

# PENNSYLVANIA BULLETIN

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Regulations on Health Facility Licensure

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

**No. 269, May 1997**

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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.

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### Printing Format

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

### Fiscal Notes

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

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

## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1997.

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# THE GOVERNOR

## Acceptance of Concurrent Legislative Jurisdiction

May 21, 1997

I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania in accordance with the Act of August 5, 1977, P. L. 181 No. 47, § 2; 74 P. S. § 4, hereby notify the public of acceptance of concurrent legislative jurisdiction over the Defense Personnel Support Center in the City of Philadelphia. The United States Department of Defense, acting through the Department of the Army retrocedes concurrent legislative jurisdiction over this federal enclave. The Defense Personnel Support Center consists of approximately 86.15 acres of land located in the Southern portion of the City of Philadelphia and is bordered by Oregon Avenue and 20th Street.

Retrocession of legislative jurisdiction does not transfer an estate or other interest in land. The Commonwealth's acceptance of concurrent legislative jurisdiction simply permits Pennsylvania's laws to be enforced in conjunction with federal laws on the lands that compose the federal enclave.



*Governor*

[Pa.B. Doc. No. 97-873. Filed for public inspection May 30, 1997, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### ERIE COUNTY

#### Revision and Restatement of the Rules of Civil Procedure; No. 90502-1997

##### Order

*And Now*, this 16th day of May, 1997, the following revisions and additions to the Rules designated as the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania, are hereby approved, adopted and promulgated as the Rules of Court. These Rule changes, revisions and deletions shall become effective thirty days after the publication of the same in the *Pennsylvania Bulletin*, and they shall apply to all actions pending at the time.

JOHN A. BOZZA,  
*President Judge*

#### **Rule 304. Family Law/Orphans' Division Motion Court.**

a. Motion Court, for the purpose of obtaining a Final Order or an order for Emergency Relief, shall be held Monday, Tuesday, Wednesday and Thursday at 9:00 a.m.

b. All other Petitions and Motions seeking a Rule to Show Cause, Argument, or hearing date shall be presented only by counsel or pro se litigant, in duplicate, to the Family/Orphans' Court Administrator between the hours of 9:00 a.m. to 11:00 a.m. and 1:30 to 3:00 p.m., Monday through Friday.

c. A Motion Court Cover Sheet in the form which follows this rule shall be completed and attached to all Motions or Petitions filed.

d. The Family/Orphans' Court Administrator shall be responsible for scheduling with the Judges all Arguments, Hearings and Rules To Show Cause on the Motions or Petitions presented to the Family/Orphans' Court Administrator.

e. The attorneys or pro se litigants presenting a Motion or Petition to the Family/Orphans' Court Administrator

shall be responsible for filing original Petitions or Motions and Orders with the Prothonotary or Clerk of the Orphans' Court and serving copies of the Order and Petition or Motion on opposing counsel or pro se litigants.

f. The Family/Orphans' Court Administrator shall collect one copy of the Petition or Motion and Order for the hearing Judge.

g. The Motions or Petitions and Order shall be filed on the date the Order is signed.

h. For Motions or Petitions seeking Emergency Relief or a final Order, notice shall be given to opposing counsel or pro se litigants pursuant to Rule 440 of the Erie County Local Rules.

i. Insofar as this Rule is inconsistent with Erie County Local Rule 303, Rule 304 shall apply.

#### **Rule 1910.16-1. Alimony Pendente Lite.**

a. All Motions and Petitions for alimony pendente lite, modification or termination thereof including counsel fees, shall be filed with the Domestic Relations Office.

b. The Domestic Relations Office shall make a recommendation as to alimony pendente lite pursuant to the procedures of Erie County Local Rules and Pennsylvania Rules of Civil Procedure 1910.11 and 1910.12 which shall be determined in accordance with support guidelines, Pennsylvania Rule of Civil Procedure 1910.16-2 and as a formula in Rule 1910.16-5.

c. All Motions and Petitions for alimony pendente lite, modification, termination, or exceptions therefrom shall be subject to fees as established by the Domestic Relations Office.

#### **COMMENT**

A count for Alimony Pendente Lite in a Divorce Complaint does not activate the processing of that claim. The filing of a Petition for Alimony Pendente Lite in the Domestic Relations Office pursuant to Rule 1910.16-1 activates that claim and establishes the effective date of the claim.

[Pa.B. Doc. No. 97-874. Filed for public inspection May 30, 1997, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1187]

#### Nursing Facility Intergovernmental Transfer

The Department of Public Welfare (Department) adopts amendments to Chapter 1187 (relating to nursing facility services). The amendments are set forth in Annex A and are adopted under the authority of sections 201, 403 and 443.1(2) and (3) of the Public Welfare Code (act) (62 P. S. §§ 201, 403 and 443.1(2) and (3)) and sections 1902(a)(13)(A) and (30) of the Social Security Act (42 U.S.C.A. § 1396a(a)(13)(A) and (30)).

Notice of proposed rulemaking is omitted under section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv) and (3)) (CDL) and 1 Pa. Code § 7.41(1)(iv) and (3). Section 204(1)(iv) and (3) of the CDL provides that an agency may omit notice of proposed rulemaking when the amendment relates to Commonwealth grants or benefits or when circumstances render it impractical, unnecessary or contrary to the public interest.

The Department finds that these amendments relate to the system of payment of benefits under the Medical Assistance (MA) Program, as established by the Commonwealth. The amendments authorize the application of county nursing facility transition payments and general nursing facility transition payments to assure a smooth transition to the new payment system contained in Chapter 1187 and the payment of county nursing facility supplementation payments to qualified county nursing facilities. Given the involvement of the County Commissioners Association and the nursing facility industry in the development of these beneficial changes in payment which allow providers to enhance services for their residents, the Department finds that an additional period for comment and discussion is unnecessary and contrary to the public interest.

#### *Purpose of the Amendments*

The purpose of these amendments is to make revisions to § 1187.95 (relating to general principles for rate and price setting) and to add § 1187.116 (relating to county nursing facility supplementation payments). The revisions authorize the application of county supplementation payments to qualified county nursing facilities; an enhanced transition rate for county nursing facilities and a transition rate for general nursing facilities other than special rehabilitation facilities and hospital-based nursing facilities, through the implementation of an intergovernmental transfer of funds to the Commonwealth by county governments.

#### *Need for the Amendments*

MA is a form of public assistance funded jointly by the Federal and State government, that is designed to purchase health care for low income individuals who have exhausted all other means of payment for medically necessary compensable health care services. The MA Program (Medicaid) pays for a broad range of medical services, one of which is nursing facility services.

In accordance with Federal law, States are permitted under certain circumstances to use funds transferred

from public sources to qualify as the State's share for Medicaid payments for nursing facility services and other medical services. See 42 U.S.C.A. § 1396b(w)(6)(A); 42 CFR 433.51(b).

#### *Requirements*

After discussion and negotiations with representatives of the County Commissioners Association, the Department executed an agreement to implement an intergovernmental transfer to benefit the Commonwealth's long term care program. This intergovernmental transfer is being implemented through a transfer of funds to the Commonwealth by county governments. In order to implement some of the provisions of the Intergovernmental Transfer Agreement, the Department is adopting the amendments to Chapter 1187 in Annex A. These amendments make the following changes:

Section 1187.95 is being changed to provide for a transition rate for general nursing facilities other than hospital-based nursing facilities and special rehabilitation nursing facilities for the period January 1, 1996, through June 30, 1996, and an enhanced transition rate for county nursing facilities for the period January 1, 1996, through December 31, 1998. Payment of the transition rates is contingent upon the determination by the Department that there are sufficient local, State and Federal funds appropriated to make these payments.

Section 1187.116 is being added to allow for county nursing facility supplementation payments. For State fiscal periods commencing on or after July 1, 1996, and subject to the availability of sufficient county, State and Federal funds, the Department will pay supplementation payments to county nursing facilities in which MA-funded resident days account for at least 80% of the nursing facility's total resident days and the number of certified MA beds is greater than 270 beds.

#### *Fiscal Impact*

##### *Public Sector*

##### *Commonwealth*

The amendments will increase Departmental expenditures, however, the funds transferred from local county governments qualify as the State's share for Medicaid payments.

##### *Political Subdivisions*

These amendments will provide additional moneys to county governments by granting enhanced transition payments to all county nursing facilities certified for participation in the MA Program. The Department cannot accurately determine the fiscal impact of these amendments on the political subdivisions.

##### *Private Sector*

These amendments will provide additional moneys to general nursing facilities by granting transition rate payments to those nursing facilities for the last two quarters of Fiscal Year 1995-1996. The Department cannot accurately determine the fiscal impact of these amendments on the nursing facility industry.

##### *General Public*

MA residents receiving nursing facility services may experience increased services and MA recipients may receive better access to care as a result of these amendments.

*Paperwork Requirements*

These amendments will not affect the paperwork requirements for the Commonwealth, political subdivisions, private sector or general public.

*Effective Date*

These amendments took effect January 1, 1996.

*Sunset Date*

These amendments will sunset as follows:

- (1) Section 1187.95(b)(2), (3), (4) and (5) will sunset on December 31, 1998.
- (2) Section 1187.95(b)(6) will sunset on June 30, 1996.
- (3) Section 1187.116 will not sunset.

*Public Comment Period*

Although these amendments are being adopted without prior notice, interested persons are invited to submit their written comments within 30 days from the date of this publication for consideration by the Department as to whether the amendments should be revised. The comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17120.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users) or may use a Department TDD by calling (717) 787-3616. If you require another alternative, please contact Thomas Vracarich at (717) 783-2212.

*Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on March 13, 1997, the Department submitted a copy of this rulemaking with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Welfare and the Senate Committee on Public Health and Welfare. On the same date, the rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(c) of the Regulatory Review Act, this rulemaking was deemed approved by the Committees on April 2, 1997, and was approved by IRRC on April 3, 1997.

*Findings*

The Department finds that:

- (1) Public notice of intention to amend the administrative regulations adopted by this order is unnecessary and contrary to public interest under section 204(1)(iv) and (3) of the CDL and the regulation thereunder, 1 Pa. Code § 7.4(1)(iv) and (3) because these amendments relate to benefits for nursing facility providers which were negotiated and agreed to by representatives of the nursing facility industry.
- (2) The adoption of the amendments in the manner provided in this order is necessary and appropriate for the administration and enforcement of section 443.1(2) and (3) of the act.

*Order*

The Department, acting under the authority of the act, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 1187, are amended by amending § 1187.95 and by adding § 1187.116 to read as set forth in Annex A.

(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 and form as required by law.

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

(d) This order shall take effect upon publication and apply retroactively to January 1, 1996.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-437. (1) General Fund; (2) Implementing Year 1995-96 is \$1,841,000; (3) 1st Succeeding Year 1996-97 is \$2,162,000; 2nd Succeeding Year 1997-98 is \$1,149,000; 3rd Succeeding Year 1998-99 is \$-0-; 4th Succeeding Year 1999-00 is \$-0-; 5th Succeeding Year 2000-01 is \$-0-; (4) Fiscal Year 1995-96 \$648,550,000; Fiscal Year 1994-95 \$593,622,000; Fiscal Year 1993-94 \$493,275,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. This regulatory action provides for enhanced transition rates for the payment of nursing facilities and supplemental payments to certain county facilities. Funds to cover the costs referenced above are from the 1995-96 Intergovernmental Transfer and have been placed into a reserve account for future payments.

*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 1987 (April 19, 1997).

**Annex A**

**TITLE 55. PUBLIC WELFARE**  
**PART III. MEDICAL ASSISTANCE**  
**CHAPTER 1187. NURSING FACILITY SERVICES**  
**Subchapter G. RATE SETTING**

**§ 1187.95. General principles for rate and price setting.**

(a) Prices will be set prospectively on an annual basis during the second quarter of each calendar year and be in effect for the subsequent July 1 through June 30 period.

(1) Peer group prices will be established for resident care costs, other resident related costs and administrative costs.

(2) If a peer group has an even number of nursing facilities, the median peer group price determined will be the arithmetic mean of the costs of the two nursing facilities holding the middle position in the peer group array.

(3) If a nursing facility changes bed size or MSA group, the nursing facility will be reassigned from the peer group used for price setting to peer group based on bed certification and MSA group as of April 1, for rate setting.

(4) The Department will announce, by notice submitted for recommended publication in the *Pennsylvania Bulletin* and suggested codification in the *Pennsylvania Code* as Appendix B, the peer group prices for each peer group.

(b) Rates will be set prospectively each quarter of the calendar year and will be in effect for one full quarter. Net operating rates will be based on peer group prices as limited by § 1187.107 (relating to limitations on resident care and other resident related cost centers). The nursing

facility per diem rate will be computed as defined in § 1187.96(e) (relating to price and rate setting computations).

(1) Resident care peer group prices will be adjusted for the MA CMI of the nursing facility each quarter and be effective on the first day of the following calendar quarter.

