have initially determined not to utilize consolidated procedures, we will refrain from deciding whether we will impose an obligation to serve as a mandatory term and condition and will address this issue at the time a carrier makes a bona fide request for interconnection to these ILECs.

<sup>11</sup> Historically, the Commission has readily accepted the structural separation between ILECs and their reseller affiliates or subsidiaries that offer interLATA and intraLATA toll services. Furthermore, the Commission has established and imposed competitive safeguards requiring LEC interLATA affiliates to market services in a manner that conveys to current and potential customers that the long distance entity is a separate and distinct company from the local carrier.

in an in-region State, or until 36 months have passed since the date of enactment of the Telecommunications Act of 1996, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such State telephone exchange service obtained from such company pursuant to section 251(c)(4) with interLATA services offered by that telecommunications carrier.

Accordingly, in addressing the exact issues governing competitive fairness, Congress determined that it was only appropriate and necessary to impose marketing restrictions on carriers competing in Bell's local service territory if the carrier serves greater than 5% of the nation's presubscribed access lines. While we do not believe we are required to adopt such an approach, upon review, such an approach appears to be wise and adequately addresses our concerns with competitive fairness. Therefore, we will adopt the Federal approach and will modify the language in our *MFS* order to be consistent with the discussion herein.

*g. Chapter 63 and 64 Requirements*

In the Tentative Decision, the Commission requested parties to identify any provision of Chapter 63 or 64 which is subject to potential preemption by the Federal Act. No commentator identified any provision which could be reasonably viewed as subject to preemption. We agree.

*h. Equity Transfers and other Financial Transactions*

In the Tentative Decision, we requested interested parties to comment on whether the Act has a preemptive effect on the regulatory approval of equity transfers and other financial transactions required by the Public Utility Code. No party has argued that the Federal Act has any preemptive effect on these required regulatory approvals. Several parties argue that existing procedures should be streamlined. Sprint/United argues that although not preempted, affiliated interest transaction approvals should be eliminated as unnecessary.

Whether or not affiliated interest transaction review by the Commission continues to be necessary, such review is required by statute and remains mandatory absent legislative intervention.<sup>12</sup> As to abbreviation of procedures, we will continue to evaluate ways to streamline existing procedures consistent with our enabling statute.

**2. Interconnection**

One of our areas of increased responsibility under the Federal Act involves review of interconnection agreements between carriers. As discussed in detail in the Tentative Decision, Commission development and Commission review of interconnection agreements is divided into three phases: 1) the negotiations phase, 2) the arbitration phase and 3) the adjudication phase.<sup>13</sup>

*a. The Negotiations Phase*

The development of an interconnection agreement commences on the day a carrier receives a request for interconnection from another carrier (day 1). It is absolutely essential, and through this order we will require that each carrier requesting an interconnection agreement from another carrier shall file a copy of the request with the Commission at the requesting carrier's A-docket. If the requesting carrier does not have an A-docket, an A-docket shall be assigned by the Commission's Secretary at the time of filing of the interconnection agreement.

<sup>12</sup> Unlike the FCC, the Commission has not been given forbearance authority.

<sup>13</sup> Under Section 251(f) of the Act, separate procedures are established for carriers seeking to interconnect with a rural telephone company.

The negotiations phase, as established by the Act, is the first 135 days of development of the interconnection agreement. From our perspective, the negotiations phase must be restricted to the contracting parties. Under Section 242(a)(2), at any point during the negotiations, either of the parties may request the Commission "to participate in the negotiations and to mediate any differences arising in the course of the negotiations." The Act gives no further guidance as to how the role of mediator should be accomplished.

The formal role of mediator is a new role for the Commission for which we have little prior experience although the Commission does engage in similar type activity through its alternative dispute resolution process. GTE and TRA suggest that the Commission adopt provisions of existing mediation and arbitration rules to structure the dispute resolution process. Both parties have suggested reference to the American Arbitration Association (AAA) Commercial Mediation and Commercial Arbitration Rules.

Upon review of AAA Commercial Mediation Rules, we are satisfied that adoption of many of its provisions will serve us well. Consistent with the AAA rules, we will adopt the following procedures applicable to Commission mediation of interconnection disputes:

1. Under Section 252(a)(2), either of the contracting parties may file a formal request for mediation with the Commission. The request shall be filed at the A-docket of the carrier seeking an interconnection agreement.

2. (AAA Commercial Mediation Rule # 3) A request for mediation shall contain a brief statement of the nature of the dispute and the names, addresses and phone numbers of all parties to the dispute and those who will represent them, if any, in the mediation. The initiating party shall file an original and two copies of the request with the Commission and shall serve a copy of the request on the other party to the dispute.

3. The Commission will designate a member of Commission staff or an outside party to fulfill the role of mediator on its behalf.

4. The mediator will schedule mediation sessions.

5. (AAA Commercial Mediation Rule # 9) At least ten days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, such memoranda may be mutually exchanged by the parties. At the first session, the parties will be expected to produce all information reasonably required for the mediator to understand the issues presented. The mediator may require any party to supplement such information.

6. (AAA Commercial Mediation Rule # 10) The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. The mediator is authorized to end the mediation whenever, in the judgment of the mediator, further efforts at mediation would not contribute to a resolution or the dispute between the parties. If the mediator determines that the mediation should be terminated, the mediator shall prepare and submit a report to the Commission providing a summary of the mediation

and explaining the reasons why the mediation was not completely successful. The report should also be provided to the parties.

7. (AAA Commercial Mediation Rule # 7) Mediation sessions are private. The contracting parties and their representatives and members of Commission advisory staff may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator.

8. (AAA Commercial Mediation Rule # 12) Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by a mediator while serving in that capacity shall be confidential. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversarial proceeding or judicial forum. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding:

(a) views expressed or suggestions made by another party with respect to a possible settlement of the dispute;

(b) admissions made by another party in the course of the mediation proceedings;

(c) proposals made or views expressed by the mediator; or

(d) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

9. (AAA Commercial Mediation Rule # 13) There shall be no stenographic record of the mediation process.

10. (AAA Commercial Mediation Rule # 14) The mediation shall be terminated:

(a) by the execution of an agreement by the parties which is subsequently approved by the Commission;

(b) by a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or

(c) by a written declaration of a party or parties to the effect that the mediation proceedings are terminated.

11. If a settlement agreement is reached and executed, the mediator shall prepare and submit a report to the Commission summarizing the mediation and explaining and making recommendations regarding the terms of the settlement. The report shall be made public and shall be provided to the parties to the mediation. The parties shall jointly file an interconnection agreement which reflects the terms of the settlement agreement, the settlement agreement, the mediator's report and a petition requesting Commission approval of the settlement agreement and the interconnection agreement with the Commission within 30 days of execution of the settlement agreement.

12. Notice of the filing of the above-referenced documents will be published in the *Pennsylvania Bulletin*. Interested parties may file comments to the interconnection agreement within 20 days of publication. The Commission will adjudicate the petition for adoption of the settlement agreement and will either approve or reject the interconnection agreement within 90 days of the filing pursuant to Section 252(e)(4).<sup>14</sup>

These procedures appear to be efficient and effective in carrying out the Commission's mediation role and com-

<sup>14</sup> We will also follow these procedures for interconnection agreements which are negotiated without the use of Commission mediation.

mencing and adjudicating negotiated interconnection contracts. Accordingly, we are satisfied that these rules will suffice in fulfilling our mediation responsibilities as envisioned in the Federal Act.

b. *The Arbitration Phase*

Pursuant to Section 252(b), if the parties are unsuccessful in negotiating an interconnection agreement, with or without mediation, either party may file a petition with the Commission from day 135 to day 160 to arbitrate the contractual dispute. The arbitration process is intended only to address those issues which have not been negotiated by the parties. Pursuant to Section 252(b)(2), the petitioner must submit with its petition "all relevant documentation concerning—(i) the unresolved issues; (ii) the position of the parties with respect to those issues; and any other issue discussed and resolved by the parties." The petition must be served on the other negotiating party on the filing date. Pursuant to Section 252(b)(3), responses to the petition must be filed with the Commission within 25 days of the filing date. The Commission may require the parties to provide any information relevant to resolving the disputed issues. Pursuant to Section 252(b)(4)(c), the Commission must arbitrate and resolve all disputed issues within 270 days of the date of the interconnection request.<sup>15</sup>

In the Tentative Decision, the Commission requested comment from interested parties regarding the appropriate procedural details of the arbitration process which will be required to carry out the express statutory provision. Much of the discussion in the comments pertained to the openness of the arbitration process and who should be permitted to participate. Generally speaking, the OCA and the competitive industry recommended an open process in which all interested parties could participate actively in any given arbitration. In contrast, the ILEC industry supported a more closed process in which only the contracting parties could participate. Upon review, we will establish a process which attempts to accommodate the views of all parties and also satisfies our very serious concerns regarding the short timeframes established by Congress for state commission arbitration.

After careful consideration, we will establish the following procedures to govern all arbitrations:

1. Each contracting party shall file a report with the Commission at the A-docket number of the party seeking interconnection, no later than day 125 from the date of the interconnection request, which provides the status of the negotiations and provides an assessment of whether each party believes it will be necessary to petition for arbitration.

2. Either contracting party may file an original and two copies of a petition with the Commission requesting arbitration of disputed issues in the 25-day window from day 135 to day 160 from the date of the interconnection request. Petitions must comply with Section 252(b)(2)(A) of the Act. Petitioning parties should err on the side of providing too much documentation rather than not enough documentation. Petitions which do not include adequate documentation may be dismissed by the Commission. The petition shall be filed at the A-docket number of the party requesting an interconnection.

3. The arbitration petition shall be served on the other contracting party, the OCA, the OTS and the OSBA on

the day of filing. We recognize the statutory right of the OCA, OTS and OSBA to participate throughout the arbitration process. No other party may participate in the arbitration process until later in the process as described hereafter. However, at the same time, all arbitration proceedings will be public in nature. The contracting parties, the OCA, the OTS and the OSBA may file answers with the Commission within 25 days of the filing date consistent with Section 252(b)(3).

4. The Commission will designate a member of Commission staff or an outside party to fulfill the role of arbitrator on its behalf.

5. The arbitrator will schedule a preliminary conference to identify and discuss the issues to be resolved, to stipulate to uncontested facts and to consider any other matters designed to expedite the arbitration proceedings. If no party raises disputed facts or if the arbitrator determines that the disputed facts raised are not material, the remainder of the arbitration will be conducted on the documents consistent with a schedule established at the preliminary conference by the arbitrator.

6. If disputed, material facts are present, the arbitrator will schedule oral arbitration proceedings required to resolve the disputed material facts. Oral arbitration proceedings shall be strictly confined to the material facts disputed by the parties. Other advocacy or evidence will not be permitted. Any oral arbitration proceedings shall be transcribed.

7. Regarding oral arbitration proceedings, the arbitrator is delegated authority to determine the format for conduct of the proceedings. The format and conduct of the proceedings shall be designed with the primary objective of decreasing the time and resources associated with the proceedings. The authority delegated to the arbitrator shall include but not be limited to determinations as to whether evidence must be submitted under oath, whether evidence should be prefiled, whether preliminary documentary statements should be required and whether memoranda or briefs are necessary.

8. Parties to the arbitration proceeding shall submit evidence in support of their position regarding material, disputed facts consistent with the procedural format adopted by the arbitrator.

9. The arbitrator shall be the sole judge of the relevance and materiality of the evidence pertaining to resolution of material, disputed facts. Conformity to legal rules of evidence shall not be necessary.

10. Following the proceedings as directed by the arbitrator, the arbitrator shall prepare a recommended decision which, as required by Section 252(b)(4)(c) of the Act, "resolves each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues . . ."<sup>16</sup> The recommended decision shall be concise and is not required to provide unnecessary discussion of the background of the proceedings or the positions of the parties. The recommended decision shall specifically identify and discuss each disputed, material fact and the arbitrator's recommended resolution of the factual dispute as well as the effect of the resolution on the terms and conditions of the interconnection agreement. The recommended decision will be issued no later than day 220 from the date of the request for interconnection.

<sup>15</sup> The amount of time the Commission actually has to arbitrate an interconnection agreement is dependent upon when in the 25-day window between day 135 and day 160 the arbitration petition is filed. In the worst case scenario, if the petition is filed on day 160, the Commission will only have 110 days to complete its arbitration.

<sup>16</sup> The standards for arbitration to be applied by the arbitrator are extensive and are set forth at Section 252(c).

11. The recommended decision shall be served on the parties to the proceeding. A notice of the issuance of the recommended decision shall also be served on each party on the service list at this docket (M-00960799). Interested parties desiring to receive notice of interconnection agreement recommended decisions shall enter their appearance at this docket.

12. Any interested party, including parties which have not participated in the arbitration proceeding previously, may file exceptions to the recommended decision within 15 days of the date of issuance of the recommended decision. No reply exceptions will be permitted.

13. The Commission will issue an arbitration order which finally resolves all material disputed facts and finally arbitrates all disputed terms and conditions of the interconnection agreement by no later than day 270 from the date of the interconnection request.

Again, we are satisfied with these procedures in that they balance the concerns of all interested parties. While fulfilling our new responsibilities pertaining to arbitration of interconnection agreements will undoubtedly be difficult, we are convinced that adoption of these arbitration procedures will further our ability to address these important issues in a timely fashion.

#### *c. Adjudication Phase*

Although not specifically addressed in Section 252, it is clear that the Act envisions that upon resolution of all terms and conditions of interconnection, whether through negotiation and mediation or arbitration, the contracting parties must reduce the agreement to writing and execute the agreement.<sup>17</sup> Pursuant to Section 252(e), the executed agreement must then be filed with the state commission to conduct the adjudication phase of the proceeding.

The Act does not give any express guidance as to when agreements must be filed with the state commission. However, since the period for negotiations concludes on day 160, we conclude that an executed, negotiated interconnection agreement accompanied by a joint petition for adoption of the agreement shall be filed by no later than 30 days following the close of the negotiations phase or by day 190 following the request for interconnection. As to arbitrated agreements, the executed agreement accompanied by a joint petition for adoption shall be filed with the Commission no later than 30 days following the entry of the Commission order finally arbitrating the agreement. In either case, although an original and two copies of the papers shall be filed with the Commission at the A-docket of the party requesting interconnection, the papers shall also be served on all parties on the service list at this docket.

Pursuant to Section 252(c)(4) of the Act, the Commission must approve or reject the agreement, consistent with the standard set forth in Section 252(e) by no later than 90 days from filing for negotiated agreements and 30 days from filing for arbitrated agreements. To accommodate these time deadlines, we will establish a 20-day response period for the filing of comments by interested parties to negotiated agreements and a 7-day response period for the filing of comments by interested parties to arbitrated agreements. The Commission will issue an order approving or rejecting each agreement within the required timeframe established by the Act. Pursuant to Section 252(h), the Commission will make each approved agreement available for public inspection and copying

<sup>17</sup> Since state commission arbitration is expressly compulsory and binding by law, the contracting parties must reduce arbitrated agreements to writing and execute each agreement even if one or both of the parties is not satisfied with the arbitration.

within ten days of the entry date of the Commission's order finally approving the agreement. Although we will not establish a fee schedule or fee requirement for interconnection agreement proceedings at this time, our normal copying charges will be applied to requests for a copy of any interconnection agreement.

#### **3. Statement of Generally Available Terms**

Under Section 252(f) of the Act, Bell may file and seek approval of a statement of generally available interconnection terms and conditions with the Commission. The statement must be reviewed by the Commission and may not be finally approved unless the statement complies with Section 252(d), as quoted previously, Section 251, any FCC regulations promulgated under Section 251 and any relevant state law requirements. Pursuant to Section 252(f)(3), if the Commission does not complete its review of the statement within 60 days of filing or within the time extension agreed to by Bell, the Commission must allow the statement to become effective subject to further review.

In our Tentative Decision, we suggested that filing and review of these statements appeared to be consistent with existing tariff filing procedures as provided for by 66 Pa. C.S. § 1308(a) and (b) and requested interested party comment on the appropriateness of use of existing tariff procedures. Many of the parties objected to the use of Section 1308(a) and (b) procedures for different or even opposite reasons.

However, upon further review, we find that the Act's procedural requirements for filing and review of a generally available terms statement by Bell are virtually identical to existing tariff procedures. Accordingly, we will formally adopt Section 1308(a) and (b) procedures for filing and review of a Bell statement under Section 252(f) of the Act with the single modification that the Commission may not suspend the terms statement during the 60-day review period and must allow the statement to become effective if review is not completed.

#### **4. Resale Restrictions**

In our Tentative Decision, we requested comment on the meaning of the resale restriction imposed by Section 251(c)(4) of the Act. Since the issuance of the Tentative Decision, this issue has come before us in a different docket, R-00963578, and we will address this issue at that docket.

#### **5. Pre-enactment Interconnection Agreements**

One of the most controversial issues we must resolve is how to implement Section 252(a) of the Act pertaining to filing of pre-enactment interconnection agreements. Section 252(a) provides as follows in relevant part:

. . . The agreement [any negotiated interconnection agreement], including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection(e) of this section.

Section 252(e), as discussed previously, would require the Commission to review each agreement for compliance with the standards set forth in Section 252(c)(2)(A) and issue a decision approving or rejecting the agreement within 90 days of filing.

The Tentative Decision concluded that Section 252(a) appeared to include existing EAS agreements and cellular or mobile carrier interconnection contracts with ILECs and requested comments as to how to best manage

implementation of the apparent requirements and procedures. The comments focused a great deal of attention on this issue. The competitive industry favors immediately requiring filing of all pre-enactment agreements, including EAS and cellular carrier interconnection agreements with ILECs.<sup>18</sup> The ILEC commentators just as strongly opposed requiring the filing of any pre-enactment interconnection agreement as being inconsistent with the policies and objectives underlying the Act.

We focus our attention on this issue with great caution since the outcome could create a very significant administrative burden for our agency. Although we have carefully reviewed the comments of the ILECs on this issue, in the end we can only return to the clear language of Section 252(a) which is difficult to reasonably interpret other than as requiring the filing and approval of all pre-enactment interconnection agreements.

All of the ILECs argue that only competitive, pre-enactment interconnection agreements be interpreted as subject to Section 252(a)'s requirements because competitive scenarios are the clear focus of Section 251.<sup>19</sup> However, no such qualification can be drawn from the express language of Section 252(a). Furthermore, we are mindful of Section 252(i) which requires that the terms and conditions of all interconnection agreements approved by the Commission, including pre-enactment interconnection agreements, be made available to any other requesting telecommunications carrier.<sup>20</sup> Accordingly, it appears that Congress intended that Section 251 require the elimination of pre-existing agreements which do not meet the Act's requirements to assure that agreements between all carriers, except Section 201 agreements, including agreements between ILECs, are competitively neutral and are made generally available.

While acknowledging the express language of Section 252(a), this issue is complicated further by a number of factors. First, it appears there may be hundreds of pre-enactment interconnection agreements between ILECs and between ILECs and wireless carriers in the Commonwealth. Furthermore, it appears possible, if not likely, that requiring filing of these contracts, particularly EAS contracts, would not result in filing but would result in cancellation of many of the contracts.<sup>21</sup> Such a situation would have a serious impact on the continued provision of service, particularly in EAS situations.<sup>22</sup> While we are aware that several states have taken action to require filing of all pre-enactment agreements, we are reluctant to resolve this issue and to take substantive action until we fully understand the potential administrative burden and repercussions caused by any potential action.

Accordingly, we will require the submission of further information on this subject. Within 30 days of the date

<sup>18</sup> Vanguard, the only cellular provider filing comments, strongly recommended that the Commission require the filing of all cellular interconnection contracts with ILECs.

<sup>19</sup> GTE points out that the Conference Report accompanying Senate Bill 652 indicates that the review of interconnection agreements was not intended to include Section 201 agreements governing the provision of interexchange service. We agree. However, EAS contracts involve the provision of local service not interexchange service and are not Section 201 agreements. GTE also argues that the Section should be interpreted to only apply to agreements which were negotiated pre-enactment but were not executed until after enactment. However, the clear language of Section 252(a) does not support such an interpretation.

<sup>20</sup> Bell makes the argument that if the filing of pre-enactment contracts are required and approved by the Commission for EAS contracts that the terms and conditions in each agreement be made generally available only for the specific route(s) governed by each respective agreement. While such an interpretation is not unreasonable, we will defer resolution of interpretation of Section 252(i) until such time as we fully understand the complexities of this issue.

<sup>21</sup> For example, Ameritech, one of the seven Regional Bell Operating Companies, has exercised certain contractual rights to cancel EAS compensation agreements between its ILEC subsidiaries and other ILECs.

<sup>22</sup> Such interruptions of service will not be tolerated by this Commission under existing applicable regulations.

this order is entered, all interested parties, including all carriers potentially subject to the filing of pre-enactment interconnection agreements under Section 252(a), shall file with the Commission at this docket an original and nine copies of a statement which includes the following:

1. A list of all pre-enactment interconnection agreements. In preparing the list, the term "interconnection agreement" should be interpreted broadly to include EAS agreements, collocation agreements, cellular and mobile carrier agreements, shared network facilities agreements (SNFAs) and others.

2. Discussion of why specific agreements or specific types of agreements identified on the list should not be included as interconnection agreements for purposes of implementation of Section 253(a).

3. Discussion of proposals for scheduling or planning of the filing and review of pre-enactment agreements.

4. Identification and discussion of which agreements or types of agreements the carrier would consider cancelling if filing were required and when such cancellations might occur and whether such cancellation may impact the continuous provision of telecommunications services to the public in a transparent fashion.

5. Discussion of the potential ramifications of cancellation of any contracts or other ramifications resulting from potential implementation of Section 253(a).

6. Discussion of the issues that may arise if the Commission does not evaluate and review pre-enactment agreements.

We expressly direct all carriers to be forthright and complete in preparation of their statements. Only through such disclosure can the Commission resolve this issue in an orderly well-balanced fashion consistent with the public interest.

#### 6. Collocation Policy Statement

In our Tentative Decision, we raised the issue of whether the Commission's policy statement at 52 Pa. Code § 69.311 governing collocation for intrastate special access was affected by enactment of Section 251(c)(6) of the Act. Section 251(c)(6) requires that all collocation, both intrastate and interstate and special and switched, be made available on a physical basis unless the local carrier demonstrates to the Commission that "physical collocation is not practical for technical reasons or because of space limitations."

While several commentators, without rational reason, argued that our collocation policy statement was unaffected by Section 251(c)(6), Bell's comments provide the most reasonable approach to this issue. Bell argues that the collocation policy statement is either preempted or irrelevant. Bell informs the Commission that it intends to file an intrastate collocation tariff with the Commission in the near future which will make proposals pertaining to which central offices require physical collocation exemptions and that for Bell this issue should be comprehensively addressed at that future docket.

We agree that Bell's approach to this issue is a wise one and would encourage other ILECs to address this issue in comprehensive rather than in piecemeal fashion.<sup>23</sup> As to our policy statement, we will act to rescind our policy statement at 52 Pa. Code § 69.311, attached as Annex A hereto, upon publication of this Order.

<sup>23</sup> Smaller ILECs may also seek general exemption from Section 251(c)(6) pursuant to Section 251(f)(2).



### 7. Universal Service

We raised many issues regarding the Act's effects on our pending universal service dockets. All parties submitted relatively comprehensive comments on the universal service issues. We will address these issues at our pending rulemaking and investigative dockets at L-00950105 and I-00940035.

### 8. In-Region InterLATA Services for Bell

In the Tentative Decision, we also discussed the Commission's role in the FCC's review of any future application filed by Bell or its affiliate to provide in-region interLATA services. Under Section 271(d)(2)(B) of the Act, the FCC must "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)" which establishes a competitive checklist which must be met before a Bell in-region interLATA service application can be approved by the FCC.

In addressing this issue in the Tentative Decision, we stated as follows:

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. Commenters 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, commenters should address how the opportunity for input should be procedurally structured.

Many of the commenters comprehensively addressed this issue. Most commentators requested some type of formal proceeding by the Commission to allow the Commission to develop its position for purposes of consultation with the FCC. Bell commented that "consultation" is a very informal process which does not require any formal Commission review.

Upon review, we will withhold making a final determination on this issue at this time. Clearly, the Act envisions that formal review and consideration of third party input occur at the federal level. As for the level and intensity of state review, we should coordinate our efforts in interpreting this provision with our FCC colleagues. It appears that the structure of the consultation process should be designed to the mutual satisfaction of the states and the FCC, to maximize the effective implementation of the statutory framework of review contemplated under Section 271.

This does not mean that the Commission is restricted in collecting information and considering the views of interested parties in its role of FCC consultant. Pursuant to normal procedures under authority of 66 Pa. C.S. §§ 505 and 506, the Commission can collect the required information to fulfill its role. Furthermore, the Commission or its staff can confer with interested parties on an

informal basis to understand various views of Bell's competitive checklist compliance.

We must be mindful that the time constraints imposed by the Act must be a governing consideration of the state consultative process. Pursuant to Section 271(d)(3) of the Act, the FCC must make a final determination within 90 days of the filing of an application by Bell. The consultation process with the state commission must be accommodated within that 90 days.

### 9. Bell IntraLATA Imputation Requirement

Under Section 271(e)(2) of the Act, Bell must make intraLATA presubscription available to all of its customers prior to or at the time its in-region interLATA affiliate commences the provision of interLATA services. At the state level, Bell is required to implement intraLATA presubscription by no later than June 30, 1997. *Investigation into IntraLATA Interconnection Arrangements*, I-00940034 (December 14, 1995). Accordingly, it appears likely that Bell will attempt to secure FCC approval of an in-region interLATA application and commence interLATA business through an affiliate by June 30, 1997, or at the time it implements intraLATA presubscription.