(2) For the period of January 1, 1996, through June 30, 1996, each county owned and operated nursing facility, as defined in § 1187.2 (relating to definitions), receiving a county nursing facility rate as of June 30, 1995, will be provided a transition rate. The transition rate for each county nursing facility for January 1, 1996, through June 30, 1996, will be the higher of the facility case-mix rate for that quarter or a December 31, 1995, facility blended rate.

(i) The blended rate is calculated by multiplying the skilled/heavy care rate on file as of December 31, 1995, by the number of skilled/heavy care days as reported in the county nursing facility's most recently accepted cost report; multiplying the intermediate care rate on file as of December 31, 1995, by the number of intermediate care days reported in the county nursing facility's most recently accepted cost report; summing these products and dividing that sum by the number of skilled care, heavy care and intermediate care days as reported in the county nursing facility's most recently accepted cost report.

(ii) The rate established in subparagraph (i), will be trended forward 3 months from January 1, 1996, to March 31, 1996, by a factor equal to the HCFA Nursing Home Without Capital Market Basket Index as published in the second quarter 1995 issue of the DRI McGraw-Hill publication "Health Care Costs."

(3) For the period July 1, 1996, through June 30, 1997, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or a facility blended rate calculated in accordance with paragraph (2)(i) and (ii), trended forward 9 months from April 1, 1996, to December 31, 1996, by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1995 issue of the DRI McGraw-Hill publication "Health Care Costs."

(4) For the period July 1, 1997, through June 30, 1998, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or

the facility transition rate identified in paragraph (3), trended forward 12 months from January 1, 1997, to December 31, 1997, by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1996 issue of the DRI McGraw-Hill publication "Health Care Costs."

(5) For the period July 1, 1998, through December 31, 1998, transition rates for county nursing facilities will be the higher of the case-mix rate for each respective quarter or the facility transition rate identified in paragraph (4), trended forward 9 months from January 1, 1998, to September 30, 1998, by a factor equal to the HCFA Nursing Home without Capital Market Basket Index as published in the fourth quarter 1997 issue of the DRI McGraw-Hill publication "Health Care Costs."

(6) For the period January 1, 1996, through June 30, 1996, general nursing facilities other than hospital-based, special rehabilitation and county nursing facilities, will be provided a transition rate. The transition rate for each general nursing facility for each calendar quarter, during the time period January 1, 1996, through June 30, 1996, will be the higher of the facility case-mix rate for that quarter or a July 1, 1994, facility blended rate. The facility blended rate is a composite of the skilled care and intermediate care interim per diem rates in effect on July 1, 1994, weighted by the reported MA days associated with the respective acuity levels.

#### **Subchapter H. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS**

#### **§ 1187.116. County nursing facility supplementation payments.**

County nursing facility supplementation payments are made according to a formula established by the Department to county nursing facilities, in which Medicaid funded resident days account for at least 80% of the facility's total resident days and the number of certified MA beds is greater than 270 beds. Payment of the county nursing facility supplementation payments is contingent upon the determination by the Department that there are sufficient State and Federal funds appropriated to make these supplementation payments.

[Pa.B. Doc. No. 97-875. Filed for public inspection May 30, 1997, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 177]

### Close of Department Comment Period for Enhanced Emission Inspection

The Department of Transportation, Bureau of Motor Vehicles, by this notice, announces that it will entertain no further comment on the proposed, enhanced emission inspection and maintenance (I/M) regulations, published at 26 Pa.B. 1221 (March 16, 1996).

For the purpose of satisfying section 5 of the Regulatory Review Act, the comment period for Independent Regulatory Review Commission (IRRC) ended May 15, 1996; however, because of the interest in these regulations by the motoring public in affected I/M counties, the Department continued to entertain comment and discussion on its proposed regulations.

The Department sincerely thanks all of the persons and entities throughout this Commonwealth for their thoughtful comments and participation.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-876. Filed for public inspection May 30, 1997, 9:00 a.m.]

## SECURITIES COMMISSION

[64 PA. CODE CHS. 102, 202—204, 207, 209,  
302, 606 AND 609]

### Registration of Securities, Broker-Dealers, Agents, Investment Advisors and Administration

The Securities Commission (Commission), under the authority contained in sections 102(k), 202(h) and (i), 203(r), 204(a), 207(h), (i) and (k), 209(a), 606(a) and 609(a) of the Pennsylvania Securities Act of 1972 (act) (70 P.S. §§ 1-102(k), 1-202(h) and (i), 1-203(r), 1-204(a), 1-207(h), (i) and (k), 1-209(a), 1-606(a) and 1-609(a)), proposes to amend regulations concerning the subject matter of the act to read as set forth in Annex A.

#### *Summary and Purpose of Regulations*

##### *§ 102.111 (relating to institutional investor).*

Offers and sales of securities to institutional investors are exempt from the securities registration provisions of the act. Section 102.111 is proposed to be amended to expand the definition of institutional investor in section 102(k) of the act to include a qualified institutional buyer as that term is defined in Rule 144A of the United States Securities and Exchange Commission (SEC), 17 CFR 230.144A (relating to private resales of securities to institutions). The Commission proposes to amend § 102.111.

##### *§ 202.080 (relating to securities issued by broker-dealers).*

The proposed deletion of § 202.080 eliminates the requirement that a registered broker-dealer proposing to offer and sell its securities to its officers, partners or

employees who are residents of this Commonwealth in reliance upon section 202(h) of the act make a notice filing on Commission Form 202-H. Since this section originally was promulgated, the Commission has adopted several self-executing exemptions which may be available for the same transaction. The Commission proposes to delete § 202.080.

##### *§ 202.094 (relating to world class issuer exemption).*

Currently, many large, multinational corporations domiciled outside of the United States cannot take advantage of exemptions from registration under the act because their securities are not listed on a United States stock exchange or they are not reporting companies to the SEC. Section 202.094 will designate securities issued by large, multinational corporations that do not have securities listed on a United States securities exchange as exempt from the registration provisions of the act. This will provide parity with securities of large United States corporations whose securities are exempt under section 202(f) of the act. The Commission proposes to adopt § 202.094.

##### *§ 203.189 (relating to isolated transaction exemption).*

This proposed amendment to § 203.189 will increase the number of sales permitted under this exemption and would waive the general solicitation prohibition and Pennsylvania domicile requirement for certain sales. The proposed amendment provides an exemption from the securities registration requirements when there will be only isolated offers and sales made in this Commonwealth of a de minimis nature. The Commission proposes to amend § 203.189.

##### *§ 203.190 (relating to certain Internet offers exempt).*

Section 203.190 will codify the Commission's existing order granting an exemption for offers of securities made on the Internet that are not intended to be sold to residents of this Commonwealth. The Commission proposes to adopt § 203.190.

##### *§ 204.012 (relating to waivers for offerings where sales are made only to accredited investors).*

Section 204.012 will waive the offer and sale numerical limitations in sections 203(d) and (e) of the act and the general solicitation prohibitions for offerings of securities when sales only will be made to accredited investors. The Commission proposes to adopt § 204.012.

##### *§ 207.081 (relating to trust indenture requirements).*

The proposed deletion of § 207.081 will eliminate the requirement that debt securities, as a condition of registration by qualification under section 206 of the act, be issued under a trust indenture complying with the provisions of the Trust Indenture Act of 1939 (15 U.S.C.A. §§ 77aaa—77bbb) or similar State requirements. The Commission proposes to delete § 207.081.

##### *§ 207.091 (relating to subscription contracts).*

The proposed amendment to § 207.091 will reduce the types of offerings which must file a copy of the subscription contract with the Commission. This proposed amendment also eliminates the requirement that issuers of securities sold under the Federal exemption for intrastate offerings and registered under section 206 of the act use a subscription contract prepared in a specified format. Additionally, the proposed amendment would delete recordkeeping requirements for subscription contracts

that duplicate requirements in § 209.010(a)(6). The Commission proposes to amend § 207.091.

*§ 207.110 (relating to quarterly reports of the progress of a registered offering).*

The proposed amendment to § 207.110 will eliminate the requirement that issuers selling securities registered under section 206 of the act but not registered under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa), file reports with the Commission on a quarterly basis. The Commission proposes to delete § 207.110.

*§ 209.010 (relating to required records; report on sales of securities).*

Section 209.010 is proposed to be amended to delete the requirement to file a report of sales and use of proceeds for sales of securities made in this Commonwealth under section 203(d) and (p) of the act. Section 209.010 is proposed to be amended to conform with the provisions of the National Securities Markets Improvement Act of 1996 (NSMIA) by deleting all references to registration or exemption of securities offerings by investment companies under sections 205, 206 or 203(i) of the act. (Note: Section 209 of the act was amended by Act 4 of 1993 to reflect that the section 203(i) exemption was no longer available for investment companies but this registration requirement now has been preempted by the NSMIA.) The Commission proposes to amend § 209.010 to conform with the requirements of the NSMIA and eliminate use of terms which may cause confusion within the regulated community.

On October 11, 1996, section 102 of the NSMIA became effective which amended section 18 of the Securities Act of 1933 (15 U.S.C.A. § 77r-1) to prohibit the application of any state law requiring the registration or qualification of securities of investment companies registered under the Federal Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80b-21). The NSMIA, at section 18(c)(1) of the Securities Act of 1933, however, did preserve the ability of the states to require notice filings (as opposed to registration or exemption filings), fee payments and sales reports. Both section 209 of the act and § 209.010, however, describe the requirement to file sales reports by investment companies using the terms "registration or exemption" under sections 205, 206 or 203(i) of the act. This proposed amendment will eliminate the references to registration or exemption provisions of the act, adopt a new uniform sales report form to be used by all states which also eliminates references to registration or exemption and establish a uniform filing period for classes of investment companies consistent with Federal law.

*§ 302.065 (relating to Canadian broker-dealer exempt).*

This proposed new section will exempt Canadian broker-dealers and agents that are licensed and in good standing in Canada from the broker-dealer and agent registration provisions of the act if the Canadian broker-dealer or agent effects transactions only with persons from Canada who are preexisting clients and who temporarily are present in this Commonwealth when the transactions occur. The Commission proposes to adopt § 302.065.

*§ 606.011 (relating to financial reports to security holders).*

Section 606.011 is proposed to be amended to exclude from specified financial statement delivery requirements issuers of securities that are not reporting companies under the Federal securities laws and are exempt from

registration under the act when the transaction was made in connection with a merger, a distribution to existing shareholders or the Commission granted a discretionary exemption. Issuers of securities filing under sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78dd), if they have made a filing within the past 120 days, also would be excluded from the financial statement delivery requirement. The Commission proposes to amend § 606.011.

*§ 609.011 (relating to amendments to filings with Commission).*

The proposed amendment to § 609.011 will delete Commission Form AM and the requirement that amendments to Commission filings be made on Commission Form AM and will adopt a general procedural requirement to amend notices, registration statements and other matters previously filed with the Commission. The Commission proposes to amend § 609.011.

*Persons Affected by these Regulations*

With respect to proposed amendments to § 102.111, issuers of securities to qualified institutional buyers will be affected by the proposed action.

With respect to the proposed deletion of § 202.080, broker-dealers who would rely upon the exemption provided in section 202(h) of the act to offer and sell securities to their officers, partners and employees who are residents of this Commonwealth would no longer have to file Commission Form 202-H.

With respect to proposed § 202.094, the persons affected are large multinational foreign corporations offering and selling securities to investors in the United States.

With respect to proposed amendments to § 203.189, the persons affected are those issuers that want to offer and sell securities to only a few persons in this Commonwealth.

With respect to proposed § 203.190, persons affected are those persons using the Internet to make offers of securities.

With respect to proposed § 204.012, persons affected are issuers of securities in offerings when sales will be made only to accredited investors.

With respect to the deletion of § 207.081, persons affected are issuers of debt securities subject to registration under section 206 of the act.

With respect to § 207.091, persons affected are issuers of offerings made in reliance upon the Federal exemption from registration for intrastate offerings and offerings of interests in public direct participation programs.

With respect to the proposed deletion of § 207.110, persons affected are issuers selling securities registered under section 206 of the act but not registered under the Securities Act of 1933.

With respect to § 209.010, persons affected are issuers of securities sold in reliance upon the exemptions provided by section 203(d) and (p) of the act and investment companies selling securities in this Commonwealth.

With respect to § 302.065, persons affected are licensed Canadian brokers and agents effecting transactions in this Commonwealth with a preexisting client who temporarily is present in this Commonwealth at the time of the transactions.

With respect to § 606.011, persons affected are issuers of securities exempt from registration under the act



because the transaction involved a merger, distribution to existing shareholders or Commission granted discretionary exemption, and issuers of securities filing under section 13 or 15(d) of the Securities Exchange Act of 1934, if a filing has been made within the past 120 days.

With respect to § 609.011, persons affected are those seeking to amend documents previously filed with the Commission.

*Fiscal Impact*

The proposed regulatory actions will decrease regulatory costs to the public. The Commonwealth General Fund will sustain a loss of approximately \$20,000 in fee revenue from the proposed amendments to § 203.189 as securities offered and sold in certain isolated transactions will no longer be required to make a notice filing under section 203(d) of the act and pay the applicable fee. Likewise, the General Fund may sustain a minimal loss of fee revenue from the adoption of § 302.065 as certain Canadian brokers and their agents no longer would be subject to registration requirements.

The remaining proposed regulatory amendments will not have a fiscal impact on the Commonwealth.

*Paperwork*

Sections 202.080, 207.081, 207.110 and 209.010 will eliminate paperwork as the proposed regulatory actions deletes rules requiring the filing of specified forms and documents. With respect to §§ 207.091 and 609.011, paperwork would be reduced as information will no longer be required to be filed with the Commission in a specified format.

*Effective Date*

These proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as final rule-making.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 24, 1997, the Commission submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance for comment and review. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis form prepared by the Commission in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments it will notify the Commission 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 final-form regulations by the Commission, the General Assembly and the Governor of objections raised.

*Availability in Alternative Formats*

This proposed rulemaking may be made available in alternative formats upon request. The Commission also will receive comments on this proposed rulemaking in alternative formats. TDD users should use the AT&T Relay Center (800) 854-5984. To make arrangements for alternative formats, contact Joseph Shepherd, ADA Coordinator at (717) 787-6828.

*Contact Person*

Interested persons are invited to send comments concerning the proposed amendments within 30 days of publication of this notice to G. Philip Rutledge, Deputy Chief Counsel, Securities Commission, Eastgate Building, 1010 N. Seventh Street, 2nd Floor, Harrisburg, PA 17102-1410, (717) 783-5130. Mr. Rutledge also is the contact person for an explanation of the proposed amendments.

M. JOANNA CUMMINGS,  
*Secretary*

**Fiscal Note:** 50-110 (1) General Fund; (2) Implementing Year 1996-97 is \$20,000; (3) 1st Succeeding Year 1997-98 is \$20,000; 2nd Succeeding Year 1998-99 is \$20,000; 3rd Succeeding Year 1999-00 is \$20,000; 4th Succeeding Year 2000-01 is \$20,000; 5th Succeeding Year 2001-02 is \$20,000; (4) Fiscal Year 1995-96 \$2,074 million; Fiscal Year 1994-95 \$2,146 million; Fiscal Year 1993-94 \$2,135 million; (7) Nonapplicable; (8) recommends adoption. The Commission anticipates to save approximately \$30,000 annually in administrative costs which will not be required due to the elimination of various filings.

**Annex A**

**TITLE 64. SECURITIES**

**PART I. PENNSYLVANIA SECURITIES COMMISSION**

**Subpart A. DEFINITIONS**

**CHAPTER 102. DEFINITIONS**

**§ 102.111. Institutional investor.**

(a) *Institutional investor.* Institutional investor, as defined in section 102(k) of the act (70 P. S. § 1-102(k)), includes:

\* \* \* \* \*

**(10) A qualified institutional buyer as that term is defined in 17 CFR 230.144A (relating to private resales of securities to institutions), or any successor rule thereto.**

\* \* \* \* \*

**Subpart B. REGISTRATION OF SECURITIES**

**CHAPTER 202. EXEMPT SECURITIES**

**§ 202.080. [Securities issued by broker-dealers] (Reserved).**

**[ (a) A registered broker-dealer proposing to offer and sell its securities to residents of this Commonwealth who are officers, partners or employees of such registered broker-dealer in reliance upon the exemption contained in section 202(h) of the act (70 P. S. § 1-202(h)) shall file a notice with the Commission at least ten days prior to the proposed date of sale on the following form, designated by the Commission as Form 202-H. ]**

*(Editor's Note:* As part of this proposal, the Commission is proposing to delete the text of Form 202-H, which appears at 64 Pa. Code pages 21—23, serial pages (25152), (25153) and (30399).)

**[ Form 202-H need not be filed where a registered broker-dealer proposes to offer and sell its securities only to general partners or executive officers of such broker-dealer. For purposes of this subsection, the term "executive officer" means the president,**

secretary, treasurer, or any vice president in charge of a principal business function of the broker-dealer.

(b) Unless the issuer receives notice from the Commission that the exemption has been revoked pursuant to section 204(b) of the act (70 P. S. § 1-204(b)), the securities may be sold and issued pursuant to the terms of the notice on Form 202-H after such ten-day period or such shorter time as the Commission may, by order permit. If any material term of the offering is proposed to be changed, an amendment on Form AM to Form 202-H shall be filed with the Commission, and, unless the Commission otherwise orders, the ten-day period prior to issuance shall be deemed to commence on the date of filing of the Form AM. ]

§ 202.094. World class issuer exemption.

Under the authority in section 202(i) of the act (70 P. S. § 1-202(i)), the Commission finds that it is not in the public interest nor necessary for the protection of investors to require registration under section 201 of the act (70 P. S. § 1-201) of any security meeting the following conditions:

(1) The securities are one of the following:

(i) Equity securities except options, warrants, preferred stock, subscription rights, securities convertible into equity securities or any right to subscribe to or purchase the options, warrants, convertible securities or preferred stock.

(ii) Units consisting of equity securities permitted by subparagraph (i) and warrants to purchase the same equity security being offered in the unit.

(iii) Nonconvertible debt securities that are rated in one of the four highest rating categories of Standard and Poor's, Moody's, Dominion Bond Rating Services or Canadian Bond Rating Services or another rating organization designated by order of the Commission. For purposes of this subsection, nonconvertible debt securities means securities that cannot be converted for at least 1 year from the date of issuance and then only into equity shares of the issuer or its parent.

(iv) American Depository Receipts representing securities described in subparagraphs (i)—(iii).

(2) The issuer is not organized under the laws of the United States, or of any state, territory or possession of the United States, or of the District of Columbia or Puerto Rico.

(3) The issuer, at the time an offer or sale is made in reliance on this section, has been a going concern engaged in continuous business operations for the immediate past 5 years and during that period, has not been the subject of a proceeding relating to insolvency, bankruptcy, involuntary administration, receivership or similar proceeding. For purposes of this paragraph, the operating history of any predecessor that represented more than 50% of the value of the assets of the issuer that otherwise would have met the conditions of this section may be used toward the 5-year requirement.

(4) The issuer, at the time an offer or sale is made in reliance on this section, has a public float of \$1 billion or more. For purposes of this paragraph:

(i) Public float means the market value of all outstanding equity shares owned by nonaffiliates.

(ii) Equity shares means common shares, nonvoting equity shares and subordinated or restricted voting equity shares but does not include preferred shares.

(iii) An affiliate of a person is anyone who beneficially owns, directly or indirectly, or exercises control or direction over, more than 10% of the outstanding equity shares of the person.

(5) The market value of the issuer's equity shares, at the time an offer or sale is made in reliance on this section, is \$3 billion or more. For purposes of this subsection, equity shares means common shares, nonvoting equity shares and subordinated or restricted voting shares but does not include preferred shares.

(6) The issuer, at the time an offer or sale is made in reliance on this section, has a class of equity securities listed for trading on or through the facilities of a foreign securities exchange or recognized foreign securities market included in 17 CFR 230.901(a)(1) (relating to general statement) or successor rule promulgated under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa) or designated by the United States Securities and Exchange Commission under 17 CFR 230.902(a)(2) (relating to definitions) promulgated under the Securities Act of 1933.

CHAPTER 203. EXEMPT TRANSACTIONS

§ 203.189. Isolated transaction exemption.

(a) *General.* Under section 203(r) of the act (70 P. S. § 1-203(r)), the Commission finds it neither necessary nor appropriate for the protection of investors to require registration under section 201 of the act (70 P. S. § 1-201) for the offer and sale of securities by an issuer if:

(1) Sales made under this section do not result in the issuer having made sales of its securities to more than two persons in this Commonwealth during a period of [ 36 ] 12 consecutive months. [ Sales ] Only sales described in subsection [ (b) ] (c) will [ not ] be counted as sales for purposes of the numerical limitations contained in this paragraph.

(2) Offers made under this section do not result in the issuer having made offers to sell its securities to more than 90 persons in this Commonwealth during a period of [ 36 ] 12 consecutive months. [ Offers ] Only offers described in subsection [ (b) ] (c) will [ not ] be counted as offers for purposes of the numerical limitations contained in this paragraph.

\* \* \* \* \*

(b) [ *Exclusions.* The following offers and sales will not be counted as offers or sales under the provisions of subsection (a)(1) and (2):

(1) Offers and sales of securities of the issuer which were made in reliance upon an exemption from registration under section 202 or 203 of the act (70 P. S. §§ 1-202 and 1-203) or under this chapter or Chapter 202 (relating to exempt securities) other than offers and sales which occurred within the preceding 18 months from the date of an offer or sale to be made under this section that were made in reliance upon section 203(d) or (f) of the act, § 203.187 (relating to small issuer exemption) or § 204.010(a)(1) and (2).

(2) Offers and sales of securities of the issuer which were registered under section 205 or 206 of the act (70 P. S. §§ 1-205 and 1—206). ]

**Waivers.**

(1) If the securities to be sold in reliance on this section are registered with the Securities and Exchange Commission (SEC) under section 5 of the Securities Act of 1933 (15 U.S.C.A. § 77e) or exempt from registration under SEC Regulation A adopted under section 3(b) of the Securities Act of 1933 (15 U.S.C.A. § 77c(b)) and the issuer has complied with section 203(h) of the act (70 P.S. § 1-203(h)), the requirements of subsection (a)(3) and (5) do not apply.

(2) If the securities being offered and sold in reliance on this section are made to Accredited Investors, as defined in § 204.010(d)(5) (relating to increasing the number of purchasers and offerees), in this Commonwealth and the offers and sales would qualify for an exemption from registration under section 5 of the Securities Act of 1933 under Rule 505 or 506 of SEC Regulation D, 17 CFR 230.505 and 230.506 (relating to exemption for limited offers and sales of securities not exceeding \$5,000,000; and exemption for limited offers and sales without regard to dollar amount of offering), the requirements of subsection (a)(3) do not apply.

(c) [Offers and sales made by the issuer under this section shall be counted as offers and sales under applicable numerical limitations set forth in § 204.010(a)(1) and (2) if offers and sales occur under § 204.010 within 12 consecutive months of an offer or sale made under this section.] *Inclusion of prior offers and sales.* Offers and sales which occurred within the preceding 12 months from the date of an offer or sale to be made under this section that were made in reliance upon section 203(d) or (f) of the act, §§ 203.187 and 204.010(a)(1) and (2) (relating to small issuer exemption; and increasing number of purchasers and offerees), 17 CFR 230.506 (relating to exemption for limited offers and sales without regard to dollar amount of offering) or this section shall be counted against the numerical limitations in subsection (a)(1) and (2).

(d) [The filing requirements of § 209.010(b) (relating to required records; report on sales of securities and use of proceeds) are not applicable to offers and sales of securities made under this section.] *Integration.* Offers and sales made by the issuer under this section shall be counted as offers and sales under the applicable numerical limitations in § 204.010(a)(1) and (2) if offers and sales occur under § 204.010 within 12-consecutive months of an offer or sale made under this section.

(e) *Counting of offerees and purchasers.* Section 609.012 (relating to computing the number of offerees, purchasers and clients) applies to offers and sales of securities made under this section.

**§ 203.190. Certain Internet offers exempt.**

(a) Under section 203(r) of the act (70 P.S. § 1-203(r)), the Commission finds it neither necessary nor appropriate for the protection of investors to require registration under section 201 of the act (70 P.S. § 1-201) for offers of securities by an issuer which are communicated electronically by means of a proprietary or common carrier electronic delivery system, the Internet, the World Wide Web or similar media (Internet Offer) when the issuer does

not intend to offer and sell the securities in this Commonwealth and meets the following conditions:

(1) The Internet Offer indicates, directly or indirectly, that the securities are not to be offered to persons in this Commonwealth.

(2) An offer is not otherwise specifically directed to any person in this Commonwealth, by or on behalf of the issuer.

(3) No sales of the issuer's securities are made in this Commonwealth as a result of the Internet Offer.

(b) Nothing in this section prohibits, in connection with an Internet Offer, the availability of another exemption which otherwise does not prohibit general solicitation.

**CHAPTER 204. EXEMPTION PROCEEDINGS**

§ 204.012. Waivers for offerings where sales are made only to accredited investors.

(a) *Waivers.* When an issuer meets the conditions described in subsection (b), the Commission, under section 204(a) of the act (70 P.S. § 1-204(a)), waives the following requirements of section 203(d) of the act (70 P.S. § 1-203(d)) and increases the number of purchasers and offerees permitted by section 203(d) and (e) of the act.

(1) The condition of section 203(d)(i) of the act not to sell securities purchased for 12 months after the date of purchase (12-month holding period) is waived, if resales of the securities are made only to accredited investors or to the issuer during the 12-month holding period.