In our *IntraLATA Investigation* order, we refrained from imposing an imputation requirement on Bell and other LECs providing intraLATA toll services at the time intraLATA presubscription becomes available and significant intraLATA competition becomes a reality. However, Section 272(e)(3) of the Act imposes an imputation requirement on Bell for all services which utilize its own access services, including intraLATA toll services. In the Tentative Decision, the Commission requested comment on whether the *IntraLATA Investigation* Order required modification to be consistent with federal law.

All parties commenting on this issue except for Bell support modification of our prior order and imposition of an imputation requirement on Bell's provision of intraLATA toll services. Bell argues that modification is unnecessary since the imputation requirement does not become effective until Bell, through an affiliate, commences the provision of interLATA services.<sup>24</sup>

However, as indicated previously, Bell will likely attempt to commence the provision of interLATA services at the same time as intraLATA presubscription becomes available and our decision not to apply an imputation requirement becomes effective. Such a scenario would clearly create inconsistency between state and federal requirements. Even if Bell experiences undesirable delay in receiving FCC approval to provide interLATA services, our *IntraLATA Investigation* Order does not accommodate the requisite imposition of an imputation requirement at whatever time its affiliate commences service. Accordingly, through this order, we will reconsider and modify our December 14, 1995 order at I-00940034 so as to impose an imputation requirement on the provision of intraLATA services on Bell, consistent with that imposed by Section 272(e)(3) of the Act, at the time Bell's affiliate commences the provision of in-region interLATA services.

Furthermore, although the Federal Act does not require it, we now find that all noncompetitive intraLATA toll services provided by any local carrier should be subject to an imputation requirement at the time intraLATA presubscription becomes available in that service territory—either in July of 1997 or the close of 1997, depending on the size of the ILEC serving a given area.

<sup>24</sup> In addition, we note that the imputation requirement for Bell is an issue that is being addressed by this Commission in the *Competitive Safeguards* proceeding at Docket No. M-00940587.

Accordingly, we will modify our *IntraLATA Investigation Order* to impose an imputation requirement on noncompetitive intraLATA toll services consistent with the foregoing discussion.

#### 10. InterLATA EAS for Bell and GTE

In the Tentative Decision, the Commission raised the issue of the effect of the Act's supersession of the AT&T and GTE consent decrees on prior Commission regulatory requirements in the EAS context. More specifically, 52 Pa. Code § 63.75(6) requires GTE and Bell to seek consent decree waivers when necessary to implement interLATA EAS. Since consent decree waivers are no longer pertinent, Section 63.75(6) is clearly outdated and obsolete. Accordingly, we will act to rescind the regulation through incorporation of this issue into our pending docket, *Rulemaking to Rescind Obsolete Regulations Regarding Telephone Service*, at L-00960113. However, nothing in this Order should be interpreted to relieve GTE and Bell from seeking any federal regulatory approvals which may be necessary to implement interLATA EAS at any given time.

#### 11. Interexchange Service Rate Deaveraging

Section 254(g) of the Act enacts a general prohibition against interexchange service rate deaveraging which is to be implemented by the FCC through the adoption of rules or regulations. In this regard the FCC has opened a rulemaking docket to implement Section 254(g) at CC Docket No. 96-61.

Although, in the Tentative Decision, the Commission requested comment regarding interpretation of this provision, the Commission acknowledged that it was the FCC, not the Commission, which Congress has assigned implementation responsibility. The Commission has filed comments with the FCC regarding the rate averaging issue and has advocated the approach taken by 66 Pa. C.S. § 3008(d) under which interexchange rate deaveraging should be broadly prohibited with the flexibility for the FCC or state commission to permit temporary or permanent service offerings, which could be viewed as including rate deaveraging terms, on a case-by-case basis. The Commission will await the outcome of the FCC's rulemaking docket and will interpret the rate deaveraging prohibition consistent with the FCC's ultimate approach.

#### 12. Health Care Providers, Libraries and Education Providers

In the Tentative Decision, the Commission requested comment on how it should fulfill its responsibilities under Section 254(h) of the Act pertaining to reasonably comparable universal service rates for rural health care providers and discounted universal service rates for libraries and education providers. Although we emphasized our desire for comprehensive comment on these issues, very little useful comment was received.

We remain particularly concerned regarding our responsibility under Section 254(h)(1)(B) to establish the level of discounts to intrastate rates to be made available to libraries and educational providers. If necessary, we will consider the establishment of a generic docket in the foreseeable future to address these important issues.

#### 13. Marketing Practices and Consumer Education

Another issue should be raised in context with enforcement of the Commission's service quality regulations, which requirements are clearly preserved by Section 253(b) as necessary to protect the public welfare, ensure the continued quality of services and safeguard the rights of consumers. Undoubtedly, consumers will face many

potentially confusing decisions as more service providers enter the telecommunication markets and engage in potentially high pressure marketing activities. No parties in this proceeding commented on what role service providers have in consumer education.

Clear, consistent and unambiguous marketing language should be adopted by all entities marketing telecommunication services in Pennsylvania. Local exchange companies (LECs) and interexchange carriers are already required to submit language for certain communications with their customers to the Bureau of Public Liaison for a plain language review. Such a procedure will be too burdensome with the addition of many new entrants in a highly competitive atmosphere.

To be better informed and educated, telecommunication customers must have accurate complete and comparable information about products, prices and quality when making choices in the competitive telecommunications marketplace. The definition of basic service for one service provider must be the same for all service providers. The definition of marketing terminology must be mutually understandable for consumers and service providers to minimize customer confusion or inevitably Formal Complaints will follow.

To avoid these problems and the very real burden that a large increase in complaints would have on Commission resources, a task force consisting of representatives of the Commission's Bureau of Public Liaison, the Bureau of Consumer Services, and the telecommunications industry will be established immediately. The task force will be organized and administered by the Bureau of Public Liaison and shall be charged with developing definitions of marketing terminology that will be universally accepted and, more importantly, used in the actual marketing of telecommunication services.

#### 14. Payphone Issues

Although not raised in the Tentative Decision, CAPA filed comprehensive comments addressing and requesting Commission attention to the effects of the Act on the provision of payphone services by Bell and independent payphone providers. Specifically, CAPA focuses on Section 276 of the Act which establishes various requirements and competitive safeguards on Bell's provision of payphone service and its service offerings to independent payphone providers.

Under Section 276, the FCC is required to promulgate regulations implementing Congressional payphone requirements and policies within nine months of enactment. Under Section 276(c), state payphone requirements which are inconsistent with the FCC's regulation will be preempted. Accordingly, it is premature for the Commission to consider modification of its requirements applicable to payphones until the FCC finalizes its regulations. However, upon final promulgation, the Commission invites CAPA to file a petition with the Commission advocating modifications to payphone requirements or Bell service offerings which, in its view, are inconsistent with the FCC's regulations.

#### 15. Notice of FCC Filings

In the Tentative Decision, the Commission voiced concern with its need to keep abreast of federal issues as they progress at the FCC and suggested that all FCC filings be copied on the Commission. Many parties commented that requiring service of all FCC filings was unnecessary and costly.

Upon further review, we will modify our tentative approach and attempt to accommodate the views of the

parties. We will, through issuance of this Order, direct all jurisdictional carriers to serve the Commission with a copy of all FCC filings made under Title II of the Communications Act. However, as to other filings, we will merely require that carriers file with the Commission a one-page notice of filing which includes the docket number of the filing and a description of the document filed.

All of these documents shall be filed at this docket. In order to administer the receipt of these documents, we will direct the Prothonotary to segregate this docket into subdockets and to establish corresponding document folders for each ILEC, CLEC, facilities-based IXC, and one for all other carriers.

### C. Conclusion

Overall, we are satisfied that, through this Order, we have accomplished the important objective of taking the initial steps necessary to implement the Federal Act in an orderly and timely fashion. While undoubtedly this will not be our last action pertaining to implementation, the comprehensive nature of our action today will result in timely coordination with the Federal government of the Congressional national policy framework;

Therefore,

#### *It Is Ordered That:*

1. Entry procedures described in the body of this Order are hereby adopted for all telecommunications carriers.

2. Our Opinion and Order entered October 4, 1995, in *Application of MFS Intelenet of Pennsylvania, Inc., et al.* at A- 310203F.002 is hereby modified consistent with the discussion herein.

3. Any joint marketing restrictions presently imposed on incumbent local exchange carriers by prior Commission orders will be rescinded upon the entry and interconnection of any competing local carrier in the incumbent local exchange carrier's service territory.

4. The procedures discussed herein governing development and review of interconnection agreements are hereby adopted.

5. Procedures for continued Commission evaluation pre-enactment interconnection agreement filings are adopted consistent with the discussion herein.

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

7. The Commission's policy statements are hereby amended by deleting § 69.311 to read as set forth in Annex A.

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

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

10. Our Order entered December 14, 1995, in *Investigation into IntraLATA Interconnection Agreements* at I-00940034 is hereby modified consistent with the discussion herein.

11. Rescission of 52 Pa. Code § 63.75(6) is incorporated into our pending rulemaking docket, *Rulemaking to Rescind Obsolete Regulations Regarding Telephone Service* at L-00960113.

12. A task force is hereby established consisting of representatives of the Bureau of Public Liason, the Bureau of Consumer Services and the telecommunications

industry to develop definitions of marketing technology that will be universally accepted and used in the marketing of telecommunications services. The task force shall be organized and administered by the Bureau of Public Liason.

12. The Secretary's Office is directed to serve this Order on all parties on the Executive Director's telecommunications mailing list which are not parties on the service list for this docket.

JOHN G. ALFORD,  
*Secretary*

*(Editor's Note: The "Sample Application Form for Parties Wishing to Offer, Render, Furnish or Supply Telecommunication Services to the Public in the Commonwealth of Pennsylvania" may be obtained from the Secretary of the Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.)*

### STATEMENT OF COMMISSIONER DAVID W. ROLKA

This Order reflects this agency's commitment to prompt and coordinated implementation of our responsibilities under the Telecommunications Act of 1996. This new law promotes competition in all segments of the telecommunications markets. At the same time, the law recognizes that regulatory oversight is required to facilitate a fair and prompt transition to competition. The Implementation Order recognizes that the Federal Act required some modifications to our present policies to assure consistency between the federal and state rules. In addition, this Order signals that we have procedures in place that will enable this agency to undertake our new responsibilities prescribed in the Act. The Order also acknowledges that additional information is required to develop appropriate policies for the certain classifications of rural telephone carriers, and for the review of pre-enactment interconnection agreements. Clearly the implementation of this landmark legislation will be an evolving process at both the state and federal level, which must be coordinated

One key area of concern to the states is Section 253(a), concerning removal of barriers to entry and its relationship to the preservation of state authority set forth in Section 253(b). The streamlined entry procedures set forth in this Order strike an appropriate balance contemplated by these subsections. The Joint Conference Report provides some guidance:

Existing State laws or regulations that reasonably condition telecommunications activities of a monopoly utility and are designed to protect captive utility ratepayers from the potential harms caused by such activities are not preempted under section. However, explicit provisions on entry by a utility into telecommunications are preempted under this section.

Chapter 30 expressly removed any express prohibition against local exchange competition and sets forth that a public interest standard governs such entry. The procedures set forth in this Order give effect to the public interest standard and provide a competitively neutral framework for assuring the preservation of the public safety and welfare, and quality of service.

### DISSENTING STATEMENT OF CHAIRPERSON JOHN M. QUAIN

I support the Order which the Commission issues today except for one determination reached by the majority. Generally speaking, the Order which we issue represents an extremely important step in implementation of the Telecommunications Act of 1996 (Federal Act) at the state

level. The Order will allow us to fulfill our new responsibilities under the Federal Act in an orderly and timely fashion.

However, I cannot support the majority's determination that incumbent local exchange carriers (ILECs), other than Bell, should be subject to an imputation requirement applicable to their provision of intraLATA toll services at the time presubscription becomes available. While I acknowledge that the Federal Act requires modification of our decision in the *IntraLATA Investigation* Order to include an imputation requirement on Bell, no such modification is required, or even suggested, by the Federal Act for the provision of intraLATA services by ILECs other than Bell.

I generally favor the notion of regulatory parity and would support an imputation requirement if the Commission had authority to impose it on the provision of all intraLATA services by all carriers. However, as I stated in my Motion issued in consideration of the *IntraLATA Investigation* Order, such uniform application is not possible under state law since intraLATA services provided by interexchange carriers are classified as competitive and are removed from any Commission price oversight, including enforcement of an imputation requirement. In this context, expanding the application of the imputation requirement to ILECs other than Bell, as a matter of state policy and not as a matter of federal law, is not consistent with my notion of regulatory parity since,

generally speaking, ILECs, particularly small ILECs, will not be competing with each other in the foreseeable future.

Instead, application of an imputation requirement on smaller ILECs will merely place unnecessary pressure on the pricing strategies of the smaller ILECs without any significant corresponding benefit. It is clear to me that the Commission should complete the generic dockets currently pending which pertain to the development of local competition prior to considering whether such an imputation requirement is necessary or desirable for ILECs other than Bell. Accordingly, I dissent from the majority's determination on this issue.

**Fiscal Note:** 57-175. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

##### **Subpart C. FIXED UTILITY SERVICES**

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

#### **§ 69.311. (Reserved).**

[Pa.B. Doc. No. 96-1301. Filed for public inspection August 9, 1996, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending July 30, 1996.

#### BANKING INSTITUTIONS

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-22-96	United Bank of Philadelphia Philadelphia Philadelphia County	38th Street and Lancaster Avenue Philadelphia Philadelphia County	Opened
7-25-96	First Commonwealth Bank Indiana Indiana County	2009 Pleasant Valley Boulevard Altoona Blair County	Approved
7-25-96	United Savings Bank Philadelphia Philadelphia County	2535 West Chester Pike Broomall Delaware County	Approved
7-26-96	The York Bank and Trust Company York York County	Weis Market 2850 Carlisle Road Dover Township York County	Approved
7-26-96	The York Bank and Trust Company York York County	Weis Market 2400 E. Market St. York York County	Approved
7-26-96	The York Bank and Trust Company York York County	Weis Market 2160 White Street York York County	Approved
7-29-96	Farmers and Merchants Trust Company Chambersburg Franklin County	9 West Big Spring Ave. Newville Cumberland County	Filed
7-29-96	Farmers and Merchants Trust Company Chambersburg Franklin County	13 Shippensburg Shopping Center Shippensburg Cumberland County	Filed

##### Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-16-96	Johnstown Bank and Trust Company Johnstown Cambria County		Effective
<i>From:</i>	Jefferson Avenue Extension Windber Somerset County	<i>To:</i> 415 Park Place Windber Somerset County	
7-17-96	Johnstown Bank and Trust Company Johnstown Cambria County		Effective
<i>From:</i>	112 North Market St. Ligonier Westmoreland County and #1 Ligonier Valley Mini Mall Ligonier Westmoreland County	<i>To:</i> 402 West Main Street Ligonier Westmoreland County	

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-18-96	Johnstown Bank and Trust Company Johnstown Cambria County		Effective
<i>From:</i>	262 East Main Street Somerset Somerset County	<i>To:</i> 121 South Center Avenue Somerset Somerset County	
7-23-96	Northern Central Bank Williamsport Lycoming County		Effective
<i>From:</i>	400 Main Street Towanda Bradford County	<i>To:</i> 312 Main Street Towanda Bradford County	
7-25-96	Johnstown Bank and Trust Company Johnstown Cambria County		Effective
<i>From:</i>	407 Main Street Johnstown Cambria County	<i>To:</i> 532-534 Main Street Johnstown Cambria County (Main Office)	

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 96-1302. Filed for public inspection August 9, 1996, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of August**

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 August is 9¾%.

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 2.60 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 7.20 to which was added 2.50 percentage points for a total of 9.70 that by law is rounded off to the nearest quarter at 9¾%.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 96-1303. Filed for public inspection August 9, 1996, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

**State Parks Natural Areas**

The following areas will be added to the State Parks Natural Areas listing under 25 Pa. Code § 11.115 (relating to natural area designation procedure).

The contact person for this notice is Roger Fickes, Director, Bureau of State Parks, P. O. Box 8551, Harrisburg, PA 17105-8551.

JOHN C. OLIVER,  
*Secretary*

## State Parks Natural Areas Approved Additions

<i>Name</i>	<i>Acre- age</i>	<i>Park</i>	<i>Location</i>	<i>Feature</i>
Swamp Forest	246	Cook Forest	Clarion and Forest Counties, Cooksburg Quad, off PA Route 66 and No. Pine Grove	Perched water table gives rise to palustrine wetland of old growth eastern hemlock and white pine at the headwaters of Brown's Run.
Mud Run	1,335	Hickory Run	Carbon County, Hickory Run Quad, north of PA Route 903	Remote mountain stream lined with rhododendron and eastern hemlock, buffered by mature hardwood forest. Stream contains a viable native trout population.
Mud Swamp	152	Hickory Run	Carbon County, Hickory Run Quad, south of PA Route 903	Remote emergent wetland containing rare plant species of concern.
Hemlock Trail	5.8	Laurel Hill	Somerset County, Bakersville Quad, off Buck Run Road	Scenic area of old growth eastern hemlock. Includes a picturesque portion of Laurel Hill Creek which contains a viable native trout population.
Neshaminy Tidal Marsh	70	Neshaminy	Bucks County, Beverly PA-NJ Quad, off State Road, Bensalem	Freshwater intertidal marsh along the shores of the Delaware River and Neshaminy Creek containing many rare plants.
Black Jack Swamp	725	Pymatuning	Crawford County, Leon, OH-PA and Linesville Quad, off Phelps Road	Palustrine, scrub-shrub, and emergent wetlands adjacent to Pymatuning Lake. Provides habitat for plant and animal species of concern.
Clark Island	161	Pymatuning	Crawford County, Linesville Quad, northernmost portion of Pymatuning Lake	Mature forest of hardwood and white pine containing an inland, lake-fed pond. Provides habitat for plant species of concern.
Fall Brook	34	Salt Spring	Susquehanna County, Franklin Forks, PA-NY Quad, off PA Route 29.	Area contains many old growth hemlocks and includes a steep gorge with picturesque stream and series of waterfalls.

[Pa.B. Doc. No. 96-1304. Filed for public inspection August 9, 1996, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Eisenhower Postsecondary Grant Application Guidelines

Applications from Pennsylvania institutions of higher education and nonprofit organizations, which have previously conducted successful mathematics and/or science professional development activities, will be accepted for professional development programs specially-designed to improve teaching and learning in mathematics and science education in the Commonwealth. Grant awards will be funded with higher education Federal funds authorized by Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P. L. 103-382). Awards issued under these guidelines will be for up to three full funding cycles.

Awards for this competition and the subsequent two funding cycles and payments to a successful applicant are specifically contingent upon the appropriation of funds by the Federal government and a fully executed contract. Pennsylvania has \$380,735 available for competition.

Copies of the Eisenhower Postsecondary Grant Applications (EPGA) are available from the Issuing Office, which is the sole point of contact for the guidelines: Division of Program Services, Bureau of Postsecondary Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623; TTY (717) 783-8445.

A preproposal conference is scheduled for Monday, September 16, 1996, at 10 a.m. in Heritage Room B, Lobby Level at 333 Market Street, Harrisburg. If special accommodations are required to participate in the preproposal conference, contact the Division of Program Services. Written questions are to be submitted on the form accompanying the EPGA guidelines and must be received by September 11, 1996.

Applications submitted in response to the EPGA guidelines are due in the Division of Program Services no later than 5 p.m., Friday, October 4, 1996.

EUGENE W. HICKOK,  
Secretary

[Pa.B. Doc. No. 96-1305. Filed for public inspection August 9, 1996, 9:00 a.m.]

**State Plan and Preschool Grant**

The Department of Education's State Plan and Preschool Grant under the Individuals with Disabilities Education Act has been amended and approved by the

U. S. Department of Education. The amendments have been disseminated to local school districts, intermediate units, and instructional support centers and thus are available for public inspection. Copies may be requested by writing to Samuel R. Bashore, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126. Persons who require this information in an alternate format should contact Jill Deitrich at the above address or call (717) 772-0635 (TTY: 717/787-7367).

EUGENE W. HICKOK, Jr.,  
Secretary

[Pa.B. Doc. No. 96-1306. Filed for public inspection August 9, 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 application of lawful standard 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 the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

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

**PA 0056944.** Industrial waste, **Sun Company, Inc.**, 1801 Market Street, Philadelphia, PA 19103.

This application is for issuance of an NPDES permit to discharge stormwater from an existing petroleum products pipeline pump station in Upper Chichester Township, **Delaware County**. This is a new discharge to an unnamed tributary to Marcus Hook Creek.

The receiving stream is classified for warm 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 are as follows:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Oil and Grease	15		30
Total Recoverable Petroleum Hydrocarbons			monitor/report
Diesel Range Organics			monitor/report
Gasoline Range Organics			monitor/report

The EPA waiver is in effect.



**PA 0051616.** Industrial waste, **Citizens Utilities Water Company of PA**, 135 North Fourth Street, Royersford, PA 19468.

This application is for renewal of an NPDES permit to discharge treated process wastewater from a water filtration plant in East Vincent Township, **Chester County**. This is an existing discharge to the Schuylkill River.

The receiving stream is classified for warm water fish, migratory 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 0.111 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>
Suspended Solids	30	60	75
Total Iron	2.0	4.0	5.0
Total Aluminum	4.0	8.0	10.0
Total Manganese	1.0	2.0	2.5
Total Residual Chlorine	0.5		1.0
Chlorodibromomethane	monitor/report		
Dichlorobromomethane	monitor/report		
Chloroform	monitor/report		
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is in effect.

**PA 0040886.** Sewage, **Upper Pottsgrove Township**, 1420 Heather Place, Pottstown, PA 19464.

This application is for renewal of an NPDES permit to discharge treated sewage from Greengate Development in Upper Pottsgrove Township, **Montgomery County**. This is an existing discharge to an unnamed tributary to Manatawny Creek.

The receiving stream is classified for cold water fish, warm 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 0.018 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	15	30
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	1.0	2.0
(11-1 to 4-30)	3.0	6.0
Total Residual Chlorine	monitor/report	
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	

The EPA waiver is in effect.

**PA 0054941.** Industrial waste, **Formal Affairs, Inc.**, Harold C. Yates, Cedar Hollow Road and Industrial Boulevard, Paoli, PA 19301.

This application is for issuance of an NPDES permit to discharge treated groundwater from groundwater remediation system in Willistown Township, **Chester County**. This is a new discharge to unnamed tributary to Little Valley Creek.

The receiving stream is classified for warm water fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports, exceptional value waters and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 14,400 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>
Oil and Grease	15		30
Total Iron	monitor/report	monitor/report	
Total Dissolved Solids	monitor/report	monitor/report	
Tetrachloroethylene	not detectable	not detectable	not detectable
Cis-1,2 Dichloroethylene	not detectable	not detectable	not detectable
Trichloroethylene	not detectable	not detectable	not detectable
pH	within limits of 6.0—9.0 standard units at all times		

*Other Requirements*

Groundwater Monitoring

Required Analytical Test Method

The EPA waiver is in effect.

*Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, telephone (717) 327-3666.*

**PA 0209333.** Sewerage, SIC: 4952, **Chippewa Chief LTD Partnership**, 48 West Third Street, Williamsport, PA 17701.

This proposed action is for issuance of an NPDES permit for a new discharge of treated sewage to an unnamed tributary to Wolf Run in Muncy Township, **Lycoming County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pennsylvania American Water Company located at Milton approximately 18 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.04 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (6-1 to 10-31)	10	20
(11-1 to 5-31)	20	40
TSS	10	20
Ammonia-N (6-1 to 10-31)	3	6
(11-1 to 5-31)	9	18
Fecal Coliforms	200/100 ml as a geometric mean within the range of 6.0—9.0	
pH		
Total Residual Chlorine	1.0	2.3

The EPA waiver is in effect.

**PA 0113182.** Sewerage, SIC: 4952, **Albert Drobka**, R. D. 1, Box 355, Centre Hall, PA 16828.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to unnamed tributary of Spring Creek in Harris Township, **Centre County**.

The receiving stream is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0105 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20	
TSS	10	20	
Total Residual Cl <sub>2</sub>	1.0	2.3	
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0113093.** Sewerage, SIC: 4952, **Christ Wesleyan Church**, R. D. 2, Box 2000, Milton, PA 17847.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to unnamed tributary of Limestone Run in Turbot Township, **Northumberland County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is Shamokin Dam Municipal Authority located on the Susquehanna River 14 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0021 mgd are:

Parameter	Average	
	Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 200/100 ml as a geometric average minimum of mg/l at all times	
Dissolved Oxygen	6.0—9.0 standard units at all times	
pH		
Total Residual Cl <sub>2</sub>	1	2.3

The EPA waiver is in effect.

**PA 0209350.** Sewerage, SIC: 4952, **Delmar Township**, R. D. 5, Box 70A, Wellsboro, PA 16901.

This proposed action is for issuance of an NPDES permit for a new discharge of treated sewage to Heise Run in Delmar Township, **Tioga County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Jersey Shore Area Water Authority located at Pine Creek approximately 65 miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.007 mgd are:

Parameter	Average		Instantaneous Maximum (mg/l)
	Monthly (mg/l)	Weekly (mg/l)	
CBOD <sub>5</sub> (6-1 to 10-31) (11-1 to 5-31)	10 20	15 30	20 40
Total Suspended Solids	10	15	20
Fecal Coliforms	200/100 ml as a geometric mean		
pH	6.0—9.0 at all times		
Total Residual Cl	monitor and report		

The EPA waiver is in effect.

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

**PA 0003832.** Industrial waste, SIC: 2869, 2821, 2865, **Aristech Chemical Corporation**, Neville Island Plant, Pittsburgh, PA 15225.