(2) The requirement under § 203.041 (relating to limited offerings) to file with the Commission a copy of the agreement of the investor to hold the securities purchased under section 203(d) for the 12-month holding period is waived, if a copy of the agreement between the issuer and the investor in accordance with the requirements of paragraph (1) is filed with the Commission.

(3) The condition contained in section 203(d)(ii) of the act concerning mass mailing or public media advertising made in connection with the solicitation of sales of securities to be made under section 203(d) is waived.

(4) The number of offerees permitted under section 203(e) to whom an issuer may offer securities if sales resulting from those offers are exempt under section 203(d) is increased to an unlimited number in this Commonwealth.

(5) The number of purchasers permitted under section 203(d) to whom the issuer may sell securities is increased to an unlimited number in this Commonwealth.

**(b) Conditions.**

(1) The securities are sold in good faith reliance that the offering would qualify for an exemption from registration under section 5 of the Securities Act of 1933 (1933 Act) (15 U.S.C.A. § 77e) under section 3(a)(11) of the 1933 Act (15 U.S.C.A. § 77.c(a)(11)) or regulations adopted by the United States Securities and Exchange Commission (SEC) under section 3(b) of the 1933 Act, except an offering under Rule 505 of SEC Regulation D, and the

securities sold, whether in or outside of this Commonwealth, will be sold only to accredited investors.

(2) The issuer specifies in any advertisement, communication, sales literature or other information which is publicly disseminated in connection with the offering of securities, including by means of electronic transmission or broadcast media, that the securities will be sold only to accredited investors. For purposes of this section, publicly disseminated means communicated to 100 or more persons or otherwise communicated, used or circulated in a public manner.

(3) The issuer does not engage in any solicitation of prospective purchasers by telephone until the issuer has reasonable grounds to believe that the person to be solicited is an accredited investor.

(4) The issuer places a legend on the cover page of any disclosure document proposed to be used in connection with the offering or on the cover page of the subscription agreement advising that the securities described in the disclosure document or the subscription agreement will be sold only to accredited investors.

(5) The issuer is not an investment company as defined in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80b-21).

(6) The issuer is not a development stage company with no specific business plan or purpose or a development stage company that has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(7) The issuer is not subject to the disqualifications in § 204.010(b) (relating to increasing the number of purchasers and offerees) nor are its promoters, officers or directors subject to any disqualification described in that section.

(c) *Definition of accredited investor.* For purposes of this section, the term accredited investor has the same meaning as that term is defined in § 204.010(d)(5).

(d) *Exemption* Nothing in this section otherwise prohibits, in connection with the offering, the availability of the exemption in section 203(c) of the act (70 P.S. § 1-203(c)) or § 203.184 (relating to offers and sales to principals).

#### CHAPTER 207. GENERAL REGISTRATION PROVISIONS

§ 207.081. [Trust indenture requirements] (Reserved).

[Evidences of indebtedness and other debt securities to be registered by qualification under section 206 of the act (70 P.S. § 1-206) will not normally be approved for sale unless they are issued under a trust indenture complying with the provisions of the Trust Indenture Act of 1939 (15 U.S.C.A. § 77aaa et seq.), or providing that:

(1) There shall be one or more trustees thereunder, at least one of which shall be a corporation organized and doing business under the laws of the United States or of a state which is authorized under the laws to exercise corporate trust powers and is subject to supervision or examination by Federal or state authority; provided that where it

appears that the requirements of a corporate trustee may not be necessary for the protection of investors, the Commission may, upon conditions that it deems appropriate, waive the requirement and permit the trustee to be an individual or other person.

(2) If the indenture requires or permits the appointment of one or more co-trustees in addition to the corporate trustee, then the rights, powers, duties and obligations conferred or imposed upon the trustees or any of them shall be conferred or imposed upon and exercised or performed by the corporate trustee or the corporate trustee and the co-trustee jointly, except to the extent that under any law of any jurisdiction in which particular acts are to be performed, the corporate trustee shall be incompetent or unqualified to perform the acts, in which event the rights, powers, duties and obligations shall be exercised and performed by the co-trustee.

(3) In the case of certificates of interest or participation, the trustee shall have the legal power to exercise the rights, powers and privileges of a holder of securities in which the certificates evidence an interest or participation.

(4) If a trustee has or shall acquire a conflicting interest the trustee shall, within 90 days after ascertaining that it has the conflicting interest, either eliminate the conflicting interest or resign, the resignation to become effective upon the appointment of a successor trustee and the successor's acceptance of the appointment and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture.]

#### § 207.091. Subscription contracts.

(a) With respect to securities proposed to be sold under [a registration statement filed under section 205 of the act (70 P.S. § 1-205),] one of the following registration statements, a copy of a subscription or sale contract proposed to be used shall be filed with the Commission, as an exhibit, prior to its use in this Commonwealth[.]:

(1) A registration statement filed under section 205 of the act (70 P.S. § 1-205) when the securities to be sold are exempt from registration under section 5 of the Securities Act of 1933 (15 U.S.C.A. § 77e) under Regulation A promulgated under section 3(b) of the Securities Act of 1933 (15 U.S.C.A. § 77c(b)).

(2) A registration statement filed under section 206 of the act (70 P.S. § 1-206) when the securities to be sold are exempt from registration under section 5 of the Securities Act of 1933 under section 3(a)(4) or (11), Regulation A promulgated under section 3(b) of the Securities Act of 1933, or Rule 504 of Regulation D promulgated under section 3(b) of the Securities Act of 1933.

(3) A registration statement filed under section 205 or 206 of the act where the securities to be sold are interests in a direct public participation program.

[No formal approval by the Commission with respect to the form or content of the contract may be required; provided that nothing in this section is

deemed to constitute a waiver of section 507 of the act (70 P. S. § 1-507) or the antifraud provisions of the act and the regulations adopted thereunder.

(b) With respect to securities proposed to be sold in reliance on section 3(a)(11) of the Securities Act of 1933 (15 U.S.C.A. § 77c(a)(11)) and the rules adopted thereunder, under a registration statement under section 206 of the act (70 P. S. § 1-206) for which the filing of Form 206 is required under this section, as a condition of registration of the securities a subscription or sale contract used in connection therewith shall be in the following form: ]

*(Editor's Note: As part of this proposal, the Commission is proposing to delete the text of the Subscription Offer Form, which appears at 64 Pa. Code pages 207-10—207-14, serial pages (200096)—(200100).)*

Provided that nothing in this subsection shall be deemed to constitute a waiver of section 507 of the act (70 P. S. § 1-507) or the antifraud provisions of the act and the regulations adopted thereunder.

(c) With respect to a subscription or sale contract used in this Commonwealth, a signed or conformed copy of an executed contract shall be preserved for a period of 3 years following the last sale of securities or 1 year after the disposition of proceeds, whichever is longer. ]

§ 207.110. [ Quarterly reports of the progress of a registered offering ] (Reserved).

[ (a) For purposes of this section, the term "period" means each 3-month period from the date of effectiveness of the registration through termination of the offering.

(b) A report on Commission Form 207-K, which follows this section, shall be filed with the Commission, within 30 days after the end of each period, up to and including the period in which the offering terminates, by each issuer offering securities for its own account, directly or through an underwriter, in an offering registered under section 206 of the act (70 P. S. § 1-206) but not registered under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa). The report shall contain information concerning sales made during the period covered by the report and the uses made during such period of any proceeds received.

(c) For the period in which the registration terminated, the Issuer shall attach with the Form 207-K a balance sheet and profit and loss statement, both of which may be unaudited and internally prepared, giving effect to the application of proceeds during the period from the date of effectiveness of the registration through termination of the offering. For good cause shown, this financial information may be filed supplementally within 15 days after the form has been filed.

(d) Commission Form 207-K filed for the period in which the Issuer's offering terminated shall be deemed to fulfill the filing requirements of § 209.010(b) (relating to required records; report on sales of securities and use of proceeds). ]

*(Editor's Note: As part of this proposal, the Commission is proposing to delete Form 207-K which appears at 64 Pa. Code pages 207-19—207-22, serial pages (200105—200108).)*

**CHAPTER 209. BOOKS, RECORDS, AND ACCOUNTS**

§ 209.010. Required records; report on sales of securities [ and use of proceeds ].

\* \* \* \* \*

(b) Except as set forth in paragraph [ (4) ] (3), filing requirements are as follows:

(1) [ Each issuer offering or selling securities for its own account, directly or through an underwriter, under an exemption contained in section 203(d) or (p) of the act shall file a report with the Commission by completing Parts I and III of the form in subsection (c) within one of the following time periods:

(i) Within 60 days after the end of each 12-month period following the most recent filing of Form 203-D or 203-P during which the securities continued to be offered, except that, when the offering terminates and disposition of all proceeds of the offering occurs prior to the end of a 12-month period, a report shall be filed within 60 days from the date of the disposition and no further report need be filed thereafter.

(ii) Within 60 days after the date the offering terminates when the termination occurred less than 12 months after the date of the most recent filing of Form 203-D or 203-P and no sales were made in this Commonwealth. The reports required by this subparagraph shall contain information relating to sales made from the commencement of the offering through the end of the period covered by the report and the uses made of the proceeds received.

(2) An issuer which is an open-end or closed-end investment company, face amount certificate company or unit investment trust, as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64), filing under section 203(i), 205 or 206 of the act shall file an annual report with the Commission by submitting Uniform Sales Report Form, known as Form USR-1 (or a successor form thereto) within 55 days after 1 year from the effective date of the registration statement filed under section 205 or 206 of the act or of the date of filing for an exemption or exemption renewal under section 203(i) of the act.

(3) ] Issuers which have an effective registration for the offer and sale of securities in this Commonwealth under section 206 of the act, except for open-end or closed-end investment companies, face amount certificate companies or unit investment trusts, as those persons are classified in the Investment Company Act of 1940, shall file a report with the Commission by completing Parts I and II of the form in subsection (c) within 55 days after 1 year from the effective date of the registration statement filed under section 206 of the act.

[ (4) The following issuers are not required to file the form in subsection (c):

(i) Issuers involved in an offering of securities where the total aggregate offering does not exceed \$100,000.

(ii) Issuers which are open-end or closed-end investment companies, face amount certificate companies or unit investment trusts, as those persons

are classified in the Investment Company Act of 1940, filing under section 203(i) of the act to exempt an indefinite amount of securities and have paid the maximum fee specified in section 602(b)(iv) of the act (70 P. S. § 1-602(b)(iv)).

(iii) Issuers with an effective registration statement for the offer and sale of securities in this Commonwealth under section 206 of the act which also have an effective registration statement under section 5 of the Securities Act of 1933 (15 U.S.C.A. § 77e) and have paid the maximum fee specified in section 602(b)(iii) of the act.

(iv) Issuers with an effective registration statement for the offer and sale of securities in this Commonwealth under section 206 of the act where the issuer has timely filed Commission Form 207-K in accordance with § 207.110 (relating to quarterly reports of the progress of a registered offering) for the period in which the issuers' offering terminated. ]

(2) An issuer which is an open-end or closed-end investment company, face amount certificate company or unit investment trust, as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64), shall file with the Commission an annual report on sales of securities in this Commonwealth on Form NF adopted by the North American Securities Administrators Association, Inc. (or a successor form thereto) within the following time periods:

(i) With respect to an open-end or closed-end investment company or face amount certificate company, the report required by this subsection shall be filed with the Commission within 120 days after its fiscal year end.

(ii) With respect to a unit investment trust, the report required by this subsection shall be filed with the Commission within 60 days after 1 year from the date the registration statement relating to the securities sold in this Commonwealth became effective with the United States Securities and Exchange Commission.

(3) The following issuers are not required to file the form in subsection (c) or Form NF (or successor form thereto):

(i) Issuers which are open-end or closed-end investment companies, face amount certificate companies or unit investment trusts, as those persons are classified in the Investment Company Act of 1940, that have paid the maximum fee specified in section 602(b.1)(iv) of the act (70 P. S. § 1-602(b.1)(iv)).

(ii) Issuers with an effective registration statement for the offer and sale of securities in this Commonwealth under section 206 of the act (70 P. S. § 1-206) of the act which also have an effective registration statement under section 5 of the Securities Act of 1933 (15 U.S.C.A. § 77e) and have paid the maximum fee specified in section 602(b.1)(iii) of the act (70 P. S. § 1-602(b.1)(iii)).

(iii) Issuers with an effective registration statement for the offer and sale of securities in this Commonwealth under section 206 of the act which also have paid the maximum fee specified in section 602(b.1)(iii) of the act.