This application is for an NPDES permit to discharge untreated cooling water stormwater from the Neville Island Plant in Neville Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ohio River (Back Channel), classified as a 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Robinson Township Authority, located 3 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.85 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Temperature					110°
COD			30	60	
TSS			30	60	
Pollutant Groups 2—5 in NPDES application			monitor and report		
pH	6.0—9.0				

*Other Conditions:* No net addition of pollutants to noncontact cooling water, no change in the temperature of the receiving stream by more than 2°F, stormwater runoff conditions, and approval of hydrostatic test water discharges.

The EPA waiver is in effect.

**PA 0110591.** Industrial waste, SIC: 3399, **SCM Metal Products, Inc.**, 101 Bridge Street, Johnstown, PA 15902.

This application is for amendment of an NPDES permit to discharge treated and untreated cooling water and stormwater from SCM Metal Products, Inc. in Johnstown, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Stony Creek, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Saltsburg Municipal Waterworks, located 45 miles below the discharge point.

Outfall 101: existing discharge, design flow of 0.039 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>
Suspended Solids	6.92	13.88	28.6	40	
Oil and Grease	4.53	7.01	8.7	30	
Copper	0.23	0.45	0.42	0.81	1.0
Cyanide	0.02	0.06	0.05	0.12	0.125
Lead	0.04	0.1	0.08	0.18	0.2
Chromium	0.022	0.061	0.07	0.17	0.175
Nickel	0.031	0.046	0.08	0.11	0.2
Fluoride	2.24	5.05	5.55	12.5	13.9
Ammonia	4.11	9.34			
Total Iron	0.132	0.264	0.61	1.2	1.5
pH	7.5—10				

Outfall 001: existing 0.075 mgd discharge to Stony Creek

<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>
	This outfall shall consist solely of those sources previously monitored at 101, noncontact cooling water, and uncontaminated stormwater runoff.				
TRC			0.5		1.0
pH	6.0—10				

Outfall 002: existing 0.02 mgd discharge to Stony Creek

<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>
	This discharge shall consist solely of noncontact cooling water, and uncontaminated stormwater runoff.				
TRC			0.5		1.0
pH	not less than 6.0				

Outfall 003: existing 0.0183 mgd discharge to Stony Creek

<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>
	This discharge shall consist solely of noncontact cooling water, and uncontaminated stormwater runoff.				
TRC			0.5		1.0
pH	not less than 6.0				

The EPA waiver is not in effect.

*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

**PA 0045560.** Industrial waste, SIC: 3471, **Heritage Metal Finishing, Inc.**, 800 South Market Street, Elizabethtown, PA 17022.

This application is for renewal of an NPDES permit for a new discharge of treated industrial waste to Conoy Creek, in Elizabethtown Borough, **Lancaster County**.

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

The proposed effluent limits for Outfall 001 for a design flow of 0.016 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6.0—9.0 standard units at all times		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	40	80	100
Total Suspended Solids	31	60	77.5
Total Phosphorus as P	2	4	5
Oil and Grease	15		30
Total Cadmium	0.06	0.12	0.15
Total Chromium	1.71	2.77	4.3
Total Copper	0.66	1.3	1.65
Total Lead	0.25	0.5	0.63
Total Nickel	2.38	3.98	5.95
Total Silver	0.24	0.43	0.6
Total Zinc	3.78	6.65	9.45
Total Cyanide	0.65	1.2	1.6
Hexavalent Chromium	0.3	0.6	0.75
Total Boron	43.0	86.0	108.0
Total Toxic Organics		2.13	

The EPA waiver is in effect.

**PA 0087360.** Industrial waste, SIC: 5171, **Exxon Company**, USA, 140 South Village, Exton, PA 19341-1266.

This application is for issuance of an NPDES permit for a new discharge of treated industrial waste to Laurel Run, in Muhlenberg Township, **Berks County**.

The receiving stream is classified for warm water fish, recreation, water supply and aquatic life. The existing downstream potable water supply intake considered during the evaluation was Pottstown Borough Authority Water Treatment Plant located in Pottstown. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0432 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	from 6.0—9.0 inclusive		
Total BTEX <sup>3</sup>	0.1	0.2	0.25
Benzene	0.001	0.002	0.0025
Toluene	monitor and report		
Ethylbenzene	monitor and report		
Xylene	monitor and report		

The EPA waiver is in effect.

**PA 0087572.** Industrial waste, SIC: 4941, **Williamstown Borough Authority**, P. O. Box 44, Williamstown, PA 17098.

This application is for issuance of an NPDES permit for a new discharge of treated industrial waste to an unnamed tributary of Wiconisco Creek, in Williams Township, **Dauphin County**.

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

The proposed effluent limits for Outfall 001 for a design flow of 0.0037 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (s. u.)	from 6.0—9.0 inclusive		
Total Suspended Solids	30	60	75
Total Iron	2.0	4.0	5.0
Total Aluminum	4.0	8.0	10.0
Total Manganese	1.0	2.0	2.5

The EPA waiver is in effect.

**PA 0087581.** Sewage, SIC: 4951, **Maidencreek Associates, Inc.**, 39 Cornerstone Drive, Mohrsville, PA 19541.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to an unnamed tributary of Irish Creek, in Centre Township, **Berks County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply intake considered during the evaluation was Glen Alsace Water Company located on the Schuylkill River by Robeson Township. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0228 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 <sub>5</sub>	25			50
Total Suspended Solids	30			60
NH <sub>3</sub> -N				9.5
(5-1 to 10-31)	4.5			28.5
(11-1 to 4-30)	13.5			0.97
Total Residual Chlorine	0.29			
Dissolved Oxygen	minimum of 5.0 at all times			
pH	from 6.0—9.0 inclusive			
Fecal Coliforms				
(5-1 to 9-30)	200/100 ml as a geometric average			
(10-1 to 4-30)	800/100 ml as a geometric average			

The EPA waiver is in effect.

**PA 0087599.** Sewage, SIC: 8661, **Schuylkill Valley Bible Church**, Bellman's Church Road, Dauberville, PA 19517.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to Irish Creek, in Centre Township, **Berks County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply intake considered during the evaluation was Glen Alsace Water Company located on the Schuylkill River by Robeson Township. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of .00405 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N	20		40
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen	5.0		
pH	6.0—9.0 s.u. inclusive		
Fecal Coliforms			
(5-1 to 9-30)	200		
(10-1 to 4-30)	100,000		

The EPA waiver is in effect.

**PA 0080675.** Industrial waste, SIC: 0161, **B & W Quality Growers, Inc.** (Midvale Facility), 17825-79th Street, Fellsmere, FL 32948.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Red Run, in Washington Township, **Franklin County**.

The receiving stream is classified for cold water fish, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was at Brunswick Mayor and Council located in Brunswick, Maryland. The discharge is not expected to impact any potable water supply.

The proposed best management practice and monitoring requirements for Outfall M-1:

B & W Quality Growers, Inc. (B & W) shall restrict pesticide usage at the Midvale Facility to:

Dipel	Neemix
Malathion	Kocide 101
Induce	Roundup
Safer Insecticidal Soap	

B & W shall maintain a trout basin to serve as an aquatic indicator or potential flow-through of applied pesticides.

The EPA waiver is in effect.

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### **Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges**

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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 Pro-

tection (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 these 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 Requirements</i>
PA 0084646	Southern Fulton School District R. D. 2, Box 45 Warfordsburg, PA 17267	Fulton Bethel	Tributary to Tonotoway Creek	TRC
PA 0081710	Outdoor World Resorts USA, Inc. Route 209 Bushkill, PA 18324	Lancaster Pequea	Conestoga River	TRC
PA 0081612	Millstone MHP P. O. Box 571 Huntingdon, PA 16652	Huntingdon Brady	Mill Creek	TRC

**Public Notice of Draft NPDES General Permit No. PAG31001 for Discharges from Stripper Oil Well Facilities**

The Department of Environmental Protection proposes to reissue a general National Pollutant Discharge Elimination System (NPDES) permit for the controlled discharge of treated production fluids from primary recovery, waterflood, and gas drive stripper oil well facilities into surface waters of the Commonwealth. The permit will be issued subject to certain effluent limitations and special conditions.

This general permit will apply to certain discharges from primary recovery, waterflood, and gas drive stripper oil well facilities located in the Commonwealth of Pennsylvania. Stripper oil wells produce 10 barrels per well per calendar day or less of crude oil. Operations using secondary or tertiary recovery methods such as thermal or chemical methods, and commercial or offsite centralized treatment facilities are excluded from coverage under this permit. The facilities affected by the general permit are included under 40 CFR Part 435 Subpart F—Stripper Subcategory and SIC Code 1311, *Crude Petroleum and Natural Gas*.

The Department's regulations at 25 Pa. Code §§ 92.81 through 92.83 provide for the issuance of a general NPDES permit when:

(1) The same, or substantially similar, types of operations are involved;

- (2) The same types of wastes are being discharged;
- (3) The same effluent limitations and/or operating conditions are required;
- (4) The same or similar monitoring is required;
- (5) The discharge does not contain toxic or hazardous pollutants or any other substance which—because of its quantity, concentration, or physical, chemical, or infectious characteristics—may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into navigable waters;
- (6) The discharges are more appropriately controlled under a general permit than under individual permits;
- (7) Individually and cumulatively, the discharges do not have the potential to cause significant adverse environmental impact; and
- (8) The discharge is not to “special protection” waters.

The Department has determined that these discharges are eligible for a general NPDES permit because these facilities are similar in nature and discharge the same type of wastes. These facilities are relatively small in size and the rates of the discharge flow can be controlled to levels that do not have the potential to pose a threat to human health, cause environmental harm or violate water quality standards. Because of the size, number and

operational procedures of the facilities, the discharges from these facilities are more appropriately covered under a general permit.

A brief description of the conditions of the permit are as follows:

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*Parameter*

Total Suspended Solids  
Oil and Grease  
Total Iron  
Acidity  
pH

—The permit does not authorize discharges to waters classified as “Special Protection” as defined in 25 Pa. Code Chapter 93;

—The proposed effluent limitations are:

<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
30	60
15	30
3.5	7
less than alkalinity	
not less than 6.0 standard units or greater than 9.0 standard units (except where the discharge is to an acid stream, in which case the pH may be greater than 9.0).	

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Also, the discharge shall at no time cause a film or sheen upon or discoloration of the waters of the Commonwealth or adjoining shoreline. And, there shall be no discharge of floating solids or visible foam in other than trace amounts.

—The discharge shall not result in a violation of the water quality criteria prescribed in 25 Pa. Code Chapters 16 and 93 for the various designated uses of the receiving stream.

—The operator shall not add any water as dilution water in order to meet the effluent limits in the permit.

—Prior to commencing any discharge, A Part II Construction/Operation Permit under section 308 of The Clean Streams Law must be obtained.

Once notice of the final permit is issued, eligible dischargers who wish to be covered by this general NPDES permit will need to file an application for coverage with the Department and receive approval for coverage for each discharge prior to commencing any discharge. Application for renewal of coverage or notification to cease discharging must be submitted in accordance with the notice sent to the permittee by the Department. Each application for coverage will be reviewed for compliance with the terms of the general permit which includes verifying that the water quality standards of 25 Pa. Code Chapter 93 will not be violated. An individual approval will be issued to dischargers that qualify. No application fee will be required for coverage under this general NPDES permit.

Persons wishing to comment on the draft general permit are invited to submit a written statement to James E. Erb, Director, Bureau of Oil and Gas Management, located at P. O. Box 8765, Harrisburg, PA 17105-8765, telephone number (717) 772-2199, 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 determination of the permit. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Director considers the public interest in holding a hearing significant. 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 Bureau of Oil and Gas Management. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Following the 30-day comment period, the Department will make a final determination on the draft 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 draft permit and related documents are on file at the Harrisburg office of the Bureau of Oil and Gas Management at the location noted above. Anyone wishing to review or receive a copy of the permit documents, or to receive further information, should contact that office.

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection.

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

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

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**Industrial Waste and Sewage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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



**A. 0496403.** Sewerage. **Borough of Koppel**, Third Avenue and Arthur Street, Koppel, PA 16136. Application for the installation and operation of approximately 1,400 feet of 12 inch diameter sanitary sewer line for the purpose of bypassing/diverting a portion of system flow around/away from a portion of the Borough's existing main interceptor sewer located in Koppel Borough, **Beaver County**.

**A. 6596406.** Sewerage. **Penn Township**, P. O. Box 452, Harrison City, PA 15636. Application for the construction and operation of sewers and a pumping station to serve Level Green Commons located in Penn Township, **Westmoreland County**.

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

**WQM Permit No. 2096406.** Sewage, **James Schmid**, SRSTP, 221 Downieville Rd., Valencia, PA 16059. This project is for the construction of a single residence sewage treatment plant in S. Shenango Township, **Crawford County**.

**WQM Permit No. 4396407.** Sewage, **James Lawrence**, SRSTP, 175 N. State Line Rd., Greenville, PA 16125. This project is for the construction of a single residence sewage treatment plant in W. Salem Township, **Mercer County**.

*Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

**A. 2196404.** Sewage, **Brian K. and Kimberly L. Kurtz**, 2131 Longs Gap Road, Carlisle, PA 17013 to construct an individual residence small flow treatment facility in North Middleton Township, **Cumberland County** was received in the Southcentral Regional Office on July 18, 1996.

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

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*Northwest Regional Office: Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.*

**A. 2096502.** Public water supply. **Meadville Area Water Authority**, 984 Water Street, Meadville, PA 16335. This proposal involves the construction of a permanent well, test well, pump, pumphouse and raw water line at the Meadville Area Water Authority Water Works Park in the City of Meadville, **Crawford County**.

**A. 2596503.** Public water supply. **Corry Area School District**, Conelway Elementary School, 800 East South Street, Corry, PA 16407. This proposal involves the construction of a polyphosphate silicate blend system for the purpose of corrosion control in Wayne Township, **Erie County**.

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

**A. 0696508.** Public water supply. **Schlegel's Grove and Campsites, Inc.**, Colebrookdale and Washington Townships, **Berks County**, (Francis J. Kelsch, Schlegel's Grove and Campsites, Inc., 66 Franklin Street, Bechtelsville, PA 19505), conversion of an existing water system to a community water system which will serve on existing campground, apartment building and 25 permanent sites. System will consist of two wells, hypochlorination, two storage tanks, four pressure tanks, three pumps

and distribution lines, (Mark H. Feibes, P.E., 402 Grant Avenue, Downingtown, PA 19335).

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

**4096503.** Public water supply. **Penn State University**, Wilkes-Barre Campus, c/o The Pennsylvania State University, 113 Physical Plant Building, University Park, PA 16802-1118. This proposal involves the installation of corrosion control (zinc orthophosphate inhibitor) chemical feed systems at wells no. 1 and no. 2 at the Penn State Wilkes-Barre Campus.

*Engineer: Robert E. Cooper, P.E., Mgr. Engineering Services*

**4596504.** Public water supply. **Borough of Delaware Water Gap**, 49 Main St., Delaware Water Gap, PA 18327. This proposal involves construction of two new well sources, transmission line, 0.4 mg storage tank and treatment building.

*Engineer: Brick Linder, Linder Engineering, R. R. 1, Box 4080, Skytop Road, Canadensis, PA 18325.*

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#### **Acknowledgment of Notices of Intent to Remediate**

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

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (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 must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department 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:

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

**Pennsylvania Power & Light Company (PP&L)**—distribution pole # 56095N49849, North Abington Township, **Lackawanna County**. Lisa Palfrey, Environmental Consultant for PP&L, 2 North Ninth Street, Allentown, PA has submitted a Notice of Intent to Remediate site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant proposes to remediate the site to meet the Statewide health standard.

**Pennsylvania Power & Light Company (PP&L)**—distribution pole # 56526N50832, North Abington Township, **Lackawanna County**. Lisa Palfrey, Environmental Consultant for PP&L, 2 North Ninth Street, Allentown, PA has submitted a Notice of Intent to Remediate site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant proposes to remediate the site to meet the Statewide health standard.

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, please 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:

*Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.*

**Special Metals Operations**, Babcock & Wilcox Company, Big Beaver Borough, **Beaver County**. Babcock & Wilcox Company, 1450 Poybras Street, New Orleans, LA 70112-6050 has submitted a Notice of Intent to Remediate soil contaminated with PAHs, PHCs, solvents and heavy metals. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Beaver County Times* on July 1, 1996.

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

**Former Loewengart Tannery Site**, Borough of Mercersburg, **Franklin County**. Mercersburg Borough has submitted a Notice of Intent to Remediate site soils, groundwater and surface water contaminated with heavy metals. The applicant proposes to remediate the site to meet the special industrial area standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Mercersburg Journal* on July 24, 1996.

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#### **Proposed Remedial Response under the Hazardous Sites Cleanup Act**

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##### **Crown Industries Site Lackawaxen Township, Pike County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), proposes to initiate the second phase of the remedial response at the Crown Industries Site (site) located in Lackawaxen Township, Pike County.

The site is located near the small rural town of Bohemia on an unpaved road known as Blue Stone Drive in the Huggy Bear Lake Development, Lackawaxen Township, Pike County. The site is approximately 7 acres in size and consists of two areas of ponded water and several piles of contaminated soil. A quarry operation lies to the Southwest of the site. Eighty-eight homes (approximately 225 persons) are located within 1 mile of the site.

Chemical analysis of the contaminated soil found on the site shows that it contains polynuclear aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), tetrachlorodibenzo dioxin (dioxin) and metals.

The Department's objective in addressing the site is to eliminate the threat to human health posed by inhalation and/or dermal contact from site contaminants.

To achieve this objective, the following alternatives were considered:

##### *Alternative 1: No Action*

Alternative 1 provides a baseline against which other alternatives can be compared. Under this alternative, no activities would be implemented at the site. Because no remedial actions would be implemented with this alternative, neither the human nor the environmental risks associated with the site would decrease.

##### *Alternative 2: Limited Action*

Alternative 2 combines no action with the implementation of institutional controls (fencing, posting signs and deed restrictions) to restrict access to and reduce the

potential exposure to contaminants. Long-term groundwater monitoring and periodic site reviews would be performed.

*Alternative 3: Removal and Treatment/Disposal at Off-Site Disposal Facility*

This alternative would implement remedial actions to excavate and remove soil identified as containing contaminants at levels above the respective cleanup levels. In this alternative, contaminated soil would be excavated and transported off of the site for disposal. Although the contaminated material will be removed, limited deed restrictions and groundwater monitoring may be necessary.

*Alternative 4: Removal and Onsite Treatment with Rotary Kiln Incineration*

*Alternative 5: Removal and Onsite Treatment with Thermal Desorption*

*Alternative 6: Removal and Onsite Treatment with Slagging*

Each of the onsite treatment alternatives listed above is characterized by the following identical components:

- \* Excavation of soils from on-Site areas containing contamination above the selected cleanup levels followed by treatment for removal of dioxin and PCBs.

- \* Processing to homogenize the waste prior to treatment in an attempt to maximize the effectiveness of the treatment system.

- \* Offsite disposal of residual material.

- \* Onsite disposal of treated soil as backfill material in areas of the site where native material is excavated. Areas of the site that appear to have been filled will not be backfilled.

- \* Deed restrictions, groundwater monitoring and periodic site reviews.

*Alternative 7: Removal, Stabilization/Solidification and Disposal in Onsite Landfill*

In this alternative, contaminated soil would be excavated, stabilized/solidified and placed in a new landfill that would be constructed on the site. The onsite landfill would be constructed in accordance with the regulations of 40 CFR Part 264, Subpart N—Landfills. The material to be placed within the landfill, in addition to being a TSCA waste (PCB levels in excess of 50 mg/kg), will have the characteristics of a RCRA hazardous waste (contain levels of lead in leachate that equal or exceed the maximum concentrations for toxicity characteristic). This alternative would include long-term groundwater monitoring and deed restrictions.

*Proposed Response*

The Department's proposed response to address the contaminated material at the site is Alternative 3 (removal of contaminated soils followed by disposal at an offsite disposal facility). This response is considered a final remedial response addressing onsite contaminated soils. The Department's goal is to remove the threats of direct contact and offsite migration by excavating contaminated soils and removing to an offsite permitted facility. This alternative was selected over the others since this method was proven to be permanent and more cost effective than the other alternatives.

The administrative record, which contains the information that forms the basis and documents the selection of this response action, is available for public review. The

administrative record will be available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, at the Department's Northeast Regional Office located at 2 Public Square, Wilkes-Barre, PA 18711.

Written comments concerning the response or information in the administrative record will be accepted in person, if delivered, or by mail, if postmarked, on or before November 12, 1996, to the attention of Paul Panek, Project Officer—Hazardous Sites Cleanup Program, at the Northeast Regional Office address.

Additionally, the public will have an opportunity to present oral comments at a public hearing. The public hearing has been scheduled for September 24, 1996, at 7 p.m. at the Lackawaxen Township Municipal Building which is located off of Route 590 in the village of Lackawaxen. Persons wishing to present oral comments must register on or before September 17, 1996, by calling Paul Panek at (717) 826-2589. Persons interested in finding out if anyone has registered or the location of the hearing should contact Paul Panek.

The Department is providing this notice under section 506(b) of the HSCA. The date of publication of this notice in the *Pennsylvania Bulletin* initiates the minimum 90 day public comment period on the administrative record, as provided under that act. Questions concerning this site may be directed to Paul Panek at (717) 826-2589, or Dennis Abraham, Assistant Counsel, at (610) 832-6300.

Persons with a disability who wish to attend the public hearing referenced above and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Paul Panek directly or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

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**Beneficial use determinations received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations for municipal and residual waste.**

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*Regional Office: Regional Solid Waste Manager, 555 North Lane, Suite 6010, Lee Park, Conshohocken, PA 19418.*

**Beneficial Use No. BU10029. Nutrecon, Inc.,** South Main at Randolph Avenue, P. O. Box 442, Ambler, PA 19002. On July 19, 1996, the Southeast Regional Office received an application from Nutrecon, Inc., for the Agricultural Utilization of Nutresoil in an agricultural utilization program.

*Southeast Regional Office: Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**PAD087098653. Unitank Terminal Services,** Allegheny Avenue and Delaware Avenue, Philadelphia, PA 19134. On June 24, 1996, the Southeast Regional Office received a request from Unitank Terminal Services to release \$348,000 of a Collateral Bond because Unitank Terminal Services has completed closure of their commercial hazardous waste container and tank storage facility. Any comments on this request should be submitted to Lawrence Lusk, Facility Manager, Bureau of Waste Management. Facility located in the City of Philadelphia.

**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. 602497. Reuben Weaver Farm**, Ephrata Borough Authority, (114 East Main Street, Ephrata, PA 17522). Application for modification of an agricultural utilization of sewage sludge site in Ephrata and West Cocalico Townships, **Lancaster County**. Application determined to be administratively complete in the Regional Office July 22, 1996.

**A. 400556. Bridgeview, Inc.**, (R. R. 1, Box 364, Morgantown, PA 19543). Application for modification for the addition of a Chem-Clav processing unit to a site in Robeson Township, **Berks County**. Application determined to be administratively complete in the Regional Office July 22, 1996.

**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 Reasonable Available Control Technology.**

*Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described for:

Permit: **OP-15-0003**  
Source Synthetic Minor NOx Emitting Facility  
Company: **Cheyney University**  
Location: Cheyney  
County: **Chester**

Permit: **OP-46-00030A**  
Source: Synthetic Minor NOx and VOC Facility  
Company: **Lockheed Martin Corporation**  
Location: King of Prussia  
County: **Montgomery**

**Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**08-313-024C.** The Department intends to issue an operating permit to **Osram Sylvania, Inc.** (Hawes Street, Towanda, PA 18848) for the operation of several tungsten oxide blenders and associated air cleaning devices (a fabric collector and an absolute filter) in North Towanda Township, **Bradford County**.

**41-312-010D.** The Department intends to issue an operating permit to **Coastal Oil New York, Inc.** (P. O. Box 818, Hasbrouck Heights, NJ 07604) for the operation of a bulk petroleum products storage tank (No. 20) and associated air cleaning device (an internal floating roof with a double seal) in Armstrong Township, **Lycoming County**.

**8-310-001C.** The Department intends to issue an operating permit to **Dalrymple Gravel and Contracting Company, Inc.** (1209 Upper Broadway, Pine City, NY

14871) for the operation of stone crushing, and the like equipment and associated air cleaning device (a water spray dust suppression system) in Athens Township, **Bradford County**. This equipment is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

**OP-55-0004.** The Department intends to issue an operating permit to **Philips Products, a Division of Tomkins Industries, Inc.** (499 West Sassafras Street, Selinsgrove, PA 17870) for the operation of a vinyl and aluminum door and window frame manufacturing facility in Penn Township, **Snyder County**. This operating permit will establish a "synthetic minor" with respect to the Department's Reasonably Available Control Technology (RACT) regulations.

**53-399-005A.** The Department intends to issue an operating permit to **Morgan Advanced Materials and Technology, Inc., Pure Carbon Company** (East Second Street, Coudersport, PA 16915) for the operation of two batch carbon parts baking ovens and associated air cleaning devices (thermal oxidizers) in Eulalia Township, **Potter County**.

*Regional Office: Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**32-305-032B.** The Department intends to issue an Air Quality Control Operating Permit to **Mears Enterprises, Inc.**, (P. O. Box 157, Clymer, PA 15728) for a wet coal prep plant/rotary breaker and loadout facility at its Clymer Tipple located in Cherryhill Township, **Indiana County**.

**63-000-023.** The Department intends to issue an Air Quality Control Operating Permit to **Washington Steel Corporation**, (P. O. Box 494, Washington, PA 15301) for Sources of NOx Emissions at its Washington Plant located in Washington City, **Washington County**.