(c) The form for reports required in subsection (b), except for subsection (b)(2), shall be filed with the Commission on the following form, designated by the Commission as Form 209:

**FORM 209**  
**PENNSYLVANIA SECURITIES COMMISSION**  
**REPORT ON SALES OF SECURITIES [ AND DISPOSITION OF PROCEEDS ]**  
**General Instructions**

WHO MUST FILE: Issuers which have sold securities in Pennsylvania [ **either**

**I. ]** Pursuant to registration by qualification under Section 206, EXCEPT where the offering is registered under Section 5 of the Securities Act of 1933 AND the maximum fee has been paid (see Section 602(b)(iii)),

**[ II. In reliance upon exemption from registration under Sections 203(d) or (p), EXCEPT for an offering where the TOTAL AGGREGATE dollar amount for the ENTIRE offering is \$100,000 or less. ]**

WHEN TO FILE:

**[ I. Registrations under Section 206: ]** File Form 209 within 420 days after the effective date of the registration statement in Pennsylvania.

**[ II. Exemptions under Sections 203(d) or (p):**

NOTE: "Exemption Filing" refers to the receipt by the Commission of Form 203-D or SEC Form D submitted with Commission Form D Supplement; or Commission Form 203-P.

**A. NO SALES IN PA and the issuer has TERMINATED the Offering in PA within 12 months of the Exemption Filing:**

1. File Form 209 within 60 days of termination of the offering.
2. Complete ONLY PART I and sign the Form. No further report need be filed thereafter.

**B. SALES IN PA and, within 12 months from the date of the Exemption Filing, the issuer has TERMINATED the offering in PA and utilized All of the Proceeds:**

1. File Form 209 within 60 days of disposition of all offering proceeds.
2. No further report need be filed thereafter.

**C. SALES IN PA BUT, within 12 months from the date of the Exemption Filing, the issuer HAS NOT TERMINATED the offering in PA OR utilized all of the Proceeds:**

1. File Form 209 within 60 days of disposition of all offering proceeds.
2. File a final Form 209 within 60 days of termination of the offering in PA and disposition of all proceeds. No further report need be filed thereafter. ]

\* \* \* \* \*

- 7. [ For Part III, the time period covered by this report should commence with the DATE Commission Form 203-D, SEC Form D and Commission Form D Supplement, or Form 203-P WAS FILED with the Commission with respect to securities sold under Section 203(d) or (p) of the Act.
- 8. In Item 13(B), compute all amounts from the DATE Commission Form 203-D, SEC Form D and Commission Form D Supplement or Commission Form 203-P WAS FILED with the Commission cumulatively to the final date of the reporting period for this Report. Round all amounts to the nearest dollar.
- 9. For items 10 and 11, state the cumulative amount of securities offered and sold in Pennsylvania from the date the securities INITIALLY were offered for sale in the Commonwealth.
- 10. NOTE: Regulation 606.011 requires issuers which have sold securities to Pennsylvania residents under Sections 203(d), 203(o)(ii), 203(r) (including Regulations 203.183 through 203.188), 205 and 206 of the 1972 Act to provide annual financial statements to all Pennsylvania investors within 120 days after the end of the issuer's fiscal year for as long as such securities are held of record by a Pennsylvania resident.
- 11. ] Please remove instruction sheet before filing this Form.

FILE NO.: \_\_\_\_\_

FORM 209

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA SECURITIES COMMISSION

PART I Issuer Information

\* \* \* \* \*

- [ 4. A. Is the offering continuing in Pennsylvania?  YES  NO If NO, complete (B) below.  
NOTE: If an offering is continuing an update of the disclosure document may be required. If the issuer utilizes any updated or additional disclosure documents, the issuer must amend its filing with the Commission's Division of Corporation Finance in Harrisburg.
- B. If the offering has terminated in Pennsylvania, did the issuer sell and securities in Pennsylvania?  
 YES  NO ]

PART II Report of Sales of Securities Registered under Section 206.

- [ 5. ] 4. \*\*\*
- [ 6. ] 5. \*\*\*

\* \* \* \* \*

[ PART III Report on Sales of Securities and Use of Proceeds under Sections 203(d) or 203(p).

- 7. Check the appropriate box(es) with respect to section(s) of the Act under which the securities covered in this report were sold:  
 Section 203(d)  Section 203(p)
- 8. Describe the type of security sold and the offering price per share or unit.
- 9. Total offering. (if offering was made ONLY in PA, omit and go directly to #10)  
(A) Total number of shares or units offered for sale: \_\_\_\_\_ .  
(B) Total aggregate offering price of shares or units offered for sale: \$ \_\_\_\_\_ .
- 10. Securities offered in Pennsylvania since inception of offering.  
(A) Total number of shares or units offered for sale in Pennsylvania: \_\_\_\_\_ .  
(B) Total aggregate offering price of shares or units offered for sale in Pennsylvania? \$ \_\_\_\_\_ .  
(C) Date Commission Form 203-D, SEC Form D and Commission Form D Supplement or Form 203-P was filed with the Commission \_\_\_\_\_ 19 \_\_\_\_ .
- 11. Securities sold in Pennsylvania since inception of offering.  
(A) Total number of shares or units sold in Pennsylvania: \_\_\_\_\_ .  
(B) Total aggregate price of shares or units sold in Pennsylvania: \$ \_\_\_\_\_ .  
(C) Date first sale of securities occurred in Pennsylvania: \_\_\_\_\_ .  
(D) Total number of persons of whom securities were sold in PA: \_\_\_\_\_ .
- 12. If the response to Item 4(A) was YES, provide the following information. (If the response was NO, omit and proceed to item (13):  
(A) Date the issuer's fiscal year ends: \_\_\_\_\_ .  
(B) Date the issuer sent its most recent annual financial statement to persons who were sold the issuer's securities in the offering that is the subject of this Report: \_\_\_\_\_ . See General Instruction 10.
- 13. Use of Proceeds.

The use of proceeds requested in item 13(B) may, at the option of the issuer, be reported on a combined basis with funds from other sources. If this option is selected, go directly to Item 13(A) and check all appropriate

boxes. If this option is NOT being selected to report use of proceeds from PA sale, check one of the following lines indicating the section of the Report that relates and then proceeds directly to Item 13(B): \_\_\_\_\_ Section 203(d) or \_\_\_\_\_ Section 203(p).

(A) The following financial information may be presented on a consolidated basis including the proceeds received from all boxes checked.

- Section 203(d)
- Section 203(p)
- Other PA Sales: Section of the Act relied upon \_\_\_\_\_  
Total amount received \$ \_\_\_\_\_.
- Non-PA Sales and other sources of funds (e.g. bank financing).  
Total amount received \$ \_\_\_\_\_.

(B) State, or furnish a reasonable estimate of, the amount of offering proceeds to the issuer used for each of the purposes listed below. Do not include any amount in "working capital" to which a more specific category is applicable. Place an asterisk to the right of any amount that is an estimate.

Direct or indirect payments to directors, officers, general partners of the issuer or their associates, to persons owning ten percent or more of any class of equity securities of the issuer; and to affiliates of the issuer	Direct or Indirect Payment to others	
Underwriting discounts and commissions	\$	\$
Finder's Fee	\$	\$
Expenses paid to or for underwriters	\$	\$
Other offering Expenses	\$	\$
<b>SUBTOTAL</b>	<b>\$</b>	<b>\$</b>
Construction of plant, building and facilities	\$	\$
Purchase and installation of machinery and equipment	\$	\$
Purchase of real estate	\$	\$
Acquisition of other business(es)	\$	\$
Repayment of indebtedness	\$	\$
Working capital (incl. Salaries Expenses & Reimbursements)	\$	\$
Temporary investment (specify)	\$	\$
	\$	\$
Other purposes (specify)	\$	\$
	\$	\$

**NOTE:** Specify under "other purposes" any purpose for which at least 5 percent of the issuer's total offering proceeds or \$50,000, whichever is less, has been used, provided such amount has not been previously included or accounted for in any other item on this table.

14. Does the use of proceeds in item 13 represent a material change in the use of proceeds described in the offering material?  YES  NO If yes, explain. ]

Each of the persons executing [ Part I and \_\_\_\_\_ of ] this report on behalf of the Issuer hereby affirms that the statements made herein, including all attachments hereto, are not incomplete in any material respect or false or misleading with respect to any material fact. Each of such persons further affirms that he is familiar with the penalties contained in the Pennsylvania Securities Act of 1972, and all regulations adopted thereunder for making any false or incomplete statement in connection with the sale of a security or in any filing with the Commission.

IN WITNESS WHEREOF, this report has been executed [ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ . ]

\* \* \* \* \*

**Subpart C. REGISTRATION OF  
BROKER-DEALERS, AGENTS AND INVESTMENT  
ADVISERS**

**CHAPTER 302. EXEMPTIONS**

**§ 302.065. Canadian broker-dealer exempt.**

Under section 302(f) of the act (70 P. S. § 1-302(f)), the Commission deems it appropriate in the public interest to exempt Canadian broker-dealers and agents representing Canadian broker-dealers from the broker-dealer and agent registration provisions of section 301 of the act (70 P. S. § 1-301) when

effecting transactions in securities in this Commonwealth with persons described in paragraph (1), if the broker-dealer meets the conditions of paragraph (2).

(1) The customer is one of the following:

(i) A person from Canada who temporarily is present in this Commonwealth with whom the Canadian broker-dealer had a bona fide business-customer relationship before the person entered this Commonwealth.

(ii) A person from Canada who is present in this Commonwealth whose only transactions with a Canadian broker-dealer in this Commonwealth relate



to a self-directed, tax advantaged retirement plan in Canada as to which the person is the holder or contributor.

(2) The Canadian broker-dealer meets the following conditions:

(i) Is a member in good standing of a self-regulatory organization or stock exchange in Canada at the time it is effecting transactions into this Commonwealth in reliance on this section.

(ii) Is registered as a broker or dealer in good standing in the Province or Territory of Canada from which it is effecting transactions into this Commonwealth in reliance on this section.

(iii) Discloses to its customers in this Commonwealth at the time of a transaction made in reliance on this section that it is not registered under the act.

#### Subpart F. ADMINISTRATION

### CHAPTER 606. MISCELLANEOUS POWERS OF COMMISSION

#### § 606.011. Financial reports to security holders.

(a) In the case of securities issued under [ the exemptions in sections ] section 203(d) [ , (o)(ii), (q) and (r) ] of the act (70 P. S. § [ § ] 1-203(d) [ , (o)(ii), (q) and (r) ]), or registered under [ sections ] section 205 [ and ] or 206 of the act (70 P. S. §§ 1-205 [ or ] and 1-206), the issuer shall, so long as the securities are held of record by a Commonwealth resident, deliver its financial statements to each holder at least annually and within 120 days after the close of the fiscal year of the issuer [ if the issuer is not, on the date of the close of that fiscal year, a reporting company as defined in section 102(q) of the act (70 P. S. § 1-102(q)) ].

(b) The financial statements shall comply with [ the requirements of ] section 609(c) of the act (70 P. S. § 1-609(c)) and the rules and regulations adopted thereunder [ . If ] , except that, if the securities were issued in a transaction subject to this section wherein none of

the financial statements delivered to offerees were required to be audited or if no financial statements were required to be given to the offerees, the financial statements need not be audited.

(c) This section does not apply if, on the date of the close of the issuer's fiscal year, the issuer is subject to section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78, 78m and 78o(d)) and, within 120 days of that date, has made a filing with the United States Securities and Exchange Commission in accordance with either of those sections.

### CHAPTER 609. REGULATIONS, FORMS AND ORDERS

#### § 609.011. [ Amendment form ] Amendments to filings with Commission.

Whenever an application, notice, statement, report or any other document (Document) has been filed with the Commission and the person [ filing such application, notice, statement, report or other document ] who filed the Document wishes to amend [ such document ] or otherwise ensure that [ such document ] the Document is current and accurate [ , an amendment shall be made on the following form, designated by the Commission as Form AM: ] in all material respects, the person shall make a filing with the Commission constituting the amendment which also shall identify the Document being amended including, with respect to an amendment to a form promulgated by the Commission, the name of the form, the date the form originally was filed with the Commission and the items or schedules of the form which are being amended.

(Editor's Note: As part of this proposal, the Commission is proposing to delete Form AM which appears at 64 Pa. Code pages 609-6—609-8, serial pages (148434)—(148436).)

[Pa.B. Doc. No. 97-877. Filed for public inspection May 30, 1997, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### General Quarantine Order

The Department of Agriculture (Department) gives notice that on May 16, 1997, it established a general quarantine with respect to portions of Rapho, Penn, East Hempfield and West Hempfield Townships, in Lancaster County. The entire General Quarantine Order is set forth at Annex A.

The General Quarantine Order was entered as a result of the presence of the H7N2 Avian Influenza virus in several poultry flocks within the quarantined area.

This general quarantine is authorized under the Domestic Animal Law (3 Pa.C.S. §§ 2329(a) and (d)). Those same statutory provisions require the prompt publication of this notice.

Further information may be obtained from the following source: Sherbyn Ostrich, DVM, Acting Director, Bureau of Animal Health and Diagnostic Services, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 783-6677.

CHARLES C. BROSIUS,  
*Secretary*

### Annex A

#### GENERAL QUARANTINE ORDER

*Whereas*, Avian Influenza is designated a "Dangerous Transmissible Disease" of animals under the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389), at 3 Pa.C.S. § 2321(a)(6);

*Whereas*, the H7N2 Avian Influenza virus poses a serious risk to the integrity of the Pennsylvania poultry industry and the economy of this Commonwealth;

*Whereas*, the Pennsylvania Department of Agriculture has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals—such as poultry—to exclude or contain dangerous transmissible diseases;

*Whereas*, the Pennsylvania Department of Agriculture has determined the H7N2 Avian Influenza exists in two Pennsylvania poultry flocks located in Rapho Township, Lancaster County, Pennsylvania;

*Whereas*, the Pennsylvania Department of Agriculture has reasonable suspicion that poultry flocks in the vicinity of the aforesaid poultry flocks—including poultry flocks in the townships of Rapho, Penn, West Hempfield and East Hempfield—have contracted or been exposed to the H7N2 Avian Influenza virus such that it is advisable to test these flocks;

*Whereas*, the Pennsylvania Department of Agriculture deems it advisable to restrict movement of poultry that may have contracted or been exposed to H7N2 Avian Influenza, and impose other restrictions until the disease is eradicated in these poultry flocks or until testing confirms that the suspect poultry flocks have not contracted H7N2 Avian Influenza; and

*Whereas*, the Domestic Animal Law allows (at 3 Pa.C.S. § 2329) for the establishment of a general quarantine under the circumstances described above.

*Now, Therefore, the Pennsylvania Department of Agriculture*, pursuant to the authority granted it under the Domestic Animal Law and section 1702 of The Administrative Code of 1929 (71 P. S. § 442) orders the establishment of a General Quarantine against portions of the Lancaster County Townships of Rapho, Penn, West Hempfield and East Hempfield, and imposes the following General Quarantine restrictions, requirements and conditions upon the portions of those townships described as follows (Quarantined Area): The roughly rectangular area beginning at the intersection of Routes 501 and 30, thence in a westerly direction along Route 30 to its intersection with Route 23 thence in a westerly direction along Route 23 to the point where it crosses the confluence of Little Chickies Creek and Chickies Creek, thence in a northerly direction along the West bank of Little Chickies Creek to the point where it crosses Elizabethtown Road, thence in an easterly direction along Elizabethtown Road to its intersection with Newport Road, then in an easterly direction along Newport Road to its intersection with Brubaker Valley Road, thence in an easterly direction along Brubaker Valley Road to its intersection with Route 501, thence in a southerly direction along Route 501 to its intersection with Route 30, the place of beginning.

1. Live poultry and poultry products may not be moved to or from the Quarantined Area, or within the Quarantined Area, without a permit from the Pennsylvania Department of Agriculture issued in accordance with Paragraph 5 or 6 of this Order.

2. No live poultry from the Quarantined Area shall be transported to poultry shows, fairs and exhibitions and the exhibition and display of such live poultry is prohibited until further notice.

3. No truck and no coop, cage, crate or other conveyance may enter or leave a farm in the Quarantined Area for the purpose of removing eggs or live poultry unless that truck and/or the coops, cages, crates or other conveyances are in a sanitary condition. For the purpose of this Order, sanitary condition shall mean that the truck, coop, cage, crate or other conveyance of live poultry has been cleaned and disinfected prior to its arrival on the farm or, if originating on the farm, prior to its departure from the Quarantined Area and that egg packing materials must be new, unused or sanitized impervious materials. The operator of the truck shall have in his possession a copy of that record, including receipts for such service if performed commercially.

4. All poultry flocks, premises or areas located within the Quarantined Area known to be infected with Avian Influenza caused by type A H7N2 virus shall be placed under a Special Quarantine. It shall be unlawful for any owner or person, without a special permit in writing from an officer or agent of the Department of Agriculture, to sell, exchange, lease, lend, give away, allow to stray, remove or allow to be removed, any poultry or any poultry product, goods, materials, containers, vehicles, cars, conveyances or other article on property named or described in an order of quarantine.

5. Permits for interstate movement of poultry, poultry products and any other articles related to the production, marketing or disposal of those poultry products from flocks or premises in the Quarantined Area because of Avian Influenza shall comply with Part 81 of Title 9 of the Code of Federal Regulations and the requirements of

the state of destination. Permit may be issued only by an official representative of the Pennsylvania Department of Agriculture.

6. Permits for intrastate movement of poultry, poultry products and other articles related to production, marketing or disposal of poultry products from flocks or premises in the Quarantined Area may be issued subject to the following restrictions.

(a) Poultry, poultry products and other articles infected with or contaminated by Type A H7N2 Avian Influenza virus may be moved only for the purpose of, and only directly to an approved site for sanitary disposal. Such movement shall be under the direct supervision of an official representative of the Department of Agriculture.

(b) Permit may be issued for movement of poultry and poultry products quarantined because of the presence of H7N2 influenza antibody if N7N2 influenza virus is not known to exist in the flock or on the premises.

(1) In the absence of clinical signs of influenza a permit may be issued for the movement of sanitized eggs.

(2) In the absence of clinical signs of influenza and if virus has not been found by culture of poultry and environment conducted by the Pennsylvania Department of Agriculture, a permit may be issued to move live poultry direct to slaughter.

(3) Disposal of dead poultry, eggs, refuse, litter and other potentially contaminated articles originating from the Quarantined Area shall be only according to instructions issued by the Department of Agriculture.

(4) Vehicles, equipment, coops, crates, cartons and other conveyances of poultry and poultry products and associated materials from the Quarantined Area shall be managed so as to prevent spread of Avian Influenza and shall be cleaned and disinfected prior to engaging in further transportation of any article upon public highways.

7. If a Special Quarantine is imposed under paragraph 4, it may be released when:

(a) All live poultry have been depopulated.

(1) All live poultry has been euthanized and disposed of according to protocol established and supervised by the Department of Agriculture, or

(2) All poultry has been removed by marketing at a Federally licensed slaughter, establishment after two attempts at 10 day intervals to culture virus from poultry, equipment, manure and buildings have been negative; and

(b) All poultry carcasses and parts thereof, eggs, litter, refuse have been properly disposed of; and

(c) The premises, buildings and equipment cleaned and disinfected and insect and rodent vectors have been eliminated in accordance with protocol established by the Department of Agriculture; and

(d) Culture swabs of the premises, buildings and equipment are H7N2 virus negative; and

(e) No live poultry are taken onto the premises until the quarantine is removed.

8. This General Quarantine may be removed when investigation, including laboratory testing of tissues and/or environmental samples reveals no evidence of H7N2 virus or antibody in the Quarantined Area and all special quarantines within the Quarantined Area have been removed.

9. Violation of quarantine may result in imposition of fines, revocation of permits and forfeiture of any right to indemnity from the Department of Agriculture for condemned poultry or other articles.

10. It shall be the duty of the consignor and the consignee of poultry and poultry product originating from poultry flocks in the Quarantined Area on request to submit designated specimens of poultry tissues for diagnostic purposes to the Department of Agriculture. It is also the duty of every person having knowledge of the existence of Avian Influenza in Pennsylvania to report that information to the Department of Agriculture.

11. This Order is adopted May 16, 1997, and is effective immediately and shall remain effective until further order of this Department.

For purpose of this General Quarantine Order, poultry shall mean chicken, ducks, geese, turkeys, pigeons, chukars, guineas, exotic fowl, rattites and game birds raised in captivity.

[Pa.B. Doc. No. 97-878. Filed for public inspection May 30, 1997, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending May 20, 1997.

### BANKING INSTITUTIONS

#### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-16-97	Penncore Phantom Savings Bank Newtown Bucks County	Newtown	Filed
Application to charter an interim bank will be used to facilitate the acquisition of Commonwealth State Bank, Newtown, by ML Bancorp, Inc., Villanova.			

## NOTICES

**Conversions**

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
5-15-97	Farmers Building and Loan Association Rochester Beaver County	Rochester	Approved
	<i>To:</i> Farmers Building and Savings Bank Rochester Beaver County		
	Application represents conversion from a State-chartered mutual savings association to a State-chartered mutual savings bank.		

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-15-97	Johnstown Bank and Trust Company Johnstown Cambria County	Johnstown	Approved
	Purchase of Assets/Assumption of Liabilities of three branches of National City Bank of Pennsylvania, Pittsburgh, located at:		
	210 East Main Street Everett Bedford County	102 North Grant Street Salisbury Somerset County	
	229 Main Street Meyersdale Somerset County		

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-28-97	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 700 York Avenue Warminster Bucks County	Opened
5-5-97	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	4733 West Chester Pike Newtown Square Delaware County (Approved as 4701 West Chester Pike, Edgmont)	Opened

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-25-97	Summit Bank Bethlehem Northampton County	3933 Freemansburg Ave. Bethlehem Northampton County	Effective
5-16-97	Wayne Bank Honesdale Wayne County	Jackson Street Thompson Susquehanna County	Filed

**SAVINGS ASSOCIATIONS****Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
5-12-97	Prudential Savings Bank, PaSA Philadelphia Philadelphia County	Philadelphia	Effective
	Purchase of assets/assumption of liabilities of two branch offices of Roxborough-Manayunk Federal Savings Bank, Philadelphia, located at:		
	1722 South Broad Street Philadelphia Philadelphia County	601 Morgan Avenue Drexel Hill Delaware County	

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
	Upon the effective date of the above-noted acquisition, the institution's existing branch office located at 1903 South Broad Street will be discontinued and all accounts will be transferred to the branch office located at 1722 South Broad Street.		

**CREDIT UNIONS****Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-15-97	Norristown Bell Federal Credit Union Blue Bell Montgomery County <i>To:</i> Norristown Bell Credit Union Blue Bell Montgomery County	Blue Bell	Approved
	Represents conversion from a Federally-chartered credit union to State-chartered credit union.		
5-19-97	Incol Credit Union, Old Forge, and Topps Employees Federal Credit Union, Duryea Surviving Institution— Incol Credit Union, Old Forge	Old Forge	Approved and Effective

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-879. Filed for public inspection May 30, 1997, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council; Meeting Notice

Notice is hereby given of a meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources on Monday, June 9, 1997. The meeting will be held at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

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

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

MAURICE FORRESTER,  
*Chairperson*

[Pa.B. Doc. No. 97-880. Filed for public inspection May 30, 1997, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

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

#### [National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

#### (Part I Permits)

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations the Department of Environmental Protection 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 proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

**PA 0057142.** Sewage, **Alton Reiss**, 219 Augustine Road, Sellersville, PA 18960. This application is for issuance of an NPDES permit to discharge treated sewage from a single residence STP in West Rockhill Township, **Bucks County**. This is a new discharge to an unnamed tributary to Perkiomen Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 500 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	20	40
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0042935.** Sewage, **Owen J. Roberts School District**, 901 Ridge Road, Pottstown, PA 19465. This application is for renewal of an NPDES permit to discharge treated sewage from the French Creek Elementary School in South Coventry Township, **Chester County**. This is an existing discharge to French Creek.

The receiving stream is classified for exceptional value waters, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of .0054 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia (as N)	20.0	40.0
Total Residual Chlorine	.9	1.8
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0042927.** Sewage, **Owen J. Roberts School District**, 901 Ridge Road, Pottstown, PA 19465.

This application is for renewal of an NPDES permit to discharge treated sewage from the Main Campus STP in South Coventry Township, **Chester County**. This is an existing discharge to an unnamed tributary to French Creek.

The receiving stream is classified for exceptional value waters, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of .039 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia (as N)	20	40
Total Residual Chlorine	0.5	1.2

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

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

**PA 0222313.** Sewage, **Gene P. Kidder**, P. O. Box 106, Sigle, PA 15860.

This application is for a new NPDES permit to discharge treated sewage to an unnamed tributary of Cathers Run in Barnett Township, **Jefferson County**. This is an existing discharge.

The receiving water is classified for the following uses: high quality cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Clarion district Pennsylvania-American Water Company on the Clarion River located at river mile 47.1, approximately 54.39 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.57 mgd, are:

*Outfall No. 001*

<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>	10		20
TSS	20		40
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average		
Total Residual Chlorine			
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

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

**PA 0070106.** SIC: 5171, Industrial waste, **Carlos R. Leffler, Inc.**, 4030 Pottsville Pike, Reading, PA 19605.

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

The receiving stream is classified for warm water fishes, 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 Pottstown Borough located on the Schuylkill River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for the discharge of stormwater are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbons			monitor and report

The EPA waiver is in effect.

**PA 0084522.** SIC: 4222, Industrial waste, **Allentown Refrigerated Terminal, Inc.**, 125 Seneca Trail, Boyertown, PA 19512.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to an unnamed tributary of Ironstone Creek in Colebrookdale Township, **Berks County**.