**04-000-059.** The Department intends to issue an Air Quality Control Operating Permit to **Koppel Steel Company**, (P. O. Box 750, Beaver Falls, PA 15010) for NOx Sources at its Koppel Plant located in Koppel Borough, **Beaver County**.

**32-000-230.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for an internal combustion engine at its Armagh Station Facility located in West Wheatfield Township, **Indiana County**.

**65-305-050.** The Department intends to issue an Air Quality Control Operating Permit to **Loransen Coal Contractors, Inc.**, (P. O. Box 241, Harrison City, PA 15636) for a mine refuse washing plant at its McCullough Plant located in Penn Township, **Westmoreland County**.

**04-307-112.** The Department intends to issue an Air Quality Control Operating Permit to **Koppel Steel Corporation**, (P. O. Box 750, Beaver Falls, PA 15010) for a 7 1/2" upsetter furnace at its Ambridge Plant located in Harmony Township, **Beaver County**.

**03-309-035.** The Department intends to issue an Air Quality Control Operating Permit to **Sylvan America, Inc.**, (West Hills Industrial Park, R. R. 3, Kittanning, PA 16201) for a conveyor at its Sylvan Spawn Laboratory located in East Franklin Township, **Armstrong County**.

**63-309-052.** The Department intends to issue an Air Quality Control Operating Permit to **Therm-O-Rock, Inc.**, (P. O. Box 429, New Eagle, PA 15067) for a baghouse

for the Perlite Processing system at its Plant 2 facility located in New Eagle Borough, **Washington County**.

**63-309-057.** The Department intends to issue an Air Quality Control Operating Permit to **Therm-O-Rock East, Inc.**, (P. O. Box 429, New Eagle, PA 15067) for dust collectors on the Perlite and Vermiculite Furnaces at its Plant 2 facility located in New Eagle Borough, **Washington County**.

**30-000-077.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for internal combustion engines at its Holbrook Compressor Station facility located in Richhill Township, **Greene County**.

**26-000-413.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for internal combustion engines at its Uniontown Station (21-A) facility located in North Union Township, **Fayette County**.

**32-000-230.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for internal combustion engines at its Armagh Station located in West Wheatfield Township, **Indiana County**.

**65-000-839.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for internal combustion engines at its Delmont Station facility located in Salem Township, **Westmoreland County**.

**11-000-258.** The Department intends to issue an Air Quality Control Operating Permit to **Texas Eastern Transmission Corporation**, (P. O. Box 1642, Houston, TX 77251) for internal combustion engines at its Lilly Station facility located in Cresson Township, **Cambria County**.

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**06-1040.** The Department intends to issue a NOx RACT Air Quality Operating Permit to **East Penn Manufacturing Company, Inc.** (P. O. Box 147, Lyon Station, PA 19536-0147) for a secondary lead smelter controlled by an afterburner, five fabric collectors, a wet scrubber and two demisters in Richmond Township, **Berks County**. The reverberatory furnace is subject to 40 CFR 60, Subpart L, Standards of Performance for New Stationary Sources.

**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.*

**14-310-017I.** Construction of a portable stone crusher and associated air cleaning device (a water spray dust suppression system) by **Glenn O. Hawbaker, Inc.** (P. O. Box 135, State College, PA 16804) in Spring Township, **Centre County**. This crusher is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

**14-399-009D.** Construction of two ceramic capacitor binder removal ovens and associated air cleaning devices (electrically heated thermal afterburners) by **Murata Electronics North America, Inc.** (1900 West College Avenue, State College, PA 16801-2799) in Ferguson Township, **Centre County**.

**14-329-001.** Construction of a 120 horsepower natural gas fired reciprocating engine and associated air cleaning device (a catalytic converter) by **Eastern States Exploration Company** (P. O. Box 178, Snow Shoe, PA 16874) at the Dehass Compressor Station in Curtin Township, **Centre County**.

**53-399-006A.** Construction of three powdered metal parts sintering furnaces by **St. Marys Carbon Co.** (P. O. Box 1, Galeton, PA 16922) in Pike Township, **Potter County**.

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**28-311-015.** Construction of two new cement storage silos with dust collectors by **Nitterhouse Concrete Products, Inc.** (P. O. Box N, Chambersburg, PA 17201) in Guilford Township, **Franklin County**.

**36-3027A.** Construction of three new rotogravure presses and a permanent total enclosure of the entire press room by **R. R. Donnelley & Sons Company** (216 Greenfield Road, Lancaster, PA 17601-5885) in **Lancaster County**. The sources are subject to 40 CFR 60, Subpart QQ, Standards of Performance for New Stationary Sources.

**36-308-033L.** Modification of the existing battery production facility by **C & D Powercom** (82 East Main Street, Leola, PA 17540) in Upper Leacock Township, **Lancaster County**. The source is subject to 40 CFR 60, Subpart KK, Standards of Performance for New Stationary Sources.

**67-310-004E.** Installation of an air classifying system with fabric collector by **Thomasville Stone & Lime Company** (P. O. Box 220, Thomasville, PA 17364) in Jackson Township, **York County**.

*Regional Office: Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**30-000-063. Consolidation Coal Company** (1800 Washington Road, Pittsburgh, PA 15241) for a coal preparation plant at its facility located in Greensboro Borough, **Greene County**.

**PA-63-570A. Midland Slag Processors** (303A Smiths Ferry Road, Midland, PA 15059) for a slag processing facility located in Ohioville Borough, **Beaver County**.

**PA-63-028A. Cerdec Corporation Drakenfeld Products** (P. O. Box 519, Washington, PA 15301) for glass flux furnaces, ribbon blender and ice and specs at its facility located in Canton Township, **Washington County**.

**PA-04-684A. Beaver Valley Aggregates, Inc.** (1150 Brodhead Road, Monaca, PA 15061) for a slag processing plant at its facility located in Hopewell Township, **Beaver County**.

**PA-63-180A. Findlay Refractories** (P. O. Box 517, Washington, PA 15301) for a CO-5 cast mixer feed system at its facility located in Washington City, **Washington County**.

**PA-65-788A. Sony Electronics, Inc.** (1001 Technology Drive, Mt. Pleasant, PA 15666) for an aperture grille manufacturing line at its facility located in East Huntingdon Township, **Westmoreland County**.

**P-65-621A. Kennametal, Inc.** (P. O. Box 231, Latrobe, PA 15650) for a titanium carbide powder production facility located in Derry Township, **Westmoreland County**.

**PA-04-468A. S. H. Bell Company** (644 Alpha Drive, P. O. Box 11495, Pittsburgh, PA 15238) for a material screener at its facility located in Glasgow Borough, **Beaver County**.

**PA-65-864A. Zeus Aluminum Products (USA), Inc.** (R. R. 6, Box 20, Latrobe, PA 15650) for a sand reclamation unit at its facility located in Unity Township, **Westmoreland County**.

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**Applications received for Minor Source Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

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*Regional Office: Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**OP-56-119.** The Department received an application for an Air Quality Control Operating Permit from **West Salisbury Foundry & Machine Co.** (P. O. Box 45, Main Road, West Salisbury, PA 15565) for their foundry located in Elk Lick Township, **Somerset County**.

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**Notice of Plan Approval Application Minor Source**

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The following stationary sources have filed a request for plan approval with the Department of Environmental Protection (DEP), Bureau of Air Quality. Persons wishing to file protests or comments on the proposed plan approval have 30 days to submit the protest or comments to the Regional Office at the address listed below. Interested persons may also request that a hearing be held concerning the plan approval application by filing a request with the Regional Office stating the reason for the request.

The Department will evaluate and consider all protests and comments received. The Department will, where appropriate, modify the proposed plan approval based on the protests and comments received.

The final plan approval will contain terms and conditions to ensure that the source is constructed and operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121 through 143 and the requirements of the Federal Clean Air Act. A notice of the Department's final decision on the proposed plan approval will be published in the *Pennsylvania Bulletin*. Air contaminants emitted from these sources are less than the amounts that would trigger major new source review requirements. For additional information on the following applications contact Devendra Verma, Engineering Services Chief, (814) 332-6940.

*Northwest Regional Office: Bureau of Air Quality Control, 230 Chestnut Street, Meadville, PA 16335.*

The Department received the following four plan approval applications from **Tri-County Landfill, Inc.** (156 Landfill Road, Grove City, PA 16127) in Pine and Liberty Twp., **Mercer County** for the following sources:

**43-322-001.** Installation of an interim landfill gas flare and 800 kw engine generator to control VOC emissions

from the existing landfill. The existing landfill will be subject to New Source Performance Standard 40 CFR Part 60 Subpart CC.

**43-322-002.** Installation of a landfill gas flare and 3 Mw engine generator to control VOC emissions from the new landfill. This new landfill will be subject to New Source Performance Standard 40 CFR Part 60 Subpart WWW.

**43-399-017.** Construction of a screening plant for earthen materials and a screening plant for refuse/soil.

**43-399-018.** Construction of an 85,000 gpd wastewater treatment plant with an anaerobic flare and several carbon canisters.

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**Reasonably Available Control Technology; Public Hearings**

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Revision of Reasonably Available Control Technology (RACT) plan for Pennsylvania Power & Light Company, Sunbury SES, Shamokin Dam Borough, Snyder County.

The Department of Environmental Protection has made a preliminary determination to approve a Reasonably Available Control Technology (RACT) plan and an amendment to the State Implementation Plan (SIP) for a facility (Sunbury SES) owned and operated by Pennsylvania Power & Light Company in Shamokin Dam Borough, Snyder County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT approval for the facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will result in the revision of operating permit # OP-55-0001 previously issued on December 27, 1994, and will be submitted to the U. S. Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following is a summary of the preliminary RACT determination which the Department proposes to incorporate into operating permit # OP-55-0001 for 4 pulverized coal and petroleum coke arch-fired electric utility boilers as a revision to the respective permit:

<i>Source</i>	<i>nitrogen oxides emission limit</i>
Units 1A and 1B (Stack # 1)	not to exceed 1.10 pounds of nitrogen oxides (NO <sub>x</sub> , expressed as NO <sub>2</sub> ) per million BTU of heat input, 30 day rolling average
Units 2A and 2B (Stack # 2)	not to exceed 1.16 pounds of nitrogen oxides (NO <sub>x</sub> , expressed as NO <sub>2</sub> ) per million BTU of heat input, 30 day rolling average

One public hearing will be held for the purpose of receiving comments on the proposed operating permit revision and SIP revision. The hearing will be held on September 10, 1996, at 1 p.m. at the DEP Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, Pennsylvania. 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 Daniel Spadoni at (717) 327-3659 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 Daniel Spadoni at (717) 327-3659 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 Joseph Cooper, Air Quality Environmental Program Manager, DEP, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by September 25, 1996.

All pertinent documents are available for review from 8 a.m. to 4 p.m. in the DEP Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling (717) 327-3693.

*Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105-8476.*

Under Act 181 of 1984, the Department of Environmental Protection gives notice of an unsolicited proposal received from **Kraynak Coal Company**, Mahaffey, Pennsylvania, to reclaim an abandoned surface mine in Grant Township, **Indiana County**. The Department intends to enter into negotiations with Kraynak Coal Company to contract for site reclamation.

The project, BF 344-102.1, involves reclamation of the area mined by Benjamin Coal Company where bonds were forfeited by the Department under Permit Number SMP 32860105.

Kraynak Coal Company proposes to backfill, regrade and revegetate 22.0 acres. All areas will be regraded to promote surface drainage and provide integration with surrounding unmined areas.

Interested parties should send comments to Richard L. Joyce, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA no later than 4 p.m., September 9, 1996.

Newspaper: Indiana Evening Gazette,  
899 Water Street,  
Indiana, PA 15701.

Mailed: August 2, 1996.

Published First Time: August 9, 1996.

Published Second Time: August 16, 1996.

30 Days Ends—September 9, 1996.

#### **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 §§ 86.31—86.34 and 77.121—77.123 (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*

**32940105. Kent Coal Mining Company** (P. O. Box 729, Indiana, PA 15701), to utilize circulating fluidized bed (CFB) ash from a cogeneration plant for beneficial use and abandoned deep mine reclamation in Center Township, **Indiana County**, affecting 180.0 acres, receiving streams unnamed tributaries to Yellow Creek to Yellow Creek to Two Lick Creek. Application received July 23, 1996.

**11960107. T. J. Mining, Inc.** (P. O. Box 370, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine in Cresson Township,

**Cambria County**, affecting 62.0 acres, receiving stream unnamed tributary to Burgoon Run, application received July 16, 1996.

**56960106. Dunamis Resources, Inc.** (P. O. Box 846, Latrobe, PA 15650), commencement, operation and restoration of bituminous strip-auger mine in Lincoln Township, **Somerset County**, affecting 374.5 acres, receiving stream north branch of Quemahoning Creek and Horner Run and their tributaries, application received July 17, 1996.

**11960108. Laurel Land Development, Inc.** (P. O. Box 629, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine, beneficial use of circulating fluidized bed ash in Blacklick Township, **Cambria County**, affecting 54.1 acres, receiving stream Coalpit Run, application received July 23, 1996.

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

**17910118. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830), renewal of an existing bituminous surface mine permit in Lawrence Township, **Clearfield County** affecting 74.2 acres, receiving streams three unnamed streams, tributaries to Clearfield Creek, application received July 9, 1996.

**17920114. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), transfer of an existing bituminous surface mine permit from James I. Cowfer Contracting, Inc., Decatur Township, **Clearfield County** affecting 61.7 acres, receiving streams unnamed tributary of Little Beaver Run, north branch of Morgan Run, application received July 12, 1996.

**17753050. River Hill Coal Co., Inc.** (Kylertown, PA 16847), revision to an existing bituminous surface mine permit for a change in the erosion and sedimentation control plan, and an encroachment within 100 feet of a stream barrier on an unnamed tributary to the west branch Susquehanna River, application received July 23, 1996.

**17960114. Larry D. Baumgardner Coal Co., Inc.** (P. O. Box 186, Lanse, PA 16849), commencement, operation and restoration of a bituminous surface mine permit in Brady Township, **Clearfield County** affecting 57 acres, receiving streams unnamed tributary to Luthersburg Branch, Laborde Branch, application received July 25, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*Noncoal Applications Received*

**09960301. Warner Company**, (600 Tyburn Road, Morrisville, PA 19067), commencement, operation and restoration of a quarry operation in Falls Township, **Bucks County** affecting 46.0 acres, receiving stream—none. Application received July 15, 1996.

**45900301C. Haines & Kibblehouse, Inc.**, (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit # PA0595241 in Ross Township, **Monroe County**, receiving stream—Buckwha Creek. Application received July 19, 1996.

**6575SM4C2. Haines & Kibblehouse, Inc.**, (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit # PA0611964 in Ross and Eldred Townships, **Monroe County**, receiving stream—Buckwha Creek, Aquashicola Creek. Application received July 19, 1996.

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

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office of Soils and Waterways Sections have assumed primary responsibility for process requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provision of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or 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 Regional Office: Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, telephone (717) 657-4590.*

**E05-238. Encroachment. Diann L. and Raymond A. Cosgrove**, 513 B Maryland Ave., Westernport, MD 21562. To rehabilitate and maintain an existing bridge having a new total span of 56 feet with an underclearance of 7 feet 8 inches across Little Wills Creek to provide continued access to area residents located about 1 mile south of Madley Village (Buffalo Mills, PA Quadrangle N: 1.6 inches; W: 7.85 inches) in Londonderry Township, **Berford County**.

**E22-353. Encroachment. Mary Brooks and Robert Southard**, Box 307, Dauphin, PA 17018-0307. To construct and maintain a garage next to an existing house in the floodway of the Susquehanna River at a point along River Road (Harrisburg West, PA Quadrangle N: 20.75 inches; W: 8.5 inches) in Dauphin Borough, **Dauphin County**.

**E28-239. Encroachment. E. Lewis Leaman**, President/CEO, Menno Haven, Inc., 2075 Scotland Avenue, Chambersburg, PA 17210. To relocate and maintain and to place fill along the floodway of an unnamed tributary to Conococheague Creek in order to construct a detention basin for the proposed expansion of the Menno Haven Retirement Community located about 1,200 feet southeast of Red Bridge Village (Chambersburg, PA Quadrangle N: 15.45 inches; W: 1.75 inches) in Greene Township and Chambersburg Borough, **Franklin County**.

**E29-071. Encroachment. Dublin Township Supervisors**, HCR 75, Box 240, Fort Littleton, PA 17223. To rehabilitate an existing bridge across North Branch Little Aughwick Creek on T-457 by removing the center pier



and underpinning the abutment with concrete and rocks located about 1.2 miles northwest of Burnt Cabins Village (Burnt Cabins, PA Quadrangle N: 16.7 inches; W: 4.8 inches) in Dublin Township, **Fulton County**.

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

**E09-721.** Encroachment. **Newtown Enterprises**, P. O. Box 8297, Trenton, NJ 08650. To construct a stormwater management facility on an unnamed tributary to Hough Creek (WWF) impacting approximately 1,080 feet of stream channel and adjacent floodway associated with the proposed Eagleton Farms Subdivision located near the intersection of Stoopville Road and Eagle Road (Lambertville, PA-NJ Quadrangle N: 3.4 inches; W: 10.7 inches) in Newtown Township, **Bucks County**.

**E46-749.** Encroachment. **Cheltenham Township**, 8230 Old York Road, Elkins Park, PA 19027-1589. To reconstruct and maintain the William Gottschalk Fire Training Center which is located within the 100-year floodway fringe of Tookany Creek (aka Tacony Creek). Construction activities include: 1. Reconstruction of a Fire Training Center building at approximately its original location. 2. Removal of the approach embankment of the vacated Stetson's Lane which is located on the west side of the site. 3. Construction of approximately 300 linear feet of diversion/detention curbing on the east side of the site. 4. Installation of bituminous paving adjacent to the Training Center. The site is located approximately 800-linear feet downstream of the New Second Street Bridge (Frankford, PA Quadrangle N: 12.25 inches; W: 15.75 inches) in Cheltenham Township, **Montgomery County**.

**E51-154.** Encroachment. **Rohm & Haas Co.**, 5000 Richmond Street, Philadelphia, PA 19137-0000. To perform maintenance dredging of the Delaware River which impacts approximately 0.44 acre (WWF-MF), adjacent to the Rohm and Haas Plant Dock Facility situated along the western shoreline at 5000 Richmond Street, in the Frankford Section of Philadelphia. This project also includes the modification of an existing berth area by the installation of an additional mooring cluster. The purpose of this project is to enhance an existing mooring area to accommodate large barges. This site is located approximately 3/4 mile east from the intersection of I-95 and Bridge Street (Camden, NJ-PA Quadrangle N: 22.6 inches; W: 8.75 inches) in the City of Philadelphia, **Philadelphia County**.

**E51-155.** Encroachment. **Philadelphia Gas Works**, 800 W. Montgomery Avenue, Philadelphia, PA 19122. To operate and maintain an existing 24-inch petroleum pipeline crossing the Schuylkill River (WWF-MF) associated with the Philadelphia Gas Works. It is planned to

convert this pipeline for natural gas use. The site is situated approximately 600 feet upstream of the Passyunk Avenue Bridge (Philadelphia USGS Quadrangle N: 8.2 inches; W: 11.0 inches) in the City and **County of Philadelphia**.

**Requests for Certification under Section 401 of the Federal Water Pollution Control Act**

The following requests have been made to the Department of Environmental Protection for certification under § 401(a) of the 1972 amendments to the Federal Water Pollution Control Act, 33 U.S.C.A. § 1341(a), that there is reasonable assurance that the construction herein described will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments, suggestions and objections which are submitted in writing 30 days from the date of this notice. Comments should be submitted to the Department of Environmental Protection at the address indicated above each of the following requests for certification. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed, and a concise statement of comments, objections and suggestions in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given comments if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated above each request for certification between the hours of 8 a.m. and 4 p.m. on each working day.

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

*Certification Request Initiated By:* Department of the Army, Philadelphia District Corp of Engineers, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3391.

*Project Description/Location:* This project involves the discharge of 26 mgd of supernatant from the Ft. Mifflin Dredge Disposal Area. Sediments dredged from the Delaware River and Schuylkill River are placed in the Disposal Area. The sediments settle out and the supernatant is discharged back to the Schuylkill River. The following effluent limits and monitoring requirements apply:

	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)	Monitoring Frequency
Flow				daily
Total Suspended Solids			8,000	daily
pH		6—9 std units at all times		daily
Total Arsenic	0.08 mg/l	0.12		1/week
Total Antimony	0.016 mg/l	0.025		1/week
Total Beryllium	not detectable			1/week
Total Cadmium	0.0015 mg/l	0.002		1/week
Total Copper	0.014 mg/l	0.02		1/week
Hex Chromium	0.016 mg/l	0.025		1/week

	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)	Monitoring Frequency
Total Lead	0.0035 mg/l	0.005		1/week
Total Zinc	0.096 mg/l	0.15		1/week
4,4'-DDT	not detectable			1/week
4,4'-DDD	not detectable			1/week
4,4'-DDE	not detectable			1/week
Total PCBs	not detectable			1/week

Northcentral Regional Office: Soils and Waterways Section, 208 W. Third St., Suite 101, Williamsport, PA 17701, telephone (717) 327-3574.

**E41-380.** Water obstruction and encroachment. **Transcontinental Gas Pipeline Corp.**, P. O. Box 405, Sal-ladasburg, PA 17740. To remove unvegetated gravel and to place and maintain about 900 linear feet of fill and riprap along bank of Loyalsock Creek. This project is located near Rt. 87 about 1.5 miles north of Rt. 180 (Montoursville North, PA Quadrangle N: 5.5 inches; W: 5.6 inches) in Fairfield Township, **Lycoming County**. Estimated stream disturbance 900 feet; stream classification is TSF.

**E41-381.** Water obstruction and encroachment. **Dept. of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To construct and maintain streambed paving and rock protection at wings and upstream and downstream banks for an existing bridge across Gamble Run. The project is located on Rt. 414 just south of Gamble Run Road (Cedar Run, PA Quadrangle N: 1.5 inches; W: 11.2 inches) in Brown Township, **Lycoming County**. Estimated stream disturbance 60 feet; stream classification HQ-CWF.

**E41-383.** Water obstruction and encroachment. **Clinton Twp. Supervisors**, R. R. 1, Box 33, Montgomery, PA 17752. To place and maintain fill in 0.04 acre of palustrine emergent wetlands for the purpose of enlarging an existing stone parking lot and to redefine a stormwater drainageway. The project site is located approximately 1.9 miles east southeast of the SR 15 and SR 54 intersection (Montoursville South, PA Quadrangle N: 10.0 inches; W: 0.3 inch) in Clinton Township, **Lycoming County**. The proposed work will result in impact to a deminimus area of wetlands less than 0.05 acre and therefore, replacement will not be required.

**E53-288.** Water obstruction and encroachment. **Ulysses Twp. Supervisors**, R. R. 1, Box 220, Ulysses, PA 16948. To remove the existing structure and to construct and maintain a 121 inch by 173 inch corrugated metal culvert with a length of 30 feet in middle branch of the Genesee River. The project is located on T-450 about 400 feet east of SR 449 (Ulysses, PA Quadrangle N: 5.2 inches; W: 12.4 inches) in Ulysses Township, **Potter County**. Estimated stream disturbance 60 feet; stream classification is HQ-CWF.

**E59-325.** Water obstruction and encroachment. **Dept. of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To remove the existing far right wingwall and to construct and maintain a new wingwall and streambed paving for an existing bridge across an unnamed tributary to North Elk Run. The project is located on SR 6 about 600 feet west of T-648 (Crooked Creek, PA Quadrangle N: 2.8 inches; W: 10.5 inches) in Charleston Township, **Tioga County**. Estimated stream disturbance 40 feet; stream classification CWF.

**E59-329.** Water obstruction and encroachment. **Dept. of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To construct and maintain approximately 450 square feet of streambed paving with a rough finish along with aprons and cutoff walls, to place a partial jacket along both abutments and a rock apron at the outlet end of the bridge on an existing bridge over Hills Creek on SR 4039 about 2 miles south of SR 4037 (Crooked Creek, PA Quadrangle N: 12.0 inches; W: 13.3 inches) in Charlestown Township, **Tioga County**. Estimated stream disturbance less than 250.0 linear feet; stream classification WWF.

**E18-213.** Water obstruction and encroachment. **Wal-Mart Stores, Inc.**, 701 S. Walton Blvd., Bentonville, AR 72716. To place 280,000.0 cubic yards of fill in the floodway of Bald Eagle Creek for the construction of a 181,120.0 square foot retail facility and its associated appurtenances. The proposed work shall consist of placing and compacting fill on 23.0 acres of floodplain, all designated as floodway, from an existing elevation of 557.0 feet to a proposed elevation of 569.0 feet. The project is located along the western right-of-way of SR 0150 approximately 400.0 feet north of the intersection of SR 0150 and Country Club Road (Mill Hall, PA Quadrangle N: 21.0 inches; W: 14.5 inches) in Bald Eagle Township, **Clinton County**. As proposed, the project will not impact wetlands or any linear footage of Bald Eagle Creek: a warm water fishery.

**E55-139.** Water obstruction and encroachment. **Sheetz, Inc.**, 5700 6th Ave., Altoona, PA 16602. To construct and maintain two reinforced concrete box culverts with a span of 16 feet, a rise of 8 feet and a length of 35 to 40 feet to be used to connect three existing stream enclosures in an unnamed tributary to Penns Creek located in the northeast intersection of SR 0011/0015 and SR 8005 (Susquehanna Mall Drive) (Sunbury, PA Quadrangle N: 12.9 inches; W: 13.7 inches) in the Borough of Shamokin Dam, **Snyder County**. This project proposes to impact approximately 75 linear feet of an unnamed tributary to Penns Creek which is designated CWF.