The receiving stream is classified for trout stocking, 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 Pottstown Water Supply located in Montgomery County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.00576 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	30	60	75
pH	6—9 s.u. at all times		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease		monitor and report	
NH <sub>3</sub> - N	20	40	40
Temperature		monitor and report	

The EPA waiver is in effect.

**PA 0009920.** SIC: 4911, Industrial waste, **GPU Nuclear, Inc.**—Three Mile Island Nuclear Station, Route 441 South, P. O. Box 480, Middletown, PA 17057-0480.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Susquehanna River in Londonderry Township, **Dauphin County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. The existing downstream potable water supply intake considered during the evaluation was the Columbia Borough located in Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 (main station discharge) and Outfall 003 (emergency discharge) for a design flow of 84.02 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report	monitor and report	
pH		within the limits of 6.0—9.0 s.u. at all times	
Total Suspended Solids	monitor and report	monitor and report	
Temperature (10-1 to 3-31)		110° F	
(4-1 to 9-30)		115° F	
Free Available Chlorine		0.2	0.5

The proposed effluent limits for Outfall 004 (emergency discharge) for a design flow of 84.02 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report	monitor and report	
pH		within the limits of 6.0—9.0 s.u. at all times	
Total Suspended Solids	monitor and report	monitor and report	
Temperature (10-1 to 3-31)		monitor and report	
Free Available Chlorine		0.2	0.5

The proposed effluent limits for Outfall 005B are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report	monitor and report	
pH		within the limits of 6.0—9.0 s.u. at all times	
Total Suspended Solids	30	100	
Oil and Grease	15	20	30

Outfall 006 is limited to intake screen backwash and pump strainer backwash. All debris collected on the intake screens must not be discharged back to the river.

Outfalls 101, 401, 501 and 701 are internal monitoring points tributary to Outfall 001.

Outfalls 005A, SWRO-1, SWRO-2, SWRO-3 and SWRO-4 are stormwater outfalls. Monitoring will be required for 5-day CBOD, chemical oxygen demand, total suspended solids, total phosphorus, total Kjeldahl Nitrogen, dissolved iron, oil and grease, and pH. The permittee has the option of performing an annual inspection in lieu of monitoring for these outfalls.

The EPA waiver is not in effect.

### **DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER**

#### **Applications under the Pennsylvania Clean Streams Law**

#### **(Part II Permits)**

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

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 a protest. Each commentator will be notified in writing of the time and place if a hearing or conference concerning



the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the 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 (800) 654-5984.

**Industrial waste and sewerage 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, (412) 442-4000.*

**A. 1197402.** Sewerage. **Pegasus Sewer Authority**, 1296 Clapboard Run Road, Johnstown, PA 15904. Application for the construction of sewer extension and pump stations located in Conemaugh Township, **Cambria County** to serve the Pegasus Sewer Authority Sanitary Sewer System.

The Pennsylvania Infrastructure Investment Authority (Pennvest) which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

**A. 3997404.** Sewerage. **City of Allentown**, 112 Union Street, Allentown, PA 18102-8712. Application to modify and upgrade individual unit processes at the Klines Island Wastewater Treatment Plant, located in the City of Allentown, **Lehigh County**. Application received in the Regional Office April 18, 1997.

**INDIVIDUAL PERMITS  
(PAS)**

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be

sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer, a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

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

*Southeast Regional Office: Regional Water Management Program Manager, 555 North Lane, Lee Park, Conshohocken, PA 19428, (610) 832-6131.*

*Southwest Regional Office: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4028.*

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18701, (717) 826-2553.*

*Northcentral Regional Office: Regional Water Management Program Manager, 308 W. 3rd Street, Williamsport, PA 17701, (717) 327-3669.*

*Allegheny County Conservation District, District Manager, 875 Greentree Road, Pittsburgh, PA 15220, (412) 921-1999.*

**NPDES Permit PAS10A095.** Stormwater. **The Home Depot USA Inc.**, 2455 Paces Ferry Road, Floor 11, Atlanta, GA 30339 has applied to discharge stormwater from a construction activity located in Ohio Township, **Allegheny County**, to Lowries Run.

*Centre County Conservation District, District Manager, 414 Holmes Avenue, Bellefonte, PA 16823, (814) 355-6817.*

**NPDES Permit PAS10F063.** Stormwater. **James Au**, 1800 Earlstown Road, Boalsburg, PA 16827 has applied to discharge stormwater from a construction activity located in Harris Township, **Centre County**, to Spring Creek.

**NPDES Permit PAS10F064.** Stormwater. **TMR Partnership**, 10 Sandrock Court, Port Matilda, PA 16870 has applied to discharge stormwater from a construction activity located in Halfmoon Township, **Centre County**, to UNT to Halfmoon Creek.

**NPDES Permit PAS10F065.** Stormwater. **The Woodmont Corporation**, 6500 W. Freeway, Ste. 900, Fort Worth, TX 76116 has applied to discharge stormwater from a construction activity located in College Township, **Centre County**, to a municipal storm sewer to Spring Creek.

*Chester County Conservation District, District Manager, 601 Westtown Road, West Chester, PA 19382, (610) 696-5126.*

**NPDES Permit PAS10G267.** Stormwater. **The Hankin Group**, 717 Constitution Drive, Exton, PA 19341 has applied to discharge stormwater from a construction activity located in Upper Uwchlan Township, **Chester County**, to Shamona Creek.

**NPDES Permit PAS10G268.** Stormwater. **The Drury Group III**, 20 Hagerty Boulevard, West Chester, PA 19380 has applied to discharge stormwater from a construction activity located in West Goshen Township, **Chester County**, to UNT to the east branch of Chester Creek.

**NPDES Permit PAS10G269.** Stormwater. **Sunrise Development Inc.**, 403 Berkley Road, Haverford, PA 19041 has applied to discharge stormwater from a construction activity located in Willistown and East Whiteland Townships, **Chester County**, to Little Valley and Schuylkill Creeks.

*Indiana County Conservation District, District Manager, 251 Route 286, Indiana, PA 15701, (412) 463-7702.*

**NPDES Permit PAS103110.** Stormwater. **Indiana University of Pa.**, Indiana, PA 15705 has applied to discharge stormwater from a construction activity located in White Township, **Indiana County**, to Stoney Run.

*Luzerne County Conservation District, District Manager, Smith Pond Road, Lehman, PA 18627, (717) 674-7991.*

**NPDES Permit PAS10R026.** Stormwater. **DEP-BAMR**, 2 Public Square, Wilkes-Barre, PA 18711 has applied to discharge stormwater from a construction activity located in Hazle Township, **Luzerne County**.

**NPDES Permit PAS10R028.** Stormwater. **RHED Development Company**, 240 W. Broad Street, Hazleton, PA 18201 has applied to discharge stormwater from a construction activity located in Sugarloaf Township, **Luzerne County**, to undesignated watersheds.

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

**NPDES Permit PAS10U071.** Stormwater. **Saucon Valley School District**, 1050 S. Main Street, Hellertown, PA 18055 has applied to discharge stormwater from a construction activity located in Lower Saucon Township, **Northampton County**, to Saucon Creek.

## SAFE DRINKING WATER

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

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

**A. 6593509-A1. Highridge Water Authority**, 17 Maple Avenue, Blairsville, PA 15717. Install a booster pumping station, potable water storage tank and water distribution lines serving East Wheatfield, Buffington Townships, **Indiana County** and Derry Township, **Westmoreland County**.

**A. 0297501. Pittsburgh Sewer and Water Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. Construction of a reservoir cover for the Highland Reservoir No. 2 serving the City of Pittsburgh, **Allegheny County**.

*Northwest Regional Office: Regional Environmental Protection Manager, 230 Chestnut Street, Meadville, PA 16335.*

**A. 4397502.** Public water supply. **Consumers Pennsylvania Water Company**, Shenango Valley Division, 665 South Dock Street, Box 572, Sharon, PA 16146-1835. This proposal involves the construction of a new water treatment plant. The proposed project will replace an existing water treatment plant which will be demolished in the City of Sharon, **Mercer County**.

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

**4596509.** Public water supply. **Sullivan Trail Village**, Carolyn Yetter, R. R. 5, Box 5308, East Stroudsburg, PA 18301. This proposal involves an application for permit for an existing water supply and distribution system consisting of one well with chlorination and distribution storage. This is a mobile home park which has 24 units. It is located in Pocono Township, **Monroe County**.

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

**A. 3697505.** Public water supply. **Strasburg Borough**, Borough of Strasburg, **Lancaster County**, (Gene Osmum—Borough of Strasburg Manager, 145 Precision Avenue, Strasburg, PA 17579), installation of Aqua-Mag for general corrosion control, (Brian M. Robbins, Herbert, Rowland and Grubic, Inc., 1846 Charter Lane, P. O. Box 10337, Lancaster, PA 17605-0337).

## HAZARDOUS SITES CLEAN-UP

### Under the Act of October 18, 1988

#### Proposed Settlement under the Hazardous Sites Cleanup Act

##### Little Rio Grande Creek Site Borough of Hulmeville, Bucks County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA), has entered into a settlement regarding the Little Rio Grande Creek State Superfund Site (Site). The Site is located directly adjacent (upstream) to the Route 513 bridge over the Neshaminy Creek, in the Borough of Hulmeville, Bucks County, PA.

Investigations conducted at the Site by the Department and its contractors have revealed the presence of lead, arsenic, copper, beryllium, manganese and zinc in Site soils. Lead is the principal contaminant of concern at the Site.

The settlement referenced above would resolve potential claims of the Department against Joseph DiEgidio and William DiBonaventura (Landowners) for the reimbursement of response costs incurred by the Department in addressing the release or threat of release of hazardous substances at the Site. The claims originated under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304). The settlement would require the Landowners to perform certain "work" under the terms of the Consent Order and Agreement, and pay the Department the sum of \$15,000, no later than December 31, 1998.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). Section 1113 of HSCA provides that the settlement shall become final upon the filing of the

Department's response to significant written comments. The Consent Order and Agreement which contains the specific terms of the settlement, is available for public review and comment. The Consent Order and Agreement can be examined from Monday through Friday at the Department's Southeast Regional Office at Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428 by contacting Kevin Hess at (610) 832-6194 or through the PA AT&T Relay Service at (800) 654-5984 (TDD). A public comment period on the Consent Order and Agreement will extend for a minimum of 60 days from today's date. Persons may submit written comments regarding the Consent Order and Agreement to the Department by July 31, 1997, by submitting them to Kevin Hess at the above address.

## LAND RECYCLING AND ENVIRONMENTAL REMEDICATION

### Under Act 2, 1995

#### Preamble 1

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**Acknowledgment of Notices of Intent to Remediate under standards identified in Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.302(e)(1)(i) and 6026.303(h)(1)(i)) for background or Statewide health standards.**

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Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (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 attains 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 (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, (717) 826-2511.*

**Pennsylvania Power & Light Company (PP&L)—Old Forge Substation**, Old Forge Borough, Lackawanna County. Walt Novitsky, Senior Scientist with PP&L, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to have been contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide health standard.

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

**John Girman Property** (2524 Mosside Boulevard), Borough of Monroeville, Allegheny County. John Girman, 3948 William Penn Highway, Pittsburgh, PA 15146 and Randolph L. Bowers, 3862 East Street, Pittsburgh, PA 15214 have submitted a Notice of Intent to Remediate soil contaminated with BTEX and PHCs. The applicant proposes to remediate the site to meet the Statewide health standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDICATION

### Under Act 2, 1995

#### Preamble 2

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

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Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection 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 attains 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 (800) 654-5984.

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

**Flying Carport, Inc.**, City of Philadelphia, **Philadelphia County**. Jeffrey L. Leiter and LeAnn M. Johnson, Collier, Shannon, Rill & Scott, PLLC, 3050 K St., N. W., Washington, DC, 20007, have submitted a Notice of Intent to Remediate site soil and groundwater contaminated with petroleum hydrocarbons. The applicants propose to remediate the site to meet site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on May 1, 1997.

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

**Teledyne Industries, Inc.**, Rosslyn Farms Borough, **Allegheny County**. Treskor Development Partnership, 1200 Arch Street, Carnegie, PA 15106, Teledyne Industries, Inc., 2049 Century Park East, Los Angeles, CA 90067, Pat Pontoriero, Harding Lawson Associates, 700 N. Bell Ave., Suite 700, Pittsburgh, PA 15106 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead, heavy metals, solvents, BTEX, PHCs and PAHs. 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 *Pittsburgh Post-Gazette* on April 29, 1997.

## SOLID AND HAZARDOUS WASTE

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate or close solid waste processing or disposal area or site.**

*Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.*

**A. 100945. Cumberland County Landfill, Community Refuse Service, Inc.** (142 Vaugh Road, Shipensburg, PA 17257). Application for major permit modification for the 47.7 acres lined landfill, 141 acres total new facility for the Newton Expansion for a site in Hopewell Township, **Cumberland County**. Application received in the Regional Office November 25, 1992.