**E55-140.** Water obstruction and encroachment. **Shamokin Dam Borough**, 144 W. 8th Ave., Shamokin Dam, PA 17876. To construct and maintain a reinforced box culvert with a span of 16 feet, a rise of 4 feet and a length of 32.3 feet in an unnamed tributary to the Susquehanna River located on Stettler Avenue and Maple Street (Sunbury, PA Quadrangle N: 16.9 inches; W: 11.0 inches) in the Borough of Shamokin Dam, **Snyder County**. This project proposes to impact approximately 60 linear feet of an unnamed tributary to the Susquehanna River which is designated as a WWF.

**E59-326.** Water obstruction and encroachment. **William Bennett**, R. R. 2, Box 32, Wellsboro, PA 16901. Remove an existing structure and to construct and maintain a single span bridge to carry T-305 across an unnamed tributary to Bald Eagle Creek. The proposed

bridge shall be constructed with a single span of 30.50 feet, an underclearance of 5.00 feet and a curb-to-curb width of 14.25 feet. The project is located along the eastern right-of-way of SR 0220 approximately 100.0 feet east of the intersection of SR 0220 and T-305 (Port Matilda, PA Quadrangle N: 3.1 inches; W: 13.5 inches) in Taylor Township, **Centre County**. Estimated stream disturbance is approximately 44 linear feet; no wetland impact. Stream classification is CWF.

**E14-291.** Water obstruction and encroachment. **Keith G. Benner**, HC 1 Box 75, Aaronsburg, PA 16820. To construct and maintain two 48-inch diameter CMP culverts 16 feet long in an unnamed tributary to Pine Creek. The project is located off Middle Road about 600 feet east of Applebutter Road (Millheim, PA Quadrangle N: 6.3 inches; W: 0.6 inch) in Haines Township, **Centre County**. Estimated stream disturbance 50 feet; stream classification EV.

**E08-235.** Water obstruction and encroachment. **Towanda Area Joint Municipal Auth.**, R. R. 2, Box 69A, Towanda, PA 18848. To construct and maintain a 4,300 foot airport runway with associated electrical vault building and oil/water separator within the 100 year designated FEMA floodplain of the Towanda Creek just south of the existing runway and to construct and maintain a 66-inch diameter 225 foot long stream enclosure with a 200 foot wide overflow spillway in an unnamed tributary replacing an existing 108 inch x 78 inch oval culvert under the present airport access road and to extend an existing 60-inch diameter stormwater culvert by the addition of 465 feet of 77-inch x 52-inch enclosure beyond the end of the proposed runway. (Monroeton, PA Quadrangle N: 22.0 inches; W: 9.5 inches) in Towanda Township, **Bradford County**. Estimated stream disturbance more than 250 linear feet; stream classification is CWF.

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

**E39-316.** Encroachment. **Washington Township**, P. O. Box 27, Slatedale, PA 18079. To place fill in 0.03 acre of wetlands (PEM) to maximize the development area for a multipurpose recreational park. This project is located in the southeast corner of the intersection of Eagle Road (T-855) and Best Station Road (L. R. 39054) (Slatedale, PA Quadrangle N: 16.2 inches; W: 0.4 inch) in Washington Township, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

**E40-446.** Encroachment. **Pocono Downs, Inc.**, 1280 Highway 315, Wilkes-Barre, PA 18702. To construct and maintain 120 linear feet of dual 13.3 foot x 9.4 foot corrugated steel arch pipe stream enclosure in Mill Creek (CWF), for the purpose of replacing a flood-damaged road crossing providing horse and vehicular access to the stables and race track. The project is located at Pocono Downs (Pittston, PA Quadrangle N: 4.2 inches; W: 8.9 inches), in Plains Township, **Luzerne County** (Baltimore District, Army Corps of Engineers).

**E64-172.** Encroachment. **Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To maintain two 48-inch C.M.P. culverts in the channel of Hiawatha Creek (HQ-CWF) located along S. R. 4014, Segment 0130, Offset 3726 (Starrucca, PA Quadrangle N: 12.5 inches; W: 0.1 inch) in Scott Township, **Wayne County**. These culverts replaced two collapsed 48-inch C.M.P. culverts at the same location under Emergency Permit No. EP6496406 (Philadelphia District, Army Corps of Engineers).

**E64-173.** Encroachment. **Dr. Paul and Mrs. Bonnie Mancica**, 1485 Wyoming Avenue, Forty Fort, PA 18704. To place fill in 0.9 acre of PEM/PSS wetlands and to construct and maintain a stream enclosure consisting of 170 linear feet of 48-inch concrete pipe culvert, connecting to approximately 75 feet of 36-inch concrete culvert in a tributary to Wallenpaupack Creek for unknown future commercial development. This project is located along the north side of S. R. 0590, 0.75 mile west of the intersection with S. R. 0191 (Lake Ariel, PA Quadrangle N: 5.4 inches; W: 4.9 inches) in Salem Township, **Wayne County** (Philadelphia District, Army Corps of Engineers).

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

**E42-242.** Encroachment. **Columbia Gas Transmission Corp.**, P. O. Box Drawer A, Brookville, PA 15825. To install and maintain cathodic protection for 15,000 feet adjacent to the existing 8-inch steel gas transmission pipeline. The project will include crossing four streams/watercourses and seven wetland areas. The project is located on the west approximately 2,800 feet south of the intersection of Bingham Road and S. R. 0646 in Cyclone (Cyclone, PA Quadrangle N: 14.3 inches; W: 13.0 inches) to the east approximately 1,800 feet south of the intersection of S. R. 0059 and S. R. 0646 in Ormsby (Cyclone, PA Quadrangle N: 10.4 inches; W: 6.75 inches) located in Keating Township, **McKean County**.

*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.*

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

**EA46-022C0.** Environmental assessment. **T. H. Properties**, P. O. Box 159, Franconia, PA 18924. To construct and maintain two non-jurisdictional dams (Basin A and Basin B) across tributaries to Skippack Creek (TSF) for the purpose of stormwater management at the proposed Summerwind Subdivision located approximately 1,800 feet north of the intersection of Clemens Road and Yoder Road (Telford, PA Quadrangle N: 4.15 inches; W: 15.20 inches) in Lower Salford Township, **Montgomery County**.

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## ACTIONS

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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, 400 Market Street Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audio tape from the Secretary to the Board at (717)

787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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**Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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*Permits Issued*

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

**NPDES Permit No. PA0034941.** Sewage. **West Mead Industrial Park**, Crawford County Development Corporation, R. D. 2, Dunham Road, Meadville, PA 16335 is authorized to discharge from a facility located in West Mead Township, **Crawford County** to French Creek.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**Permit No. NPDES PA0020583,** Sewerage. **Door W. Stock**, Middleburg Sewer Authority, 13 North Main Street, Middleburg, PA 17842. Has been approved for renewal to discharge treated sewage from facility located in Middleburg Borough, **Snyder County**.

**Permit No. NPDES PA 0031852.** Sewerage. **Dr. Ivan A. Shibley**, Central Columbia School District, 4777 Old Berwick Road, Bloomsburg, PA 17815. Has been approved for renewal to discharge treated sewage from facility located in South Centre Township, **Columbia County**.

**Permit No. NPDES PA0029831.** Sewerage. **Paul A. Schaefer**, Sullivan County School District, P. O. Box 346, Dushore, PA 18614. Has been approved for renewal to discharge treated sewage from facility located in Laport Borough, **Sullivan County**.

**Permit No. NPDES PA0046159.** Sewerage. **Houtzdale Borough Municipal Sewer Authority**, P. O. Box 277, Houtzdale, PA 16651. Has been approved for renewal to discharge treated sewage to Beaver Run. Authority is located in Woodward Township, **Clearfield County**.

**Permit No. NPDES PA0110540.** Industrial waste. **Furman Foods, Inc.**, Box 500, Northumberland. Has been approved for renewal to discharge treated effluent from facility located in Point Township, **Northumberland County**.

**Permit No. NPDES PA0030601.** Sewerage. **Walter Clark**, Clearfield Area School District, P. O. Box 710, 438 River Street, Clearfield, PA 16830. Has been approved for renewal to discharge from facility located at Goshen Township, **Clearfield County**.

**Permit No. NPDES PA 0028631.** Sewerage. **Mid-Cameron Authority**, 421 North Broad Street, Emporium, PA 15834. Has been approved for renewal to discharge from facility at Emporium Borough, **Cameron County**.

**Permit No. NPDES PA0114880.** Sewerage. **James M. Underwood**, Church of Jesus Christ Latter Day Saints, P. O. Box 750, Clarks Summit, PA 18411. Has been

approved for renewal to discharge from facility at North Centre Township, **Columbia County**.

**Permit No. NPDES PAG044881.** Sewerage. **Joseph Cochran**, R. D. 4, Box 140, Westfield, PA 16950. Applicants has been approved to discharge from facility located in Brookfield Township, **Tioga County**.

**Permit No. NPDES PA0112585.** Sewerage. **Calvin Williams**, R. D. 1, Box 141, Athens, PA 18810. Approval has been granted for renewal of an existing NPDES Sewerage Permit. Facility located in Ulster Township, **Bradford County**.

**Permit No. NPDES PA0044652.** Sewerage. **DCNR Bureau of State Parks**, Mt. Pisgah State Park, R. R. 3, Box 362, Troy, PA 16947. Has been approved to discharge treated wastewater from facility located in West Burlington Township, **Bradford County**.

**Permit No. NPDES PA0033928.** Sewerage. **Thomas Calkins**, Town and Country Estates, R. D. 3, Box 8, Troy, PA 16947. Has been approved for renewal. Facility is located in Troy Township, **Bradford County**.

**Permit No. NPDES PA0209376.** Sewerage. **Linda Geyer**, Twin Oaks Bar and Grille, R. D. 1, DuBois, PA 15801. Has been approved to discharge treated wastewater from facility located in Brady Township, **Clearfield County**.

**Permit No. NPDES PA0111414.** Sewerage. **McEwensville Municipal Authority Community Building**, McEwensville, PA 17749. Has been approved to discharge treated wastewater from facility located in Delaware Township, **Northumberland County**.

**Permit No. NPDES PA0029068.** Sewerage. **Valley Township Municipal Authority**, P. O. Box 307, Danville, PA 17821. Has been authorized to discharge from facility located at Valley Township, **Montour County** to receiving waters named Mause Creek.

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**Final Actions**

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

These actions of the Department may be appealed 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, by any aggrieved person under The Environmental Hearing Board Act (35 P. S. § 7514); 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 from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

*Permits Issued*

*Northcentral Regional Office: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701-0000, telephone (717) 327-3664.*

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR 804836	University Park Airport 2535 Fox Hill Road University Park, PA 16802	Centre County College, Benner and Patton Township	Buffalo Run CWF unnamed tributaries to Spring Creek	4522

**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.*

**NPDES Permit No. PA0004936.** Industrial waste, **Vesuvius McDanel**, 510 Ninth Avenue, P. O. Box 560, Beaver Falls, PA 15010-0560 is authorized to discharge from a facility located at City of Beaver Falls, **Beaver County** to Walnut Bottom Run.

**NPDES Permit No. PA0030082.** Sewage, **Brownsville General Hospital**, 125 Simpson Road, Brownsville, PA 15417 is authorized to discharge from a facility located at Brownsville General Hospital Sewage Treatment Plant, Redstone Township, **Fayette County** to unnamed tributary of Dunlap Creek.

**NPDES Permit No. PA0041238.** Sewage, **Meyersdale-Summit Park Recreation Commission**, 117 Olinger Street, Meyersdale, PA 15552 is authorized to discharge from a facility located at Maple Valley Park Sewage Treatment Plant, Summit Township, **Somerset County** to Blue Lick Creek.

**NPDES Permit No. PA0096164.** Sewage, **Jeffrey D. Smith**, 264 East Beaver Street, Sewickley, PA 15143 is authorized to discharge from a facility located at little Village Sewage Treatment Plant, Donegal Township, **Westmoreland County** to Indian Creek.

**Notices of Intent for Coverage Under General Permits Received**

The following parties have submitted Notices of Intent for coverage under General NPDES permits to discharge treated wastewater into the surface waters of this Com-

<i>NPDES No.</i>	<i>Applicable GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR123527	3	Frito-Lay, Inc. 3553 Gillespie Dr. York, PA 17404	York County West Manchester Twp.	York City Sewer System	2099
PAR233527	3	G & T Industries 52 Hess Road Leola, PA 17540	Lancaster County Upper Leacock Twp.	UNT of Mill Creek	3086
PAR123543	3	Harrisburg Plant Purina Mills, Inc. P. O. Box 248 Camp Hill, PA 17011	Cumberland County, Hampden Twp.	UNT of Cedar Run Creek	2048
PAR223521	3	Mt. Airy Lumber Co. 209 Mt. Airy Road New Providence, PA 17560	Lancaster County Providence Twp.	Big Beaver Creek	2448
PAR803555	3	Navy Ships Parts Control Center 5450 Carlisle Pike Mechanicsburg, PA 17055	Cumberland County, Hampden Twp.	Trindle Spring Run	4225
PAR203581	3	Letterkenny Army Depot Franklin St. Extended Chambersburg, PA 17201	Franklin County Greene Twp.	Conococheague Creek, Rowe Run and Rocky Spring Branch	3471

monwealth. Unless otherwise indicated on the basis of preliminary review, or application of lawful standards and regulations, the Department of Environmental Protection proposes to issue coverage under the General Permit subject to effluent limitations, monitoring and reporting requirements and other conditions set forth in the General Permits.

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.

The Notice of Intent, related documents, proposed effluent limitations, special conditions, comments received and other information are on file and may be inspected and copied at the Regional Office indicated as receiving the Notice of Intent.

**List of NPDES General Permits Issued by DEP's Water Management Deputate**

<i>NPDES General Permit No.</i>	<i>Short Title of General Permit</i>	<i>Responsible Bureau</i>
PAG-2	Stormwater—Construction Activities	BLWC
PAG-3	Stormwater—Industrial Activities	BWQM
PAG-4	Single Residence Sewage Treatment Plant	BWQM
PAG-6	Combined Sewer Overflows	BWQM

**NOI Received and Final Actions Under NPDES General Permits**

Coverage under the General Permits issued under the National Pollutant Discharge Elimination System (NPDES) Permit Program to discharge wastewaters to waters of the Commonwealth.

NPDES No.	Applicable GP No.	Facility Name and Address	Facility Location	Stream Name	SIC
PAG043556	4	Kimberly and Brian Kurtz 2131 Longs Gap Road Carlisle, PA 17013	Cumberland County, North Middleton	UNT to Meeting House Run	

**The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.**

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

NPDES Permit No.	Applicant Name and Address	County and Municipality	Receiving Stream
PAS107413	Wal-Mart Stores, Inc. 701 South Walton Blvd. Bentonville, AZ 72716-8703	Texas Township Wayne County	Tributary to Holbert Creek and Holbert Creek
PAS10S043	Mount Pocono Borough 303 Pocono Boulevard Mount Pocono, PA 18344	Mount Pocono Borough Monroe County	An unnamed tributary to Paradise Creek

*Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

NPDES Permit No.	Applicant Name and Address	County and Municipality	Receiving Stream
PAS10F056	Spring-Benner-Walker Joint Auth. c/o Walter Yearick 170 Irish Hollow Rd. Bellefonte, PA 16823	Walker Township	Little Fishing Ck.

**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. 6596405.** Sewerage, **Rostraver Township Sewer Authority**, P. O. Box 92, Brownsville, PA 15417-0092. Construction of gravity sewer, pump station, force main located in the Township of Rostraver, **Westmoreland County** to serve the Rostraver Square.

**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. 3496503.** Public water supply. **Richfield Area Joint Authority**, Monroe Township, **Juniata County**, (Alvin Graybill, P. O. Box 215, Richfield, PA 17086), the construction of a chemical feed system to control corrosion by the addition of soda ash and Aqua Mag.

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

**Permit No. 2395502.** Public water supply. **Glen Mills Schools**, Joe A. Schmucker, Glen Mills Road, Concordville, PA 19331. This permit has been approved for existing well no. 10 to be used as the primary source of supply, it replaces well nos. 1 and 2 in Thronburg Township, **Delaware County**.

*Type of Facility:* Water supply system.

*Consulting Engineer:* Weldon C. Harris & Associates, P. O. Box 1361, Doylestown, PA 18901.

*Permit to Construct Issued:* July 22, 1996.

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

**Permit No. 3596504.** Public water supply. **Happy Acres, c/o Gerald Fritz**, Cliff Street, Honesdale, PA. James F. Knash, PE, HC 62, Box 455A, Honesdale, PA 18431. This proposal involves a public water system existing since 1964 consisting of well no. 1 wellhouse and hypochlorinator, well no. 2 wellhouse and hypochlorinator, and the distribution system. It is located in Jefferson Township, **Lackawanna County**.

*Permit to operate issued:* July 15, 1996.

**Permit No. 4596502.** Public water supply. **Blue Mountain Lake Associates, L.P. c/o Charles Vogt**, Chief Operating Officer, One Blue Mountain Lake, East Stroudsburg, PA 18301. This proposal involves the construction of additional distribution system to serve phases 7, 8, 9 and 10 of the Blue Mountain Lake Development. It is located in Stroud Township, **Monroe County**.

*Permit to operate issued:* July 2, 1996.

**Permit No. 4596506.** Public water supply. **Hillside Mobile Home Park, c/o Dennis Dougherty**, R. R. 1, Box 1444, East Stroudsburg, PA 18301. This proposal involves a new well source, hypochlorinator, hydropneumatic tanks and distribution system. It is located in Hamilton Township, **Monroe County**.

*Permit to operate issued:* July 5, 1996.

**Permit No. 6495505.** Public water supply. **Honesdale Consolidated Water Co., c/o Lynn Simons**, Manager, Honesdale Consolidated Water Co., 175 N. Main Street, Honesdale, PA 18431. This proposal involves the permitting of the construction of six new wells and four new storage tanks along with the necessary disinfection facilities and transmission piping to interconnect all.

*Permit to operate issued:* July 12, 1996.

*Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

**Permit No. 6593510.** Public water supply. **Highridge Water Authority**, 28 North Walnut Street Complex, Suite 200, Blairsville, PA 15717.

*Type of Facility:* 2.5 mgd Water Treatment Plant with a 2.5 mg storage tank, below the Sugar Run Reservoir.

*Permit to Operate Issued:* July 19, 1996.

**Permit No. 0291502.** Public water supply. **Harrison Township Water Authority**, 1705 Rear Freeport Road, P. O. Box 175, Natrona Heights, PA 15065.

*Type of Facility:* Ridge Road 1 million gallon tank.

*Permit to Operate Issued:* July 19, 1996.

**Permit No. 2689509-A2.** Public water supply. **Indian Creek Water Authority**, P. O. Box 486, Indian Head, PA 15446.

*Type of Facility:* Chlorination facility.

*Permit to Operate Issued:* July 19, 1996.

**Permit No. 6593502.** Public water supply. **New Florence Water Authority**, Box 263, New Florence, PA 15944.

*Type of Facility:* 203,000 gpd slow sand filter and 350,000 gallon storage tank.

*Permit to Operate Issued:* July 19, 1996.

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#### **Notice of Settlement Under the Hazardous Sites Cleanup Act**

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Industrial Solvents and Chemical Company  
Newberry Township, York County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has entered into a consent order and agreement with George Kovacs Lighting, Inc. (Kovacs) regarding the Department's costs incurred for conducting response activities at the Industrial Solvents and Chemical Company (ISCC) site. The ISCC site is a 9-acre parcel of land in Newberry Township, York County, adjacent to Interstate 83. The surrounding area is primarily rural, although residential, commercial and industrial developments are located within a close vicinity of the site. A number of private residential wells have been contaminated by hazardous substances migrating from the ISCC site.

ISCC was involved in the reprocessing of used solvents. Because of violations of hazardous waste requirements, the Department, on July 6, 1989, terminated ISCC's authority to operate a hazardous waste treatment and storage facility. The site was abandoned in 1990 when ISCC declared bankruptcy. A total of 996 parties potentially responsible for the hazardous substances located at the ISCC site were identified by the Department.

Because of the threat to human health and the environment posed by the ISCC site, the site was placed on the Pennsylvania Priority List for Remedial Response on October 26, 1991. The Department and a group of approximately 136 cooperating potentially responsible parties have conducted a number of interim actions at the site to address the release or threat of release of hazardous substances. To date, the Department has incurred costs of approximately \$3 million to implement and/or oversee these interim actions. A final remedial action for

the groundwater and soil at the ISCC site will be selected by the Department and implemented in the future.

Under the terms of the proposed consent order and agreement, Kovacs will pay the Department \$14,361.40 to reimburse the Department for its response costs at the ISCC site. The Department considers Kovacs to be a *de minimis* contributor of hazardous substances at the site and therefore eligible for a settlement as authorized by section 707 of HSCA, (35 P. S. § 6020.707).

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). This section provides that the settlement will become final upon the filing of the Department's response to any significant written comments. The consent order and agreement that contains the specific terms of the settlement is available for public review and comment. The consent order and agreement can be examined from 8 a.m. to 4 p.m. at the Department's office at One Ararat Boulevard, Harrisburg, PA 17110, by contacting Barbara Faletti at (717) 657-4592. A public comment period on the proposed consent order and agreement will extend for 60 days from today's date. Persons may submit written comments regarding the consent order and agreement to the Department by October 9, 1996, by submitting them to Barbara Faletti at the above address.

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#### **Notice of Interim Action**

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Blose Site  
Montgomery Township, Indiana County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), has conducted a Prompt Interim Response Action at the Blose site in Indiana County, Pennsylvania.

The Blose site is located in Montgomery Township, Indiana County off of T936/Rod and Gun Club Road. The site consists of a small area of contaminated soil (approximately 25 x 50 feet), one 55 gallon drum of sodium hydroxide and one 30 gallon drum of nickel chloride. The materials were illegally dumped at the site by unknown persons.

These materials are considered hazardous substances as defined under HSCA. Sodium hydroxide is highly corrosive and very reactive and nickel chloride is considered a human carcinogen. The area of the site is topographically upgradient and approximately 2,000 feet from the Blose family house. The Blose house and other homes in the area obtain their drinking water from springs that emanate beneath the site. Based on this information the Department determined that the hazardous materials posed a threat of direct contact and offsite migration to drinking waters.

The objective of the Prompt Interim Response Action is to protect the public health, safety and the environment by excavating and offsite disposal of the hazardous materials and contaminated soils. The excavation area will be regraded and revegetated and the hazardous materials will be disposed at an appropriate disposal facility.

The Department considered the following alternatives for the remediation of this site:

1. No Action—The Department would not conduct any response action at the site. The contaminants in the soil would continue to pose a threat of migration to the surface waters and drinking water sources in the area. The potential for release for the drums of hazardous

substances would be a constant threat. The site would continue to remain a source of direct contact threat to the citizens of the Commonwealth.

2. Excavation with offsite disposal of contaminated soils and offsite disposal of hazardous substances—This action involves the excavation of the stained soils and removal of the soils and hazardous substances to a permitted offsite TSD facility. Confirmatory samples will be taken of the excavation area to assure the levels of contamination meet the Department's Statewide Health Standards for Contaminated Soils and the area will be regraded and revegetated. This action will permanently eliminate offsite threats to the public health and welfare and the environment.

The Department determined that an imminent danger existed and conditions at the Blose site presented a reasonable basis for taking action to protect human health and the environment. An Interim Response Contractor (OHM Corp.) was hired by the Department to carry out the tasks defined under alternative no. 2. The soils were excavated and placed in a roll-off container and are currently awaiting approval for disposal at an appropriate disposal facility.

This notice is being provided under section 506(b) of HSCA (35 P. S. § 6020.506(b)). The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the Indiana County Courthouse and at the Department's Southwest Regional Office at 400 Waterfront Drive, Pittsburgh, PA 15222-4745 and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment until November 11, 1996. Persons may submit written comments into the record during this time only, by sending them to Terry E. Goodwald at Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them to this office.

In addition, persons may present oral comments, for inclusion into the administrative record, at a public hearing on September 12 at 7 p.m. in the Schryrock Grange in Bowdertown on Bowdertown Road. Persons wishing to present comments must register with Betsy Mallison before September 10 by telephone at (412) 442-4000 or in writing at the above address.

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**Beneficial Use Order issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations.**

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

**Beneficial Use ID No. BU50092. Brooke County Sanitary Landfill Compost Facility**, Valero Terrestrial Corporation, R. D. 2, Box 410, Colliers, WV 26035, located in **Brooke County**, West Virginia. Beneficial use of composted sewage sludge. Beneficial use order issued in Regional Office on July 23, 1996.

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**Applications withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate 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.*

**ID No. 603414.** Sewage sludge transfer facility, **Hapchuk Inc.**, R. D. 2, Box 205, Washington, PA 15301. Operation of a sewage sludge transfer facility in North Bethlehem Township, **Washington County**. Application withdrawn per applicant's request of July 10, 1996 in the Regional Office on July 25, 1996.

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**Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a solid waste processing or disposal area or site.**

*Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, telephone (717) 327-3653.*

*Correction of Issuance Date:*

**Permit No. 100955.** (Permit Modification). **Wayne Township Landfill, Clinton County Solid Waste Authority** (P. O. Box 209, McElhattan, PA 17748). Permit modification to accept Form S Waste (municipal-like residual waste) from various generators at facility located in Wayne Township, **Clinton County**, issued in the regional office on July 3, 1996. This notice was previously printed with an incorrect issuance date of June 3, 1996.

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**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. 101237. Solid Waste Services, Inc. d/b/a, J. P. Mascaro and Sons**, 320 Godshall Drive, Harleysville, PA 19438. This permit is for the continuing operation of the Mascaro Transfer Station located in Franconia Township, **Montgomery County**. Permit issued in the Southeast Regional Office on July 15, 1996.

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**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**63-399-003.** The Department issued an Air Quality Control Operating Permit on June 20, 1996, to **Elliott Turbomachinery Company, Inc.**, (213 Scott Street Extension, Donora, PA 15033) for dust collectors on the abrasive blasting process at its Elliott Support Services facility located in Donora Borough, **Washington County**.

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

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

**General Plan Approval and Permit No. BAQ-GPA/GP-1** for small combustion units was issued to the following: **Farmers Cheese**, R. D. 1, P. O. Box 198, New Wilmington, PA 16142. Date Issued: July 17, 1996.



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

*Regional Office: Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**65-307-065A.** On July 15, 1996, a Plan Approval was issued to **Labrobe Steel Company** (2626 Ligonier St., P. O. Box 31, Latrobe, PA 15650) for a batch heating furnace at its Latrobe Plant located in Latrobe Borough, **Westmoreland County**.

**32-302-033A.** On July 15, 1996, a Plan Approval was issued to **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for Auxiliary Boiler A at its Conemaugh Station Plant located in West Wheatfield Township, **Indiana County**.

**11-305-033.** On July 15, 1996, a Plan Approval was issued to **Dunamis Resources, Inc.** (R. R. 4 Box 1542, Homer City, PA 15748) for a coal crushing/screening process at its South Fork Strip located in Adams Township, **Cambria County**.

**11-302-013B.** On July 3, 1996, a Plan Approval was issued to **Good Samaritan Medical Center** (1020 Franklin Street, Johnstown, PA 15905) for a low emissions burner on the natural gas/oil boiler at the Good Samaritan Medical Center located in Johnstown, **Cambria County**.

**56-322-002.** On June 21, 1996, a Plan Approval was issued to **Resource Conservation Corporation** (R. R. 1, Box 305, Cairnbrook, PA 15924) for a landfill gas management system at its Shade Township Waste Management Facility located in Shade Township, **Somerset County**.

**65-305-051.** On June 21, 1996, a Plan Approval was issued to **North Central Processing, Inc.**, (P. O. Box 396, Chagrin Falls, OH 44022) for a FA-6-Spec 14,000 CFM Baghouse on the coke processing operation at its Canestrade Yards facility located in Rostraver Township, **Westmoreland County**.

**04-313-053B.** On July 3, 1996, a Plan Approval expiration date was extended to December 31, 1996, for **Envirotrol, Inc.** (P. O. Box 61, Sewickley, PA 15143) for an afterburner and scrubber on the rotary kiln carbon regenerator at its facility located in Darlington Township, **Beaver County**.

**56-307-001E.** On July 15, 1996, a Plan Approval expiration date was extended to January 31, 1997, for **FirstMiss Steel, Inc.** (P. O. Box 509, Hollsopple, PA 15935) for an electric arc furnace at its facility located in Quemahoning Borough, **Somerset County**.

**04-000-032.** On July 15, 1996, a Plan Approval expiration date was extended to November 1, 1996, for **LTV Steel Company** (P. O. Box 490, Franklin Avenue, Aliquippa, PA 15001) for low NOx burners on the steam boilers at its facility located in Aliquippa Borough, **Beaver County**.

**04-000-446.** On July 15, 1996, a Plan Approval expiration date was extended to September 30, 1996, for **AES Beaver Valley Partners, Inc.**, (394 Frankfort Road, Monaca, PA 15061) for three cogeneration units at its facility located in Potter Township, **Beaver County**.

**03-318-019.** On June 20, 1996, a Plan Approval was issued to **5 Rubber Corporation** (1655 Orr Avenue,

Kittanning, PA 16201) for a elastomer coating line at its Kittanning Plant located in Kittanning Borough, **Armstrong County**.

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

On July 24, 1996, Plan Approvals were issued to **Borden Chemical, Inc.** (P. O. Box 7227, Mt. Jewett, PA 16740) for the construction of the following storage tanks at Hutchins Road, Sergeant Township, **Mercer County**.

**42-399-018C.** One 27,500 gal. VOC Storage Tank.

**42-399-033.** Two 25,000 gal. VOC Storage Tanks.

#### **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. §§ 4401—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*

**32850109.** Permit renewal, **M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319), commencement, operation and restoration of a bituminous strip-auger mine in Buffington Township, **Indiana County**, affecting 388.4 acres, receiving stream unnamed tributary to/and Mardis Run, application received February 20, 1996, permit issued July 22, 1996.

**56823142.** Permit renewal, **Scurfield Coal, Inc.** (228 Main Street, Berlin, PA 15530), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Paint and Ogle Townships, **Somerset County**, affecting 140.7 acres, receiving stream unnamed tributary to Dark Shade Creek and Dark Shade Creek, application received May 22, 1996, permit issued July 22, 1996.

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

**17930117.** **Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc., Goshen Township, **Clearfield County** affecting 327 acres, receiving streams unnamed tributary to Surveyor Run and Surveyor Run, application received April 24, 1996, permit issued July 1, 1996.

**17950118.** **Compass Coal Company** (Box 169, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous surface mine permit in Chest Township, **Clearfield County** affecting 117 acres, receiving streams North Camp Run to Chest Creek to west branch of the Susquehanna River, application received December 11, 1995, permit issued July 9, 1996.

**17950119. Moravian Run Reclamation Co., Inc.** (605 Sheridan Drive, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine-auger permit in Pike Township, **Clearfield County** affecting 168 acres, receiving streams unnamed tributaries of Little Clearfield Creek, to Little Clearfield Creek, to Clearfield Creek, to West Branch Susquehanna River, application received December 21, 1995, permit issued July 10, 1996.

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

*Large Industrial Mineral Permits Issued*

**14930301. Glenn O. Hawbaker, Inc.** (325 West Aaron Drive, State College, PA 16801), commencement, operation and restoration of a Large Industrial Mineral Permit (Sandstone), Spring Township, **Centre County** affecting 66.1 acres, receiving streams Logan Branch to Spring Creek to Bald Eagle Creek to the Susquehanna River, application received October 18, 1996, permit issued June 27, 1996.

*Small Industrial Mineral Authorizations Granted*

**08960802. John Norton** (R. R. 2, Box 112, Laceyville, PA 18623), commencement, operation and restoration of a small industrial mineral (flagstone) permit in Wyalusing Township, **Bradford County** affecting 1 acre, application received March 28, 1996, authorization granted July 10, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*General Small Noncoal Authorizations Granted*

**58960802. Matthew R. McClain**, (R. R. 4 Box 438B, Tunkhannock, PA 18657), commencement, operation and restoration of a small quarry operation in Auburn Township, **Susquehanna County** affecting 2.0 acres, receiving stream—none. Authorization granted July 22, 1996.

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

*Coal Applications Returned*

**32950102. D. J. & W. Mining Inc.** (P. O. Box 425, Indiana, PA 15701), commencement, operation and restoration of bituminous strip-auger mine in Rayne Township, **Indiana County**, affecting 71.0 acres, receiving stream Brush Run to Crooked Creek and Crooked Creek, application received January 19, 1995, cancelled/returned July 24, 1996.

*Field Operations—Mining and Reclamation, 5 West Laurel Blvd., Pottsville, PA 17901.*

**54960102. Harriman Coal Corporation**, (P. O. Box 127, Valley View, PA 17983), commencement, operation and restoration of an anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 708.0 acres, receiving stream—Lorberry Creek. Application received January 24, 1996. Application returned July 24, 1996.

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

Any person aggrieved by this action may appeal, under to section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704

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

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**Actions 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.*)

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*Permits Issued and Actions on 401 Certifications*

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

**E09-664.** Encroachment. **Perkasie Borough**, P. O. Box 275, Perkasie, PA 18944; **Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087. To improve the roadway and storm drainage facilities along Constitution Avenue (S. R. 0152), within the 100 year flood plain of Pleasant Spring Creek near its confluence with the East Branch Perkiomen Creek. The project consists of: 1) The addition of a left turn lane at the intersection of Constitution Avenue and Walnut Street; 2) Elimination of an existing side road drainage channel and to construct and maintain a roadside swale and a 24-inch R.C.P. drainage pipe; 3) To remove an existing outfall structure and to construct and maintain a 24-inch R.C.P. storm sewer and outfall structure. This work extends from the intersection of Constitution Avenue and Walnut Street south to a point where Constitution Avenue intersects with East Spruce Street (Telford, PA Quadrangle N: 21.2 inches, W: 6.3 inches) in Perkasie Borough, **Bucks County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E35-265.** Encroachment. **Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a single-span prestressed concrete box beam bridge, having a span of approximately 40 feet and an underclearance of approximately 6 feet, across Dundaff Creek. The project includes bank rehabilitation utilizing R-8 riprap, extending approximately 100 feet upstream of the structure and a channel realignment extending approximately 280 feet downstream of the structure. The bridge is located on S. R. 1013, approximately 1.2 miles north of S. R. 1002 (Clifford, PA Quad-

rangle N: 2.7 inches; W: 13.5 inches), in Greenfield Township, **Lackawanna County**.

**E39-301.** Encroachment. **City of Allentown**, Department of Public Works, 435 Hamilton Street, Allentown, PA 18101-1699. To construct and maintain a single span prestressed concrete bulb tee-beam bridge, with precast arched fascia panels, having a span of 107 feet with an underclearance of approximately 24 feet across Jordan Creek. The project, known as the Proposed Sumner Avenue Bridge, is located approximately 0.25 mile upstream (northeast) of the intersection of S. R. 1002 (Tilghman Street) and Jordan Creek (Allentown East, PA Quadrangle N: 21.5 inches; W: 12.5 inches) in the City of Allentown, **Lehigh County**.

**E40-436.** Encroachment. **Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a single-span prestressed concrete bridge, having a normal span of approximately 30 feet and an underclearance of approximately 5 feet, across Balliet Run. The bridge is located on S. R. 3011 and T-398 (Sybertsville, PA Quadrangle N: 10.8 inches; W: 9.0 inches), in Hollenback Township, **Luzerne County**.

**E64-166.** Encroachment. **Wal-Mart Stores, Inc.**, 701 South Walton Boulevard, Bentonville, AZ 72716-8703. To remove an existing outfall structure and to (1) place fill and/or excavate in 2.01 acres of wetlands, (2) construct and maintain approximately 680 linear feet of channel change in a tributary to Holbert Creek and (3) to construct and maintain three stormwater outfall structures (42-inch, 24-inch and 18-inch) along a tributary to Holbert Creek, for the purpose of constructing a commercial retail store. The project is located along Old Willow Avenue (T-405), east of the intersection T-405 and S. R. 0006 (White Mills, PA Quadrangle N: 10.4 inches; W: 14.4 inches), in Texas Township, **Wayne County**. The permit-tee is required to provide 2.53 acres of replacement wetlands.

*Northcentral Region: Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

**E14-382.** Water obstruction and encroachment. **Barbara Stiber**, 1818 Frey Ave., Williamsport, PA 17701. Remove a flood damaged trailer and to construct and maintain a 23 foot 8 inch by 40 foot modular home on a reinforced concrete masonry unit foundation in the floodway of Lycoming Creek located approximately 600 feet east from SR 0015 on Fry Avenue (Old Lycoming Creek Road) (Cogan Station, PA Quadrangle N: 2.5 inches; W: 6.0 inches) in Old Lycoming Township, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E59-321.** Water obstruction and encroachment. **William Brace**, 525-184 Riverleigh Ave., Riverhead, NY 11901-3618. To construct and maintain two 71" x 103" corrugated pipe arch culverts 24 feet in length with R-5 riprap stabilization in Seeley Creek on the east side of SR 549 approximately 0.2 mile south of SR 1011 (Millerton, PA Quadrangle N: 10.2 inches; W: 7.9 inches) in Jackson Township, **Tioga County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E43-246.** Encroachment. **Rodney B. McClelland**, 101 Beaver Street, Mercer, PA 16137. To construct and maintain a hotel building and appurtenances within the regulated left floodway beginning approximately 120 feet downstream of Falls Road (T-335) and extending downstream a total distance of approximately 450 feet with the last approximately 140 feet of the building overhanging the channel of a tributary to Neshannock Creek (Schollard Run) approximately 1,000 feet east of S. R. 19 (Mercer, PA Quadrangle N: 3.5 inches; W: 12.75 inches) located in Springfield Township, **Mercer County**.

**E43-251.** Encroachment. **Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear normal span of 56.5 feet and an average underclearance of 9.5 feet across Otter Creek on S. R. 0062, Segment 0380, Offset 0856 approximately 6,500 feet northeast of S. R. 19 (Mercer, PA Quadrangle N: 22.0 inches; W: 13.1 inches) located in Coolspring Township, **Mercer County**.

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

**E05-234.** Encroachment. **Snake Spring Township Municipal Authority**, R. R. 1, Box 453, Everett, PA 15537. To construct and maintain a treatment facility and a chlorine contact tank within the left banks floodway of an unnamed tributary to Raystown Branch of the Juniata River for the expansion of the existing treatment plant located just east of Hartley Village (Everett West, PA Quadrangle N: 3.3 inches; W: 10.1 inches) in Snake Spring Township, **Bedford County**.

**E07-246.** Encroachment. **Westvaco**, 1600 Pennsylvania Avenue, Tyrone, PA 16686. To remove a three span steel beam privately owned bridge along with its concrete support piers in Bald Eagle Creek located about 75 feet downstream of Pennsylvania Avenue bridge at the northern boundary of Tyrone Borough (Tyrone, PA Quadrangle N: 10.1 inches; W: 15.1 inches) in Snyder Township, **Blair County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E34-083.** Encroachment. **William B. Darrow**, Box 10 Creek Road, Honey Grove, PA 17035. To construct and maintain a three span bridge having three spans of 70 feet and an underclearance of about 12 feet across Tuscarora Creek for the purpose of providing year round access to three existing dwellings located off the south side of T-333 about 0.46 mile southeast of its intersection with S. R. 0850 (McCoysville, PA Quadrangle N: 11.3 inches; W: 10.6 inches) in Tuscarora Township, **Juniata County**.

**E36-606.** Encroachment. **Lancaster Area Habitat for Humanity**, 321 South Queen Street, Lancaster, PA 17603. To construct and maintain channel improvements consisting 150 L. F. of 8-foot bottom width riprap lined trapezoidal channel and approximately 800 L. F. of riprap slope protection along the right downstream bank of a tributary to Conestoga River. Fill to be placed within floodway area of tributary for construction of residential units along the east side of Euclid Avenue extended from Hager Street (Lancaster, PA Quadrangle N: 3.7 inches; W: 9 inches) in Lancaster City, **Lancaster County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E36-614.** Encroachment. **Department of Transportation**, 2140 Herr Street, Harrisburg, PA 17103-1699. To remove the existing structure, construct and maintain a bridge having a clear span of 39 feet on a 60 degree skew with an underclearance of 4.6 feet across Less Creek on S. R. 1061-001 (Willow Street), Segment 0030 (Terre Hill, PA Quadrangle N: 19.9 inches; W: 8 inches) in Adams-town Borough, **Lancaster County**. The project will have a de minimus wetland impact of less than 0.05 acre.

**E36-616.** Encroachment. **Caernarvon Township**, 2147 Main Street, Narvon, PA 17555. To remove the existing 1996 flood damaged structure, construct and maintain a precast concrete box culvert having a 18.5-foot span x 7-foot rise across the Little Conestoga Creek on Smoketown School Road (T-773), located 300 feet north of its intersection with Churchtown Road (Morgantown, PA Quadrangle N: 3.7 inches; W: 15.9 inches) in Caernarvon Township, **Lancaster County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E50-175.** Encroachment. **Marysville Borough**, 201 Chestnut Street, Marysville, PA 17053. To construct and maintain the expansion and refurbishment of an existing wastewater treatment plant by placing fill in the floodplain of the Susquehanna River for the purpose of upgrading the plant's treatment capacity located along South Main Street just above the Rockville Bridge at the southern end of the Borough of Marysville (Harrisburg West, PA Quadrangle N: 16.5 inches; W: 8.5 inches) in the Borough of Marysville, **Perry County**.

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## SPECIAL NOTICES

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### Alternative Fuels Incentive Grant Program; Opportunity Notice

The Department of Environmental Protection (DEP), Office of Pollution Prevention and Compliance Assistance announces Cycle 4 of a program to promote and expand the use of alternative transportation fuels and fuel systems such as compressed natural gas (CNG), liquefied natural gas (LNG), propane (LPG), ethanol (E85), and methanol (M85) (85% alcohol and 15% gasoline mixture) and advanced electric vehicle systems in private and public sector vehicles. The DEP will provide a portion of the cost for the purchase and installation of equipment necessary to retrofit existing vehicles, the purchase of Original Equipment Manufacturer produced vehicles to operate on alternative transportation fuels, and the cost associated with constructing refueling and recharging facilities. Projects incorporating innovative alternative fuel vehicle technologies or applications that improve refueling and recharging facilities are eligible for funding. Eligible applicants for incentive grants are school and vocational school districts, municipal authorities, counties, cities, boroughs, incorporated towns, townships, county institution districts, corporations, partnerships, nonprofit entities, and Commonwealth residents. An application package, which provides more detail on the program, can be obtained from the Department of Environmental Protection, Office of Pollution Prevention: AFIG-96, P. O. Box 8772, 13th Floor Rachel Carson State Office Building, Harrisburg, PA 17105-8772, or by contacting the office at (717) 783-9981 to provide your

mailing address. The deadline for submitting a Cycle 4 application to the DEP is October 1, 1996.

[Pa.B. Doc. No. 96-1307. Filed for public inspection August 9, 1996, 9:00 a.m.]

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### Draft Compliance Strategy on Reasonably Available Control Technology for Major Nitrogen Oxide Sources with Continuous Emission Monitoring Systems; Notice of Availability

The Department of Environmental Protection (DEP) is requesting public comments on a proposed policy to establish and implement a compliance strategy on reasonably achievable control technology (RACT) emission standards for certain major nitrogen oxide (NO<sub>x</sub>) sources with continuous emission monitoring systems (CEMSs). The proposed policy will assist regional air quality staff in enforcement of the NO<sub>x</sub> emission standards established under the RACT regulation codified in 25 Pa. Code §§ 129.91—129.95.

Section 182 of the Federal Clean Air Act Amendments (CAAA) requires the Commonwealth of Pennsylvania to develop and implement a RACT program for major stationary sources which emit volatile organic compounds (VOCs) or NO<sub>x</sub>. DEP's RACT program, effective on January 14, 1994, required the owners and operators of major VOC and NO<sub>x</sub> emitting sources or facilities to submit RACT proposals to the DEP by July 15, 1994. The CAAA mandated that the RACT sources achieve compliance with the RACT limitations as expeditiously as possible but no later than May 31, 1995. In circumstances where facility owners and operators demonstrated to the DEP that they could not achieve compliance by the May 31, 1995 deadline, a schedule of compliance with the RACT requirements was approved by the DEP in a plan approval, or operating permit.

The majority of the RACT proposals received by the DEP have been approved and permits containing enforceable emission limitations have been issued. Many of these permits have been submitted to EPA as a revision to the State Implementation Plan (SIP). The permitted emission limits, enforceable under State law, are also Federally enforceable upon approval of the SIP revisions. In many cases permits contain NO<sub>x</sub> RACT limitations which may be revised based on continuous emission monitoring data.

This proposed compliance strategy on RACT for major NO<sub>x</sub>-emitting facilities with CEMSs will provide guidance to regional air quality staff regarding the settlement of penalties for exceedances of NO<sub>x</sub> RACT emission standards by NO<sub>x</sub> RACT sources. Pending the development of a compliance assurance policy addressing NO<sub>x</sub> emissions, the proposal will provide for the use of the existing boiler policy, entitled "*Enforcement Policy—Continuous Emission Monitoring Systems (CEMS) and Coal Sampling/Analysis Systems (CSAS)*" (Policy Id. No. 273-4000-005), for delinquency, data availability, and excess emission enforcement (substituting NO<sub>x</sub> for SO<sub>2</sub>).

The proposed policy is designed to encourage compliance assistance by providing the owners or operators of the affected sources an opportunity to meet with regional staff to discuss the circumstances of the NO<sub>x</sub> exceed

ances. Such circumstances may include unrepresentative or incomplete emissions data or the installation of new or innovative technology. If circumstances warrant, the regional staff may reduce or waive the penalties for exceedances of the NOx RACT emission standards.

A copy of the proposed policy is available by writing Donald Kerstetter, Bureau of Air Quality, P. O. Box 8468, Harrisburg, Pennsylvania 17105-8468. A copy of the policy is also posted on the DEP World Wide Web Site at <http://www.dep.state.pa.us> (select Public Participation Center/Proposals Open for Comment).

Comments on the draft NOx RACT Compliance Strategy for NOx Sources with CEMSs should be sent to Donald Kerstetter, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468 or by e-mail to: [Kerstetter.Donald@a1.dep.state.pa.us](mailto:Kerstetter.Donald@a1.dep.state.pa.us) by September 9, 1996 (30 days after publication of this notice).

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-1308. Filed for public inspection August 9, 1996, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Community Health Review Program

Under the act of July 2, 1996 (No. 87, P. L. 517) (Act 87), the Department of Health is required to establish a review program to determine the feasibility and effectiveness of local health care providers either operating State Health Centers or providing equivalent services. Act 87 mandates that the Department identify an urban area, a suburban area, and a rural area, for this review program and to contract with local health care providers either to operate the identified State Health Centers or to provide equivalent services for the identified areas. The review program shall begin on November 1, 1996, and continue for 12 months.

On August 12, 1996, the Department of Health will make available to the public, a draft Request for Proposal (RFP) for this review program. Notice of the availability of the final RFP will be published in the State Contracts Information section of the August 31, 1996 *Pennsylvania Bulletin*.

The draft RFP will be available upon request from Gary L. Gurian, Deputy Secretary for Health Promotion, Disease and Substance Abuse Prevention, by telephone at (717) 787-9857 or by mail at P. O. Box 90, Harrisburg, PA 17108. Comments on the draft may be submitted to Deputy Secretary Gurian at that address in writing no later than August 23, 1996. Persons with a disability who require an alternative format of the draft RFP (for example, large print, audio tape, braille) should contact Deputy Secretary Gurian at the above address or telephone number or by calling TDD: (717) 783-6514.

DANIEL F. HOFFMANN,  
*Acting Secretary*

[Pa.B. Doc. No. 96-1309. Filed for public inspection August 9, 1996, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Retention of Engineering Firms

**Armstrong, Butler, Clarion, Indiana  
and Jefferson Counties  
Reference No. 08430AG2008**

The Department of Transportation will retain an engineering firm for an open-end contract to provide supplementary construction inspection staff under the Department's Inspectors-in-Charge to perform construction inspection services on various projects in Engineering District 10-0, that is Armstrong, Butler, Clarion, Indiana and Jefferson Counties. The contract will include roadway and bridge construction projects, and material plant inspection. The contract will be for a period of 30 months with a maximum cost of \$750,000.

It is anticipated that a maximum supplementary construction inspection staff of 35 inspectors will be required for this assignment.

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

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

- a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the maintenance and protection of traffic, soils, structures, concrete, asphalt paving and drainage.
- b. Number of available inspectors in each payroll classification.
- c. Number of NICET certified inspectors in each payroll classification.
- d. Past performance.
- e. Workload.
- f. Understanding of Department's requirements, policies and specifications.

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

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

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	3 (3)
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	12 (7)

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Inspector— Materials (TCI—Materials) (NICET Highway Materials Level 2 or equivalent)	5 (3)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	15 (9)

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

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science degree in Civil Engineering or a Bachelor of Science degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement of direct payroll cost for each Department Payroll Classification for calendar year 1996 will be limited to the actual direct salary of the individual employe, or the following rates, whichever is less:

<i>Payroll Classification</i>	<i>Direct Payroll Rate</i>
Transportation Construction Manager 1 (TCM-1)	\$19.79
Transportation Construction Inspector Supervisor (TCIS)	\$17.34
Transportation Construction Inspector (TCI)	\$15.18
Transportation Construction Inspector—Material (TCI)	\$15.68

Maximum reimbursable direct payroll rates for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a preconstruction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation or construction.

Technical questions concerning the requirements for this project should be directed to Craig A. Chelednik, P.E., District 10-0, at (412) 357-2842.

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

**Allegheny County  
Reference No. 08430AG2009**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately five inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on S. R. 0065, Section A13, widening of PA 65 (Ohio River Boulevard) also milling resurfacing, placement of concrete median barrier, concrete curbs, guiderail, impact attenuators, pavement markings, signing, highway lighting, traffic signal updating, drainage improvements, and concrete roadway repairs, Allegheny County.

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

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

- a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the maintenance and protection of traffic, soils, concrete, asphalt paving, drainage, signals, guiderail and median barrier.
- b. Understanding of Department's requirements, policies and specifications.
- c. Past performance.
- d. Number of NICET certified inspectors in each payroll classification.
- e. Number of available inspectors in each payroll classification.
- f. Workload.

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

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

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	3 (2)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

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

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science degree in Civil Engineering or a Bachelor of Science degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement of direct payroll cost for each Department Payroll Classification for calendar year 1996 will be limited to the actual direct salary of the individual employe, or the following rates, whichever is less:

<i>Payroll Classification</i>		<i>Direct Payroll Rate</i>
Transportation Construction Inspector Supervisor	(TCIS)	\$17.34
Transportation Construction Inspector	(TCI)	\$15.18
Technical Assistant	(TA)	\$10.43

Maximum reimbursable direct payroll rates for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a preconstruction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; provide one inspector certified in computer documentation and perform other duties as may be required.

Letters of interest for this project must include a letter, signed by the individuals proposed for the TCIS position, giving their approval to use their name in the letter of interest for this specific project. The lead Inspector's Name, Classification, and Years in Classification must also be shown.

Technical questions concerning the requirements for this project should be directed to Terry McCue, District 11-0, at (412) 429-4926.

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 subconsultant 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. 96-1310. Filed for public inspection August 9, 1996, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Downington Area Regional Authority v. DEP; EHB Doc. No. 96-154-MG

Downington Area Regional Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in East Caln Township, Chester County, PA.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at 1 (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 96-1311. Filed for public inspection August 9, 1996, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Triploid Grass Carp Permit Applications

Under 58 Pa. Code § 71.7, the Fish and Boat Commission may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined,



consistent with 58 Pa. Code § 71.7(e)(3), to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 96-1312. Filed for public inspection August 9, 1996, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### Availability of 1997 PennHOMES Program Funds

The Housing Finance Agency (Agency) is announcing the availability of 1997 PennHOMES Program Funds. PennHOMES Program funds include Federal HOME Program funds and Agency funds and may be utilized for the construction and permanent financing of multifamily rental housing developments located in the Commonwealth containing five or more units. To assist prospective applicants in preparing applications for funding, five workshops will be offered Statewide. A review of the PennHOMES Program, the application process, and an explanation of selection criteria will be provided at each of the workshops listed below or by contacting the Agency at the address below.

#### *PennHOMES Pre-Application Workshop Schedule*

September 26, 1996	Erie
September 27, 1996	Monroeville
October 3, 1996	King of Prussia
October 4, 1996	Allentown
October 15, 1996	Harrisburg

The registration deadline for these workshops is September 16, 1996. A nonrefundable registration fee of \$10 will be charged for each registrant.

The Agency will accept applications from November 1, 1996 through December 31, 1996 for developments located in the following Non-Participating Jurisdictions for Federal HOME funds made available by the Department of Community and Economic Development. Reservation of funds are anticipated to be made in March 1997.

Non-Participating Jurisdictions: Abington Township (Montgomery County), Adams County, Arnold City (Westmoreland County), Armstrong County, Bradford County, Bedford County, Bradford Woods Borough (Allegheny County), Blair County (except Altoona City), Bristol Township (Bucks County), Butler County, Cambria County, Cameron County, Carbon County, Centre County, Clarion County, Clearfield County, Clinton County, Columbia County, Conshocken Borough (Montgomery County), Crawford County, Cumberland County, Dauphin County (except Harrisburg City), Elk County, Ellwood City Borough (Beaver County), Erie County (except Erie City), Fayette County, Forest County, Franklin County, Fulton County, Greene County, Haverford Township (Delaware County), Huntingdon County, Indiana County, Jefferson County, Juniata County, Lackawanna County (except Scranton City), Lawrence County, Lebanon County, Lehigh County (except Allentown City), Limerick Township (Montgomery County), Lower Merion Township (Montgomery County), Lycoming County (except Williamsport City), McKean County, McKeesport City (Allegheny County), Mercer County, Mifflin County, Mon-

roe County, Montour County, New Kensington City (Westmoreland County), Norristown Borough (Montgomery County), Northampton County (except Bethlehem), Northumberland County, Penn Hills Township (Allegheny County), Perry County, Pike County, Potter County, Scottdale Borough (Westmoreland County), Schuylkill County, Snyder County, Somerset County, Sullivan County, Tioga County, Union County, Venango County, Warren County, Wayne County, Wyoming County.

The Agency will accept applications from January 1, 1997, through February 28, 1997, for projects located in the following Participating Jurisdictions for other Agency funds. Reservation of these funds are anticipated to be made in June 1997.

Participating Jurisdictions: Allegheny County (except Bradford Woods, McKeesport, Penn Hills Township), Allentown, Altoona, Beaver County, Berks County, Bethlehem, Bucks County Consortium (except Bristol Township), Chester County, Delaware County Consortium (except Haverford Township), Erie, Harrisburg, Lancaster, Lancaster County, Luzerne County Consortium, Montgomery County (except Abington Township, Conshohocken Borough, Limerick Township, Lower Merion, Norristown), Philadelphia, Pittsburgh, Reading, Scranton, State College, Williamsport, Washington County, Westmoreland County Consortium (except Arnold, New Kensington, Scottdale), York, York County.

The Agency is committed to the policy that all persons shall have equal access to its programs and employment without regard to race, religion, gender, national origin, handicap, familial status, or age. Requests for a copy of the 1997 PennHOMES Program Application and Guidelines or request for information regarding the PennHOMES Pre-Application Workshops may be submitted to Housing Finance Agency, Attn: Joanne Cypcar, P. O. Box 8029, Harrisburg, PA 17105-8029, (717) 780-3882, TDD (717) 780-1869.

KARL SMITH,  
*Executive Director*

[Pa.B. Doc. No. 96-1313. Filed for public inspection August 9, 1996, 9:00 a.m.]

## HUMAN RELATIONS COMMISSION

### Public Hearing Opinion

The Human Relations Commission, under section 7(o) of the Pennsylvania Human Relations Act (P. L. 744, No. 222) hereby announces the publication of the Stipulations of Fact, Findings of Fact, Conclusions of Law, Final Decision and Order, made after a public hearing under section 9(e)—(g) of the Act, in the following case:

*Ronald R. Drew v. City of Erie, Department of Public Safety*; Doc. No. E56948AD; (Pennsylvania Human Relations Commission, July 30, 1996); Alleged race-based refusal to promote; Ruling for Respondent, 7-2 decision; 28 pages.

The final order in the above-listed case is subject to appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinion listed in this notice may be obtained by mailing a request indicating the opinions

desired, accompanied by a check or money order in the amount of 10 cents per page (the number of pages in the opinion is set forth at the end of the case listing), 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."

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 96-1314. Filed for public inspection August 9, 1996, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. 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 the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
	State Ethics Commission	7/26/96
63-5	Statements of Financial Interest	
	Department of Transportation	7/30/96
18-324	School Buses and School Vehicles	

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 96-1315. Filed for public inspection August 9, 1996, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Per Diem Charges for Market Conduct Examinations of Insurance Companies

Each year, the Insurance Department updates its schedule of per diem charges for market conduct examinations conducted by the Department. These charges are authorized by section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges).

The new schedule of charges is as follows:

Examiner Trainee	\$224 per day
Examiner 1	\$254 per day
Examiner 2	\$312 per day
Examiner Manager	\$376 per day

As prescribed in 31 Pa. Code § 12.4(c), the Insurance Department will calculate and bill per diem charges for examination costs in 1/2 hour units.

This schedule is effective August 1, 1996.

This notice supersedes the schedule of per diem charges published at 25 Pa.B. 3430 (August 19, 1995), which prior notice is hereby repealed. These new charges shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-1316. Filed for public inspection August 9, 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 the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Jamie R. Hemmann; file no. 96-121-04452; Goodville Mutual Casualty Company; doc. no. P06-07-035; September 4, 1996, at 1 p.m.;

Appeal of Vince P. Wesolowski, file no. 96-265-33988; Donegal Mutual Insurance Company; doc. no. PH96-07-032; September 4, 1996, at 2 p.m.;

Appeal of Christopher and Paula Maul; file no. 96-121-04506; State Farm Mutual Insurance Company; doc. no. P96-07-036; September 25, 1996, at 10 a.m.;

Appeal of Gail T. Sullivan; file no. 96-265-33574; Keystone Insurance Company; doc. no. PH96-07-034; October 17, 1996, at 11 a.m.;

Appeal of Lance Bret Kaplan; file no. 96-265-33829; Keystone Insurance Company; doc. no. PH96-07-033; October 17, 1996, at 1 p.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. 96-1317. Filed for public inspection August 9, 1996, 9:00 a.m.]

### Timetable for Submission of Petitions to Intervene

The Pennsylvania Supreme Court recently issued a landmark decision affecting the rescission of personal auto policies in *Erie Insurance Exchange v. Lake*, Pa. \_\_\_\_\_, 675 A.2d 681 (1996). This decision may affect Act 78 cases which are pending before the Insurance Department. Under Act 78 (40 P.S. § 1008.1 et seq.), consumers may seek review from the Insurance Department regarding the termination, including the rescission, of their auto policy.

By this notice, the Insurance Department establishes the following timetable for the submission of Petitions to Intervene and *amicus curiae* briefs for the following pending Act 78 cases:

Appeal of Nationwide Insurance Company  
Insured: Misael Roldan  
Docket No. P95-06-026

Appeal of Nationwide Insurance Company  
Insured: Andrew Ancona  
Docket No. PH94-07-005

Interested persons must submit a Petition to Intervene, under 1 Pa. Code § 35.27 et seq. on or before August 30, 1996. If intervention is granted, *amici* briefs must be filed on or before September 30, 1996, at the Insurance Department, Administrative Hearing Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

The submission of *amici* briefs shall be limited to the sole issue of the interpretation and effect of the *Erie Insurance Exchange v. Lake* decision.

Interested persons are reminded of the need to serve all parties with any document which is filed with the Administrative Hearing Office. Copies of pertinent docket material relating to the referenced cases may be obtained from Donna Sherrick, Docket Clerk at the above address, telephone (717) 783-2126.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-1318. Filed for public inspection August 9, 1996, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Luzerne County, Wine & Spirits Shoppe #4006, Luzerne Shopping Center, 576 Union Street, Luzerne, PA 18709-1245.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1/2 mile of the 500 block of Union Street, Luzerne Borough.

*Proposals due:* September 6, 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

Allegheny County, Wine & Spirits Shoppe #0297, Dusquesne Village, 1874 Homeville Road, West Mifflin, PA 15122-3650.

*Lease Expiration Date:* June 30, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,600 net useable square feet of new or existing retail commercial space within 1.0 mile of the Homeville Road and Homestead Duquesne Road intersection in West Mifflin Borough. Free off-street parking and good loading facilities are requested.

*Proposals due:* September 6, 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

Butler County, Wine & Spirits Shoppe #1007, Cranberry Mall Suite 20, 20111 Route 19, Cranberry Township, PA 16066-6207.

*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 5,000 net useable square feet of new or existing retail commercial space in a shopping center environment. Storeroom should be located within 0.5 mile of the intersection of Route 19 and Route 28 in Cranberry Township.

*Proposals due:* September 6, 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

Cambria County, Wine & Spirits Shoppe #1109, 465 Magee Avenue, Patton, PA 16668-1227.

*Lease Expiration Date:* July 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,500 net useable square feet of new or existing retail commercial space in the commercial district of Patton.

*Proposals due:* September 6, 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

Erie County, Wine & Spirits Shoppe #2504, 10720 W. Main Street, North East, PA 16428-2228.

*Lease Expiration Date:* August 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,200 net useable square feet of new or existing retail commercial space fronting U.S. Route 20 and having free off-street parking. Location must be no more than 1 mile south or 1/2 mile north of the U.S. Route 20 and PA Route 89 intersection.

*Proposals due:* September 6, 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

Lawrence County, Wine & Spirits Shoppe #3701, Lawrence Village Plaza, 2650 Ellwood Road, New Castle, PA 16101-6299.

*Lease Expiration Date:* July 31, 1997

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 a shopping center environment near the intersection of Routes 65 and 422, south of New Castle.

*Proposals due:* September 6, 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:** George Danis, (412) 565-5130

Lawrence County, Wine & Spirits Shoppe #3702, 729 Lawrence Avenue, Ellwood City, PA 16117-1931.

*Lease Expiration Date:* July 31, 1997

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 Ellwood City area.

*Proposals due:* September 6, 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

McKean County, Wine & Spirits Shoppe #4204, 66 Mill Street, Port Allegany, PA 16743-1346.

*Lease Expiration Date:* August 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,200 to 1,500 net useable square feet of new or existing retail commercial space in the Port Allegheny Business District.

*Proposals due:* September 6, 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:** George Danis, (412) 565-5130

Mercer County, Wine & Spirits Shoppe #4305, 517 Main Street, Sharpsville, PA 16150-2055.

*Lease Expiration Date:* July 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,000 net useable square feet of new or existing retail commercial space in the Sharpsville Business District.

*Proposals due:* September 6, 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:** George Danis, (412) 565-5130

Warren County, Wine & Spirits Shoppe #6202, 212 S. Main Street, Sheffield, PA 16347-0372.

*Lease Expiration Date:* May 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space in Sheffield's Central Business District.

*Proposals due:* September 6, 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:** George Danis, (412) 565-5130

Warren County, Wine & Spirits Shoppe #6203, 107 E. Main Street, Youngsville, PA 16371-1142.

*Lease Expiration Date:* July 31, 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 on Business Route 6 in Youngsville.

*Proposals due:* September 6, 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

Washington County, Wine & Spirits Shoppe #6315, Donaldsons Crossroads S.C., 3929 Washington Road, McMurray, PA 15317-2532.

*Lease Expiration Date:* August 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 5,500 net useable square feet of new or existing retail commercial space within 1.5 miles of Donaldsons Crossroads (Route 19 and McMurray Road) in Peters Township.

*Proposals due:* September 6, 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

Westmoreland County, Wine & Spirits Shoppe #6514, 147 Columbia Avenue, Vandergrift, PA 15690-1101.

*Lease Expiration Date:* July 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 to 3,000 net useable square feet of new or existing retail commercial space in the Vandergrift area.

*Proposals due:* September 6, 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

The Liquor Control Board seeks the following new site:

Centre County, Wine & Spirits Shoppe #1406, State College, PA.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space in College Township between the Struble Road/Gerald Street intersection. Space should have adequate off-street parking and loading facilities.

*Proposals due:* September 6, 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

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 96-1319. Filed for public inspection August 9, 1996, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Railroad With Hearing

**A-00108476. Township of Muhlenberg, Board of Commissioners.** An application has been made to the Pennsylvania Public Utility Commission, under the provisions of Public Utility Code. The application requests the approval of the reconstruction of crossing (AR 592 474 T) where George Street crosses above-the-grade of the tracks of Consolidated Rail Corporation, in Muhlenberg Township, Berks County, and the allocation of the cost and expenses incident thereto.

A further hearing upon this proceeding will be held Wednesday, September 11, 1996, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth, Harrisburg, PA.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-1320. Filed for public inspection August 9, 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 September 3, 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 motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00113199. Lisa A. Steinbugl, t/d/b/a Classic Limousine Service** (1403 Jefferson Avenue, Altoona, Blair County, PA 16602), persons in limousine service between points in Blair County, and from points in said county to points in Pennsylvania and return; which is to be a transfer of the rights authorized under the certificate issued at A-00109268 to Floyd W. Musselman, t/d/b/a Classic Limousine Service, subject to the same limitations and conditions.

**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-00112977. Bobby Bullet Productions, Inc.** (11737 Old Route 16, Rouzerville, Franklin County, PA 17250), a corporation of the Commonwealth of Pennsylvania—persons on schedule, between the boroughs of Waynesboro and Chambersburg, Franklin County, the borough of Gettysburg, Adams County, and the city of Harrisburg, Dauphin County, over the following routes: beginning in the borough of Waynesboro, Franklin County, thence over borough streets to PA Route 316, thence north on PA Route 316 to its intersection with Interstate Route 81, thence north on Interstate Route 81 to the borough of Chambersburg, Franklin County, thence east on U. S. Route 30 to the borough of Gettysburg, Adams County, thence over borough streets to PA Route 116, thence south of PA Route 116 to its intersection with PA Route 16, thence west on PA Route 16 through the borough of Waynesboro, Franklin County, the place of beginning. Spur route: beginning in the borough of Waynesboro, Franklin County, thence west by PA Route 116 to the borough of Greencastle, Franklin County, thence over borough streets to PA Route 116 and its intersection with Interstate Route 81, thence north on Interstate 81, to the city of Harrisburg, Dauphin County, and return by the same routes. Spur route: beginning in the borough of Chambersburg, Franklin County, thence over various borough streets to U. S. Route 30, thence east on U. S. Route 30, to its intersection with Interstate Route 81, thence north on Interstate Route 81, to the city of Harrisburg, Dauphin County, and return by the same routes. *Attorney:* Deborah K. Hoff, 154 South Potomac Street, Waynesboro, PA 17268.

**A-00113240. Listowel Limo Company, Inc.** (1600 Locust Street, Philadelphia, Philadelphia County, PA 19103), a corporation of the Commonwealth of Pennsylvania—persons in airport transfer service, from that part of the city and county of Philadelphia north of the south side of Cottman Avenue running east and west between the Montgomery County Line and the Delaware River, and bounded on the north by the Bucks County Line, to the Philadelphia International Airport, in the city and county of Philadelphia and the township of Tinicum, Delaware County. *Attorney:* Michael J. Stack, Jr., 1600 Locust Street, Philadelphia, PA 19103.

**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-00109808, Folder 1, Am-B. Shawn J. Pulver and Howard Gyle, Copartners, t/d/b/a Plymouth Taxi Company** (Rear 148 Cherry Street, Plymouth, Luzerne County, PA 18651), persons upon call or demand, in the boroughs of Plymouth and Larksville, and the township of Plymouth, Luzerne County, *so as to permit* the transportation of persons upon call or demand in the borough of Plymouth, Luzerne County, and points within an airline distance of 10 statute miles of the limits of said borough. *Attorney:* David J. Harris, Suite 405 Bicentennial Building, 15 Public Square, Wilkes-Barre, PA 18701.

**A-00112415, Folder 1, Am-A. Armando Ocando, t/d/b/a A and B Limousine** (213 Gerrie Drive, Pittsburgh, Allegheny County, PA 15241), persons in limousine service from points in Allegheny County to points in Pennsylvania, and return; *so as to permit* the transportation of persons in limousine service, between points in Washington County, and from points in said county to points in Pennsylvania and return; subject to the following conditions: that no right, power or privilege is granted to provide service from Washington County to the Pittsburgh International Airport located in Allegheny County, and the Latrobe Airport located in Westmoreland County. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

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

**A-00108950, F. 2. Lazer Limousine Services, Inc.**, (329 Swamp Pike, Schwenksville, Montgomery County, PA 19473-1407), a corporation of the Commonwealth of Pennsylvania—additional right—persons and their baggage in airport transfer service, from points in the counties of Berks and Lancaster, and points in the county of Montgomery on U. S. Highway Route 422 and within 2 miles on either side of said route, to its intersection with Route 202; and from points in the county of Chester on U. S. Highway Route 30 and within 2 miles on either side of said route, to its intersection with Route 100, to the Philadelphia International Airport, in the city of Philadelphia and the township of Tinicum, Delaware County. *Attorney:* William L. Landsburg, 484 Norristown Road, Suite 100, Blue Bell, PA 19422-2326.

**Applications of the following for approval of discontinuance of service for the transportation of persons as described under each application.**

**A-0092235, Folder 1, Am-D, City Transfer, Inc.** (900 Brussels Street, St. Marys, Elk County, PA 15857), a corporation of the Commonwealth of Pennsylvania—partial discontinuance of service—household goods, in use, from points in the borough of St. Marys, Elk County, and within 25 miles by the usually traveled highways of the limits of said borough, to other points in Pennsylvania. *Attorney:* David H. Radcliff, 2616 Walnut Street, Harrisburg, PA 17103.

**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 August 26, 1996.
- A-00113225 Ralph Bley, t/d/b/a Bley Trucking-Excavating  
R. R. 1, Box 384, Ringtown, PA 17967
- A-00113230 Zudi Redzeqi, t/d/b/a Redzeqi's Hauling  
124 North Lincoln Avenue, Scranton, PA 18504
- A-00113231 Pete Zarelli Excavating Company  
1322 West Chester Pike, West Chester, PA 19382
- A-00113237 Rodney W. Swigart, t/d/b/a R. S. Trucking  
R. R. 2, Box 90B, Benton, PA 17814
- A-00113249 Envirite Corporation  
620 West Germantown Pike, Suite 250, Plymouth Meeting, PA 19462
- A-00113248 Pinnacle Trucking, Inc.  
2921 Haskins Road, Waterford, PA 16441
- A-00113241 Paul M. Martin  
1634 Springville Road, New Holland, PA 17557
- A-00113243 Robert J. Koester  
3555 Sandis Road, Murryville, PA 15668
- A-00113244 James R. Liggitt, t/d/b/a James Liggitt Trucking  
485 Kramer Road, Burgettstown, PA 15021
- A-00113245 George E. Carroll, t/d/b/a George E. Carroll General Hauling  
R. D. 1, Box 202, Lucinda, PA 16235
- A-00113246 Pennington Trucking, Inc.  
R. D. 1, Box 454A, Morrisdale, PA 16858; Dwight L. Koerber, Jr., P. O. Box 1320, Clearfield, PA 16830
- A-00113247 John C. Diehl  
P. O. Box 83, Tyler Hill, PA 18469

**Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Dispatch Trucklines, Inc.; A-0011144C9601**

*Complaint*

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania, empowered to regulate motor carriers and brokers within this Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That DISPATCH TRUCKLINES, INC., respondent, maintains a principal place of business at 2512 EAST SOLWAY, SIOUX CITY, IA 51104.

2. That at all times relevant to this Complaint, respondent held a CERTIFICATE OF PUBLIC CONVENIENCE issued by this Commission at Application Docket No. A-00111144.

3. That pursuant to section 512 of the Public Utility Code, 66 Pa. Code § 512, and 52 Pa. Code Chapter 32; respondent is required to maintain evidence of current insurance on file with this Commission.

4. That respondent has failed to maintain evidence of CARGO INSURANCE, in violation of the Public Utility Code and regulations cited in Paragraph 3 of this complaint.

5. That as a result of failure to maintain evidence of current insurance on file with this Commission, the Bureau of Transportation and Safety Prosecutory Staff requests that the Commission revoke respondent's CERTIFICATE OF PUBLIC CONVENIENCE or order such other remedy as the Commission may deem to be appropriate.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke the CERTIFICATE OF PUBLIC CONVENIENCE held by DISPATCH TRUCKLINES, INC., at Docket No. A-00111144, for failure to maintain current evidence of insurance on file with the Commission and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,  
Kenneth E. Nicely, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

*Verification*

I, Kenneth E. Nicely, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

*Notice to Plead*

A. You must file an answer within twenty (20) days of the date of service. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice to plead. 52 Pa. Code § 1.56(a). The answer must raise all factual and legal arguments that you wish to claim in your defense and must include the docket number of this complaint. Your answer must be verified and the original and two (2) copies sent to:

John G. Alford, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service as identified in Paragraph A above, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier permit; or brokerage license or imposing such other remedy as may be appropriate.

C. In lieu of an answer, you may elect not to contest this complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in paragraph A. Upon receipt of the proof of insurance from your insurer, the complaint proceeding shall be closed.

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier permit; or brokerage license.

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-1321. Filed for public inspection August 9, 1996, 9:00 a.m.]

**Transfer by Sale  
Without Hearing**

**A-110550 F0126. PECO Energy Company.** Application of PECO Energy Company for approval of the transfer by sale to the Township of Lower Chichester for certain electric facilities located in Delaware County, Philadelphia, PA.

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 August 26, 1996, under 52 Pa. Code (relating to public utilities).

*Counsel for Applicant:* Mary McFall Hopper, Esquire, PECO Energy Company, 2301 Market Street, P. O. Box 8699, Philadelphia, PA 19101-8699.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-1322. Filed for public inspection August 9, 1996, 9:00 a.m.]

**Transfer by Sale  
Without Hearing**

**A-110550 F0127. PECO Energy Company.** Application of PECO Energy Company for approval of the transfer by sale to the Borough of Upland for certain electric facilities located in Delaware County, Philadelphia, PA.

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 August 26, 1996, under 52 Pa. Code (relating to public utilities).

*Counsel for Applicant:* Mary McFall Hopper, Esquire, PECO Energy Company, 2301 Market Street, P. O. Box 8699, Philadelphia, PA 19101-8699.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-1323. Filed for public inspection August 9, 1996, 9:00 a.m.]

**PHILADELPHIA REGIONAL  
PORT AUTHORITY**

**Request for Proposals**

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday, August 16,

1996, for project #96-193-001 (Purchase of Roofing Materials). The Bid Document can be obtained from the Procurement Administrator, Phila. Regional Port Authority (PRPA), 210 W. Washington Square, 8th Floor, Phila., PA 19106, (215) 928-9100. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal opportunity laws and regulations.

JAMES T. MCDERMOTT,  
*Executive Director*

[Pa.B. Doc. No. 96-1324. Filed for public inspection August 9, 1996, 9:00 a.m.]

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## 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:

August 12, 1996	Edith Kukuda (Disability)	1 p.m.
August 18, 1996	John Gvazdinskas (decd) (Disability)	1 p.m.

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

JOHN BROSIUS,  
*Secretary*

[Pa.B. Doc. No. 96-1325. Filed for public inspection August 9, 1996, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### REQUIRED DATA DESCRIPTIONS

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

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET 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

**8128510** Construction, Mining, Excavating and Highway Maintenance Equipment—614 sq. ft.; bridge flooring.

**Department:** Transportation  
**Location:** Temple, Berks County, PA 19560  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1167076** Containers, household, commercial, packaging and packing—6,000 each; reflective circular decal—16,000 each; reflective date strips.

**Department:** Health  
**Location:** Harrisburg, Dauphin County, PA 17108-0090  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1209216** Insulating supplies and accessories—1 lot; pipe insulation, high-density mineral wool.

**Department:** Public Welfare

**Location:** Embreeville Center, Hamburg, Berks County, PA 19526  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1191356** Pumps—50 each; ITT Pneumotive Model GH-4VB "or approved equal."

**Department:** Environmental Protection  
**Location:** Harrisburg, Dauphin County, PA 17105-1467  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1210156** Safety equipment and supplies—125 each; Holster: manufactured by Safariland, Model 200-74-161, "top gun", plain black leather—125 each; Magazine holders: manufactured by Safariland, Model 77, magazine holder, double, plain black leather with snap closures.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8231670** Trailers and cycles—1 each; trailer, tri-axle, lowboy with wet line.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA 17120  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8503290** Vehicular equipment, components and automotive supplies—100 each; Mid-land air brake dryer DQ6026 kit—250 each; Bendix air brake dryer 107794 cartridge.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA 17110  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services, Fax request to: (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

## SERVICES

### Advertising—01

**PGC 2526** Printing of 1997 Working Together for Wildlife Fine Art Print - Contractor to provide a minimum of 800 13" x 22 1/2" high quality full color fine art reproductions from an original gray fox painting furnished by the Game Commission. Contractor must be located within a 50 mile radius of Harrisburg, PA. Bid opening date is October 15, 1996.

**Department:** PA Game Commission  
**Location:** 2001 Elmerton Ave., Harrisburg, PA 17110-9797  
**Duration:** October 15, 1996 to June 30, 1997  
**Contact:** Carl Graybill, (717) 787-6286

**269452** Subscriptions, professional journals and magazine service to Norristown State Hospital's Professional and Patient Library.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401  
**Duration:** January 1, 1997 through December 31, 1997  
**Contact:** Sue Brown, Purchasing Agent, (610) 270-1026

**Child Care—07**

**Child-96** State Correctional Institution Graterford is requesting contractor to operate two children's centers, conduct counseling for inmates and their families, provide training to Department of Corrections staff, inmates and volunteers and deliver technical assistance to the DOC professionals. Services provided on the grounds of the Institution.

**Department:** Corrections  
**Location:** State Correctional Institution Graterford, Box 246, Graterford, PA 19426  
**Duration:** 3 years  
**Contact:** Kelly Richardson, (610) 489-4151

**Computer Related Services—08**

**1996-1** Pennsylvania institutions of higher education and nonprofit organizations, which have previously conducted successful mathematics and science professional development opportunities, are invited to submit applications to conduct professional development programs to improve teaching and learning in mathematics and science in the Commonwealth. Funding is from Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P. L. 103-382).

**Department:** Education  
**Location:** 333 Market Street, Harrisburg, PA 17126-0333  
**Duration:** Through August 15, 1998  
**Contact:** Linda J. Benedetto, (717) 772-3623, TTY (717) 783-8445

**RFP 96-01** The Pennsylvania Insurance Department, Underground Storage Tank Indemnification Fund (Fund) is soliciting a Request for Proposal from vendors to provide Systems Analysis and Application Development of the Statement Billing and Claims Support System (SBACSS). The Request for Proposal package will be issued to interested vendors on or after August 16, 1996, and can be obtained by writing to the address below.

**Department:** Insurance  
**Location:** Underground Storage Tank Indemnification Fund, 901 North 7th Street, Harrisburg, PA 17102  
**Duration:** Indeterminate 1996-97  
**Contact:** Sandy Frye, (717) 783-8093

**L&I-18-96** The Department of Labor is requesting proposals to provide a hardware and software solution for an Automated Resume System. The system will integrate image, voice, FAX and date (modem) technology to provide self-service resume submission and retrieval to jobseekers and employers.

**Department:** Labor and Industry  
**Location:** Bureau of Employment Services and Training, Labor and Industry Building, Harrisburg, PA  
**Duration:** 1 year  
**Contact:** Raymond A. Dennis, (717) 787-6157

**Construction Maintenance—09**

**080915** Lycoming County, State Route 220, Section 058.

**Department:** Transportation  
**Location:** District 3-0  
**Duration:** FY 1996/97  
**Contact:** Paul W. Beaver, Contract Management Supervisor, (717) 368-4263

**2-2-00024** Installation of approximately 16,000/L. F. of 2S Salvage and 16,000/L. F. of 2W Salvage Guiderail at various locations throughout Clearfield County. Materials shall be supplied by both the Pennsylvania Department of Transportation and by the Contractor. The Department shall be responsible for removal of the cable type guide rail and for any grading of shoulder stabilization prior to the placement of the guiderail. It will be the contractor's responsibility to pick up the material and deliver it to the work sites. A field review is mandatory prior to the bid opening. There will be only one day scheduled which will include review of the guiderail locations and the guiderail material at the Stockpile locations. By mutual consent of both parties, this contract shall be renewed by amendment at price quoted for one year periods for a total of three renewal amendments.

**Department:** Transportation  
**Location:** District 0220, Various locations within Clearfield County  
**Duration:** 01/01/97 through 12/31/97  
**Contact:** Jerome Latosky, (814) 765-0496

**Contract No. FDC-010-70** Demolition of existing bridge (steel I-beams, open steel grid deck and stone masonry abutments); construction of a new bridge (prestressed concrete adjacent box beams, reinforced concrete deck, abutments and wingwalls), and construction of approximately 310 feet of approach roadway. All work is located in Forest District No. 10 approximately 7 miles north of the village of North Bend.

**Department:** Conservation and Natural Resources  
**Location:** Chapman Township, Clinton County  
**Duration:** Complete all work by September 30, 1997  
**Contact:** Construction Management Section, (717) 787-5055

**Engineering Services and Consultation—14**

**08430AG2008** Open-End Contract for construction inspection services on various projects in Engineering District 10-0, that is, Armstrong, Butler, Clarion, Indiana and Jefferson Counties.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** Thirty (30) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2009** To provide construction inspection services for S. R. 0065, Section A13, Ohio River Boulevard, Allegheny County.

**Department:** Transportation  
**Location:** Engineering District 11-0  
**Duration:** Eleven (11) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**Environmental Maintenance Service—15**

**Contract No. FDC-208-150** Construct two wells furnished with hand pumps and perform/provide yield, chemical and bacteriological tests at Linn Run State Park.

**Department:** Conservation and Natural Resources  
**Location:** Cook Township, Westmoreland County, PA  
**Duration:** 60 days  
**Contact:** Construction Management Section, (717) 787-5055

**AMD 08(3295)101.1** Acid Mine Drainage Abatement Project, Falls Creek. Involves an estimated 20,406 C. Y. of grading, 5.4 acres of seeding and 2.8 acres of Wetland Planting. One Hundred Percent of this project is financed by the Federal Government. Federal funds available for this program total 19.04 million dollars for Pennsylvania's 1995 AML Grant.

**Department:** Environmental Protection  
**Location:** Franklin Township, Bradford County, PA  
**Duration:** 240 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**OSM 26(2745)101.1** Abandoned Strip Mine Reclamation, Masontown Southwest. Involves an estimated 38,300 c. y. of grading and 6.2 acres of seeding. One Hundred Percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$19.04 million dollars for Pennsylvania's 1995 AML Grant.

**Department:** Environmental Protection  
**Location:** Nicholson Township, Fayette County, PA  
**Duration:** 180 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**OSM 49(2064)101.1** Backfilling Strip Pits, Gowen City Northeast. Involves an estimated 64,100 c. y. of grading and 13.3 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:** 160 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**Extermination Services—16**

**269451** Pest control, provide comprehensive services to all buildings, tunnels, etc. of the Norristown State Hospital. Control ants, cockroaches, silverfish, rodents and pigeons as required. Approximately 30 major buildings are involved, including large dietary areas.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA  
**Duration:** January 1, 1997 through June 30, 1999 with 1 year renewal option  
**Contact:** Sue Brown, Purchasing Agent, (610) 270-1026

**Food—19**

**LBP-95-053C** Meat and meat products. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-054C** Fresh fruits and vegetables. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-055C** Ice cream, sherbet and frozen yogurt. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-056C** Poultry and poultry products. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-058C** Shell eggs. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-059-C** Bread and rolls. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

**LBP-95-061C** Dairy (cheese, butter, margarine, cottage cheese, sour cream, etc.). Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** October 1, 1996 through December 31, 1996  
**Contact:** Robert J. Casey, Purchasing Agent III, (717) 961-4317

## Fuel Related Services—20

**KU 97-04** Kutztown University is interested in obtaining bids for the removal of an underground oil storage tank and the installation of a new above ground tank at North Water Tower. Scope of work includes but is not limited to: removal of one 3,000 gallon UGST and the installation of one 3,000 gallon above ground double wall storage tank complete with earthwork, underground piping, concrete pads, landscaping, and electrical work. Interested contractors can obtain plans/specifications from: Entech Engineering, Inc., 4 South Fourth Street, P. O. Box 32, Reading, PA 19603, phone (610) 373-6667 for a non-refundable fee of (\$35.00) thirty-five dollars. Specifications are available August 12, 1996. There will be a pre-bid meeting on August 22, 1996 at 10:00 a.m. Bids are due September 4, 1996 by 2:00 p.m. and will be opened September 6, 1996 at 2:00 p.m. Late submissions will be returned un-opened.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19680  
**Duration:** 120 days after notice to proceed  
**Contact:** Barbara Reitz, (610) 683-4132

## Hazardous Material Services—21

**CAL96-01** California University of Pennsylvania of the State System of Higher Education is interested in obtaining the services of hazardous waste disposal. Interested bidders can request the proposal from Vickie A. Laubach at (412) 938-4430. There will be a pre-proposal hearing on August 19, 1996 at 10:00 a.m. in Room 117, Azorsky Administration Building. Proposals opening will be September 6, 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 PA, California, PA 15419-1394  
**Duration:** Two years  
**Contact:** Vickie A. Laubach, Purchasing Agent, (412) 938-4430

## Heating, Ventilation, Air Conditioning—22

**Contract No. FDC-115-120** Drilling and grouting of voids in existing outlet conduit and cleaning and repairing leaks through the conduit and joints for the Lyman Run Dam in Lyman Run State Park.

**Department:** Conservation and Natural Resources  
**Location:** West Branch Township, Potter County, PA  
**Duration:** 45 days  
**Contact:** Construction Management Section, (717) 787-5055

**IN-713** HVAC System Installation Leonard Hall. Work included under this project consists of HVAC system installation, Leonard Hall consisting of removing existing ceilings, walls, piping, ductwork, ceilings, air handling units, light fixtures, wiring conduit, etc., to furnish and install new acoustical ceiling, access panels, painting, piping, insulation, ductwork, dampers, diffusers, air handling units, air conditioners, wiring conduit, light fixtures, etc. Notice to Contractors may be requested from IUP. 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

**M35611** The contractor shall provide retrofit of existing chiller with HFC-134a, conversion from CFCs to environmentally safe HFC-134a at the State Correctional Institution at Pittsburgh. Interested vendors can call Mr. Dave Schultz at (412) 761-1955, ext. 260.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233  
**Duration:** September 2, 1996 to June 30, 1997  
**Contact:** Ronald J. Dudek, Purchasing Agent, (412) 761-1955

**WC 588** Convert six gymnasiums, two pools and several small office spaces from electric heat to gas heat. The gyms require installation of new direct gas-fired ceiling mount heaters. The pools require installation of new gas-fired water heaters. The new water heater units will be tied into existing system replacing the existing electric units. The gym units are new construction and require extensive cutting, patching and control installation. General construction, mechanical and electrical contracts will be separately issued. Prevailing wages apply.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA 19383  
**Duration:** 120 days from notice to proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

## Janitorial Services—23

**632923** Provide janitorial services for small maintenance office (5 small rooms, foyer, hallway, 3 lavatories, and 1 lunchroom).

**Department:** Transportation  
**Location:** 101 Bennett Avenue, P. O. Box 1509, Milford, PA 18337  
**Duration:** 2-1-97 to 1-31-00  
**Contact:** Charles M. Johnson, (717) 296-7193

## Laboratory Services—24

**No. 8073** Vendor will furnish clinical laboratory service to Ebensburg Center and perform tests as requested in writing by duly authorized physicians at Ebensburg Center. Vendor will provide a phlebotomist, specimen transportation and "stat" testing on call. Vendor will agree to bill Medicare/Medicaid or other 3rd party when applicable. For complete specifications, contact the Purchasing Office of the Ebensburg Center.

**Department:** Public Welfare  
**Location:** Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288

## Lodging/Meeting Facilities—27

**IFB 95-07-12** The Office of Drug and Alcohol Programs is planning its 1998 Spring Staff Development Training Institute. The Institute will begin with Sunday registration and conclude Friday afternoon. Group size is expected to be up to 550 daily. The facility to host this Institute must meet the following daily requirements: Sleeping Rooms: 250 air conditioned double/single rooms; 14 soundproof Meeting Rooms to accommodate 30 classroom style and 4 soundproof Meeting Rooms to accommodate 15 classrooms; 1 Hospitality Suite, to accommodate 100; 1 Large Room for evening and social activities to accommodate 300; Banquet Facilities, to accommodate 550; an Exhibit Area to accommodate 45 8' x 10' booths with electricity available for 25 booths; a Central Registration area with telephone, electricity and photocopying capability; a locked room for Storage of equipment; availability of Training Aids and Equipment; and Parking to accommodate 350 cars. Meeting Rooms must be connected to Sleeping Rooms in structure. Dates: April 26—May 1, May 3—8, May 17—22, May 31—June 5, June 7—12, June 14—19, June 21—26, 1998. Interested bidders should contact Karen Price at (717) 787-2606 for a bid sheet.

**Department:** Health  
**Location:** Southern half of the State to include the following counties: York, Butler, Bucks, Berks, Beaver, Carbon, Huntingdon, Adams, Armstrong, Indiana, Lancaster, Chester, Philadelphia, Perry, Monroe, Lawrence, Cambria, Somerset, Bedford, Fulton, Allegheny, Greene, Franklin, Mifflin, Snyder, Lebanon, Juniata, Westmoreland, Fayette, Blair, Lehigh, Washington, Dauphin, Delaware, Schuylkill, Northampton, Montgomery and Cumberland County  
**Duration:** 6 days as listed above  
**Contact:** Nancy Sponeybarger, (717) 787-2606

**SP 299710** Provide meeting facilities, lodging, meals, audio-visual equipment, indoor swimming pool for approximately 120 persons.

**Department:** Fish and Boat Commission  
**Location:** Law Enforcement, within 5 mile radius of Altoona, PA  
**Duration:** January 21, 1997 to January 23, 1997  
**Contact:** Tom Kamerzel, (717) 657-4542

## Medical Services—29

**922** The Polk Center has a need for Occupational Therapists—PA licensed or license eligible. Estimated—800 hours/year.

**Department:** Public Welfare  
**Location:** Polk Center, Polk, Venango County, PA 16342  
**Duration:** 1/1/97—12/31/97 w/renewals  
**Contact:** Patty Frank, (814) 432-0397

**269453** Provide services in the medical specialty of Pulmonary Disease to patients of the Norristown State Hospital on a "fee for service" basis. Approximately 80 first visit charges and 140 follow up visit charges per year, to be rendered at the hospital's clinic. Board Certified or eligible in Pulmonary Disease is required in this specialty. Must be licensed to practice Medicine or Osteopathy in PA.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Rita Hanly, D.O., Medical Director, (610) 270-1106

**269454** General Surgery, perform in this medical specialty for patients of the Norristown State Hospital. Payment will be on a "fee for service" basis for approximately 200 one (1) hour clinic sessions for each year in the hospital clinic, Building No. 52. Must be Board Certified or eligible in General Surgery and licensed to practice Medicine or Osteopathy in PA.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Rita Hanly, D.O., Medical Director, (610) 270-1106

**269455** Otolaryngology and Bronchoesophagology, provide services in this specialty to patients of Norristown State Hospital on a "fee for service" basis. Services to be rendered at the hospital clinic or occasionally at other specified buildings. Must be Board Certified or eligible in Otolaryngology and Bronchoesophagology. Work also includes audiometric testing of some employees.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Rita Hanly, D.O., Medical Director, (610) 270-1106

**No. 8074** Vendor to provide in-depth audiological exams and hearing aids for individuals of both the Ebensburg and Altoona Centers. Work to be performed at the Centers whenever practical. Services to be provided as needed and scheduled by the Coordinator of Speech and Hearing Services. Sessions to be as long as needed to complete testing on any given day, but sessions are not to exceed 7 1/2 hours.

**Department:** Public Welfare  
**Location:** Ebensburg and Altoona Centers, Route 22 West, P.O. Box 600, Ebensburg, Cambria County, PA 15931 and 1515 Fourth Street, Altoona, Blair County, PA 16601  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288

**No. 8075** Contractor to provide Psychiatric Evaluations at Ebensburg Center three times each month for eight hour sessions. Sessions will be upon referral from primary care physicians and inter-disciplinary teams and to supervise the screening for tardive dyskineses for individuals on neuroleptic medications every three months (or more if determined necessary).

**Department:** Public Welfare  
**Location:** Ebensburg Center, Route 22 West, P.O. Box 600, Ebensburg, Cambria County, PA 15931  
**Duration:** January 1, 1997 through June 30, 1999  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288

**5075** Contractor for providing psychiatric services to a mental health care facility. Service provider shall have full and unrestricted license to practice medicine and/or psychiatry in the Commonwealth of Pennsylvania. Proof of certification or eligibility for board certification in psychiatry, background/psychiatric experience, etc., must be provided to the requesting hospital. Contractor/physician shall provide approximately twenty (20) hours to thirty-five (35) hours per week; minimum service to be provided of twenty (20) hours.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, Torrance, Westmoreland County, PA 15779-0111  
**Duration:** November 1, 1996 through June 30, 2000  
**Contact:** Linda J. Zoskey, Purchasing Agent, (412) 459-4547

## Moving Services—30

**PP 97** Contractor shall supply round trip transportation for families of inmates at State Correctional Institution Cambridge Springs. It is estimated that 10—15 persons will make the trip monthly. Transportation will start at Philadelphia on Friday afternoon with a stay over on the way. Arrival at Cambridge Springs will be on Saturday with departure to Philadelphia the same day (no stay over). A small snack and a Continental Breakfast will be included around the stay over.

**Department:** Corrections  
**Location:** State Correctional Institution Cambridge Springs, 451 Fullerton Avenue, Cambridge Springs, PA 16403  
**Duration:** 10-1-96 to 12-31-97  
**Contact:** Quentin Hargenrater, Jr., (814) 398-5442

## Property Maintenance—33

**11096007** Contract for roof maintenance services at various Department buildings located in Districts 11-0, 11-1 (Allegheny County), 11-2 (Beaver County), 11-4 (Lawrence County) and 11-3 (Allegheny Tunnels). Maintenance services shall consist of preventative maintenance service visits, inspection services and minor repair work. Emergency repair service (storm related) upon request by authorized personnel.

**Department:** Transportation  
**Location:** Engineering District 11-0, Maintenance District 11-1 and 11-3; Allegheny County, 11-2; Beaver County and 11-4 Lawrence County  
**Duration:** 11-1-96 through 10-31-97 with renewal options  
**Contact:** Andrew W. Playso, (412) 429-4942

**M36132** The contractor shall provide a new roof, soffit and fascia, gutter, pointing of two chimneys, replace sides with siding, repair structure damage on second floor of building above porch roof. Interested vendors can call Mr. James Spagnoletti at (412) 761-1955, ext. 260.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233  
**Duration:** September 02, 1996 to June 30, 1997  
**Contact:** Ronald J. Dudek, Purchasing Agent, (412) 761-1955

**Project No. DGS 1103-54 (Rebid)** Project title: Construction of New Science Center. Brief description: new three story masonry/steel Academic Building housing lecture rooms, laboratories, auditorium and support services. General, HVAC, plumbing, electrical and fire suppression systems for scientific environment are included. General construction, HVAC, plumbing and electrical construction. Plans deposit: \$190.00 per set. Payable to: HHS DR Architects/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: HHS DR Architects/Engineers, 40 Shenango Avenue, P. O. Box 648, Sharon, PA 16146. Telephone (412) 981-8820. Bid date: Wednesday, September 11, 1996 at 11:00 a.m. Any and all Bulletins issued prior to August 14, 1996 are hereby cancelled.

**Department:** General Services  
**Location:** University of Pittsburgh, Titusville Campus, Titusville, Crawford County, PA  
**Duration:** 350 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

## Real Estate Services—35

**918A** Lease of State Owned Property Commonwealth of Pennsylvania. The Department of General Services will accept requests for information concerning the leasing of the residence known as the Gardners Cottage, located at the Highlands Historic Site, Fort Washington, PA. This is a 2 story house containing 1600 square feet. Requests will be accepted until August 15, 1996. Solicitation No.: 918.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Lloyd D. Colegrove, (717) 772-0538

**920A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 22,755 useable square feet of new or existing office space in the City of Harrisburg, Dauphin or Cumberland Counties, PA, with minimum parking for eighty-three (83) vehicles, within the following boundaries: within a four (4) mile radius of the Main Capitol Building. Proposals due: September 9, 1996. Solicitation No.: 092287.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Doris Deckman or Edward P. Meyer, (717) 787-4394

**921A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Corrections with 12,876 useable square feet of new or existing residential/office space, in Pittsburgh, Allegheny County, PA, with minimum parking for ten (10) vehicles, within the following boundaries: North: North Avenue; South: Reedsdale Street and I-279; East: I-279; West: Allegheny Avenue. Proposals due: August 26, 1996. Solicitation No.: 092328.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Doris Deckman or Edward P. Meyer, (717) 787-4394

**922A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Board of Probation and Parole with 5,343 useable square feet of new or existing office space in the City of Pittsburgh, Allegheny County, PA with minimum parking for twenty-two (22) vehicles, within the following boundaries: North: Pennsylvania Avenue; South: General Robinson Street; East: Chestnut Avenue; West: Beaver Avenue. Proposals due: September 9, 1996. Solicitation No.: 092329.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Doris Deckman or Edward P. Meyer, (717) 787-4394

## Vehicle, Heavy Equipment and Powered Machinery Services—38

**090-000211** Winter Rental Equipment: trucks: 26,000—58,400 GVW with a 10 ft. one-way plow and a 6 C. Y. hopper spreader (or minimum 6 C. Y. dump bed with a tailgate spreader) for snow removal and de-icing operations. Rubber tire loaders: 3—7 C. Y. bucket capacity equipped with tire chains for standby use in the event of severe drifting snow. Graders: 28,000 GVW minimum all wheel drive, equipped with a front mount plow (10 ft. minimum) and tire chains, for standby use in the event of drifting snow.

**Department:** Transportation  
**Location:** District 9-0: Bedford, Blair, Cambria, Fulton, Huntingdon and Somerset Counties  
**Duration:** 11/1/96 to 4/30/99  
**Contact:** Jim Hughes, District 9-0, (814) 940-5155

**0800-96-PU-01-900** PA Department of Transportation intends to rent the following described equipment: one (1) 6 inch water pump. A reference model is Gorman-Rupp, Model 86 A2-F4L, or equal. Any lessors bidding an "or equal" must supply literature to prove its equality.

**Department:** Transportation  
**Location:** District 8-0 Counties: Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry  
**Duration:** November 23, 1996 to November 22, 1999  
**Contact:** R. A. Wiest, (717) 783-0443

## Miscellaneous—39

**Project No. 95-43** "Statistical Techniques for Analyzing Survey Results." The objective of this project is to educate, train and prepare appropriate PennDOT personnel to properly gather, analyze and present survey data. This effort is one step to provide PennDOT with the needed expertise to decide to use, write, analyze, present and interpret customer surveys. Detailed requirements and an RFP are available upon request. Fax requests to Mary Sharp at (717) 783-7971.

**Department:** Transportation  
**Location:** Bureau of Office Services, 9th Floor, State Street Building, 500 North Third Street, Harrisburg, PA 17101  
**Duration:** Approximately 30 months  
**Contact:** Mary Sharp, (717) 787-2491

[Pa.B. Doc. No. 96-1326. Filed for public inspection August 9, 1996, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction Maintenance: Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*



**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
1017116-01	07/24/96	Champion International	116,250.00
1082206-01	07/24/96	Moore Business Forms, Inc.	31,655.00
1089116-01	07/29/96	Lindgren Corp.	13,230.00
1090116-01	07/24/96	Curbell, Inc.	50,220.00
1131156-01	07/24/96	Sigarms, Inc.	0
1163116-01	07/29/96	B & W, Inc.	70,400.00
2540-01	08/01/96	Harvey's Supply Co., Inc.	695.25
2540-01	08/01/96	Cooper Tools	257,925.15
2540-01	08/01/96	Wallingford's, Inc.	103,446.10
2540-01	08/01/96	Vehicle Maintenance Program	62,116.50
2610-09	08/01/96	TPS Distributing Co., Inc.	203.20
2610-09	08/01/96	Good Tire Service, Inc.	10,892.69
2610-09	08/01/96	Export Tire Co.	2,634.25
2610-09	08/01/96	Bastian Tire Sales	2,812.70
2610-09	08/01/96	Jack Williams Tire and Auto Service Centers	948.00
2610-09	08/01/96	Goodyear Tire and Rubber Co.	6,752.40
2610-09	08/01/96	Service Tire Truck Center	6,691.13
2610-09	08/01/96	Bergey's, Inc.	1,911.13
4210-01	08/07/96	Flag Fire, Inc.	40,046.05
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	American Atelier	10,000.00

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	American of Martinsville	10,000.00
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	High Point Furniture Industries	10,000.00
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	Officenter	30,000.00
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	Patrician Furniture Co.	10,000.00
7105-05 (Rebid in Part No. 1 and Supplement No. 1) Furniture	07/31/96	Blanton & Moore	10,000.00
7110-07 (Supplement No. 1)	07/30/96	Carlisle Industries	10,000.00
7930-08 Supplement No. 1	08/07/96	W. W. Grainger	17,365.00
7930-08 Supplement No. 1	08/07/96	DeSantis Janitor Supply Co.	16,750.00
7930-08 Supplement No. 1	08/07/96	3M Sales Center	16,250.00
7930-08 Supplement No. 1	08/07/96	Galer & Hults, Inc.	105,750.00
8132700-01	07/24/96	Q-Matic Corp.	68,037.00
8231590-01	07/29/96	Bull International, Inc.	46,986.00
8503200-01	07/30/96	Motive Suppliers, Inc.	52,367.50
8503240-01	07/29/96	Federal Signal Corporation	42,600.00

GARY E. CROWELL,  
Secretary

[Pa.B. Doc. No. 96-1327. Filed for public inspection August 9, 1996, 9:00 a.m.]