## AIR POLLUTION

### OPERATING PERMITS

#### Construct, modify or activate air contaminant sources

#### 25 Pa. Code § 129.1

**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.*

**41-302-047.** The Department intends to issue an operating permit to **Strick Corporation** (R. R. 3, Box 175, Hughesville, PA 17737) for the operation of a wood-fired boiler and associated air cleaning device (a multiclone collector) in Wolf Township, **Lycoming County**. This boiler is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

#### Notice of Intent to Issue

#### Title V Operating Permit No. 52-0001

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (DEP) intends to issue a Title V Operating Permit to **Columbia Gas Transmission Corporation** for the Milford Compressor Station, located in Milford Township, **Pike County**. The Columbia Gas Transmission Corporation contact regarding this application is V. J. Ammirato, Air Quality Manager, 1700 MacCorkle Ave., S. E., Charleston, WV 25325.

The Milford Station contains two Reciprocating Engine/Integral Compressors. As a result of the levels of nitrogen oxides emitted from the compressors, the Milford Station is considered a major stationary source subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit will incorporate all applicable air quality requirements for each significant source at the facility and does not reflect any change in air emissions from the facility.

Copies of the application, DEP's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Persons wishing to provide the Department of Environmental Protection with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department of Environmental Protection at the address shown above. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit (specify permit # 52-0001).
- Concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information received. Persons submitting a comment or requesting a

hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin*, or by telephone, where the Department of Environmental Protection determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Michael Safko, Chief, Title V Section, Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511. For additional information contact Norman Frederick, Air Pollution Control Engineer II, Air Quality Program at the same address and phone number.

#### **Title V Operating Permit No. 40-0017**

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (DEP) intends to issue a Title V Operating Permit to **Pennsylvania Power and Light Company (PP&L)** for the Jenkins site, located in Laflin Borough, **Luzerne County**. The PP&L contact regarding this application is Bradley J. Piatt, Senior Power Production Engineer, 2 N. Ninth Street, Allentown, PA 18101.

The Jenkins site contains two combustion turbines. As a result of the levels of nitrogen oxides emitted from the turbines, the Jenkins Site is considered a major stationary source subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit will incorporate all applicable air quality requirements for each significant source at the facility and does not reflect any change in air emissions from the facility.

Copies of the application, DEP's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Persons wishing to provide the Department of Environmental Protection with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department of Environmental Protection at the address shown above. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed permit (specify permit # 40-0017).
- Concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information received. Persons submitting comment or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin*, or by telephone, where the Department of Environmental Protection determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Michael Safko, Chief, Title V Section, Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511. For additional information contact Norman Frederick, Air Pollution Control Engineer II, Air Quality Program at the same address and phone number.

#### **PLAN APPROVALS**

##### **Applications under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources or to install air cleaning devices.**

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

There is a 30-day comment period from this date of publication.

**PA-09-0009.** On April 9, 1997, an application was received from **Webcraft Technologies, Inc.**, P. O. Box 187, Chalfont, PA 18914 for the construction of a web offset press to be located in New Britain Township, **Bucks County**.

**23-312-210GP.** On April 23, 1997, an application was received from **Tosco Refining Company**, 4101 Post Road, Trainer, PA 19061 for the construction of a storage tank no. 94 to be located in Trainer Borough, **Delaware County**.

**23-312-209GP.** On April 23, 1997, an application was received from **Tosco Refining Company**, 4101 Post Road, Trainer, PA 19061 for the construction of a storage tank no. 93 to be located in Trainer Borough, **Delaware County**.

**46-302-215GP.** On April 23, 1997, an application was received from **Lower Merion School District**, 301 Montgomery Avenue, Ardmore, PA 19003 for the construction of a small gas and no. 2 oil fired unit to be located in Lower Merion Township, **Montgomery County**.

**PA-15-0015.** On April 25, 1997, an application was received from **Sartomer Company, Inc.**, 610 South Bolmar Street, West Chester, PA 19382 for the construction of a stripper S-153 to be located in West Chester Borough, **Chester County**.

**PA-15-0015A.** On April, 29, 1997, an application was received from **Sartomer Company, Inc.**, 610 South Bolmar Street, West Chester, PA 19382 for the construction of an emergency generator to be located in West Chester Borough, **Chester County**.

**PA-23-0032.** On April 30, 1997, an application was received from **DELCORA**, 100 East Fifth Street, Chester, PA 19016 for the modification of two eight stage incinerators to be located in City of Chester, **Delaware County**.

**PA-46-0014A.** On May 1, 1997, an application was received from **Knoll, Inc.**, 1235 Water Street, P. O. Box 157, East Greenville, PA 18041 for the installation of a cyclonic baghouse to be located in Upper Hanover Township, **Montgomery County**.

**PA-09-0068.** On May 9, 1997, an application was received from **Orchard Hill Memorial Park, Inc.**, 75 Sterling Road, Warren, NJ 07059 for the construction of an animal incinerator to be located in Quakertown Borough, **Bucks County**.

**PA-09-0069.** On May 12, 1997, an application was received from **Crown Cork & Seal Co., Inc.**, 111 Buck Road, Huntingdon Valley, PA 19006 for the construction of a paint spray booth to be located in Lower Southampton Township, **Bucks County**.

**23-312-211GP.** On May 13, 1997, an application was received from **Sun Company, Inc. (R&M)**, 1801 Market Street, Philadelphia, PA 19103 for the construction of a storage tank to be located in Upper Chichester Township, **Delaware County**.

**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.*

**17-399-012B.** Construction of a powdered metal parts sintering furnace by **Clearfield Powdered Metals, Inc.** (P. O. Box 1072, Clearfield, PA 16830) in Lawrence Township, **Clearfield County**.

**14-309-032C.** Reactivation of a bulk material storage silo and installation of an air cleaning device (a fabric collector) on a truck loadout spout (glass stone screening and loadout operation) by **Bellefonte Lime Company, Inc.** (P. O. Box 448, Bellefonte, PA 16823) at the Bellefonte Plant in Spring Township, **Centre County**.

**REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)**

**Applications 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 (RACT).**

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

There is a 30-day comment period from this date of publication.

**OP-46-0022A.** On April 3, 1997, an application was received from **Elf Atochem North America, Inc.**, 900 First Avenue, King of Prussia, PA 19406 for the approval of Facility VOC/NOx RACT located in Upper Merion Township, **Montgomery County**.

**OP-46-0092.** On May 6, 1997, an application was received from **Micro-Coax Components, Inc.**, 245 West 5th Avenue, P. O. Box 993, Collegeville, PA 19426 for the approval of Facility VOC/NOx RACT located in Trappe Borough, **Montgomery County**.

**PA-46-0005A.** On April 2, 1997, an application was received from **Merck & Co., Inc.**, P. O. Box 4, WP20-208, West Point, PA 19486 for the approval of fluid bed granulator-dryer column located in Upper Gwynedd Township, **Montgomery County**.

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

Permit: **OP-23-0024**

Source: Synthetic Minor NOx Facility  
Company: **Milestone Materials, Inc.**  
Location: Thornbury  
County: **Delaware**

**Proposed Revision to the State Implementation Plan for Oxides of Nitrogen and Volatile Organic Compounds; Public Hearing.**

On May 20, 1996, the Department of Environmental Protection conducted a public hearing to solicit comments on a proposed volatile organic compound and nitrogen oxide Reasonably Available Control Technology (RACT) determination, plan approval issuance, operating permit issuance and State Implementation Plan (SIP) amendment for a natural gas compressor station owned and operated by National Fuel Gas Supply Corporation (NFGS) in Allegany Township, Potter County, and identified as their "Ellisburg Station." The Department subsequently issued an operating permit, identified as OP-53-0009, and a plan approval, identified as PA-53-0009A, which established RACT for the station's various emission sources. The Department has now concluded that certain revisions to Operating Permit OP-53-0009 are necessary.

First, NFGS has determined that it is unable to meet the 1.5 pounds per hour volatile organic compound emission limitation for Dehydration Still #1 as established in the operating permit. The Department has determined that this is due to the use by NFGS of a newly-available, more refined emission determination method than that which was available and in use when NFGS made its original operating permit application. This more refined emission determination method shows a volatile organic compound emission rate of 1.78 pounds per hour for Dehydration Still #1. After evaluating the information, the Department has determined that the revised volatile organic compound emission rate is still reflective of RACT. The Department has therefore made a preliminary determination to approve the proposed revised limitation.

Second, the Department has determined that it incorrectly failed to include two other dehydration stills (identified as Still #2 and Still #3) in the operating permit. After reviewing the pertinent information the Department has made preliminary RACT determinations for these two additional dehydration stills, and intends to revise the operating permit to include these dehydration stills and their RACT volatile organic compound emission limitations.

If approved, the revisions described above (as summarized below) will be incorporated into a revised operating permit and submitted to the United States Environmental Protection Agency as a revision to Pennsylvania's SIP.

The following is a summary of the sources involved in the revisions described above, and the preliminary RACT volatile organic compound emission limitations to which the Department has determined each should be subject:

Source	VOC, tons per year	VOC, pounds per hour
Still #1	1.78	7.81
Still #2	1.83	8.00
Still #3	3.09	13.55

One public hearing will be held for the purpose of receiving comments on the proposed SIP revision. The hearing will be held on June 19, 1997, at 1 p.m. at the Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact 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 should contact Daniel Spadoni at (717) 327-3659 or the Pennsylvania AT&T relay service at (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 Air Quality Environmental Program Manager, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by July 4, 1997.

Pertinent documents are available for review from 8 a.m. to 4 p.m. in the 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.

## MINING

### CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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 a person or an officer or head of a Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public

notices of filing of permit applications, opportunity for comment, and informal conferences).

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

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

#### *Coal Applications Received*

**65850114R. M. B. Energy, Inc.** (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Salem Township, **Westmoreland County**. Receiving streams unnamed tributaries to Whitehorn Creek to Loyalhanna Creek to the Kiskiminetas River. Renewal application received April 30, 1997.

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

**17850133. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838), revision to an existing bituminous surface mine permit for a postmining Land Use Change from woodland to pastureland or land occasionally cut for hay, Greenwood Township, **Clearfield County** affecting 15 acres, application received April 29, 1997.

**17970106. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 119.9 acres, receiving streams: Big Run to Moshannon Creek, application received April 30, 1997.

**17940122. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830), transfer of an existing bituminous surface mine-auger permit from Hepburnia Coal Company, Greenwood Township, **Clearfield County** affecting 120.2 acres, receiving streams: unnamed stream, tributary to Watts Creek, Watts Creek to Little Clearfield



Creek to Clearfield Creek to West Branch Susquehanna River, application received May 5, 1997.

**17970107. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), commencement, operation and restoration of a bituminous surface mine permit in Boggs Township, **Clearfield County** affecting 458 acres, receiving streams: unnamed tributaries to Morgan Run, Morgan Run, unnamed tributaries to Camp Hope Run, Camp Hope Run and Clearfield Creek, application received May 6, 1997.

**17753155. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), revision to an existing bituminous surface mine permit for a Change In Land Use from forestland to fish and wildlife habitat, Covington Township, **Clearfield County**, application received May 13, 1997.

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

**33970102. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface operation in Washington Township, **Jefferson County**, affecting 52.0 acres. Receiving streams: unnamed tributaries to Kyle Run. Application received April 22, 1997.

**24920101. Tamburlin Bros. Coal Co., Inc.** (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous surface strip and auger operation in Fox Township, **Elk County** affecting 33.8 acres. Receiving streams: an unnamed tributary to Little Toby Creek. Application received April 28, 1997.

**101748-16960106-E-1. MSM Coal Company, Inc.** (Box 243, DuBois, PA 15801). Application for a stream encroachment to construct an access road across an unnamed tributary to Pine Creek in Redbank Township, **Clarion County**. The access road is for the purpose of truck traffic to and from the mine site. Application received April 17, 1997.

**16860106. Ancient Sun, Inc.** (P. O. Box 129, Shippenville, PA 16254). Renewal of an existing bituminous surface strip operation in Porter Township, **Clarion County** affecting 133.5 acres. Receiving streams: an unnamed tributary to Leisure Run. Application for reclamation only. Application received May 5, 1997.

**24820107. Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650). Transfer of an existing bituminous surface and auger operation in Horton Township, **Elk County**, affecting 134.0 acres. Receiving streams: UNT to Brandy Camp Run, Brandy Camp Run and Johnson Run. Transfer from Fairview Coal Company. Application received May 8, 1997.

**24890107. Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650). Transfer of an existing bituminous, surface, auger and fly ash/bottom ash disposal operation in Horton Township, **Elk County** affecting 38.0 acres. Receiving streams: Johnson Run. Transfer from Fairview Coal Company. Application received May 8, 1997.

**100435-10920112-E-4. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to remove an existing channel developed by old pre-act mining and no reclamation currently being used as a dumping facility by local residents and mining through and reconstructing a viable channel on an unnamed tributary to Bear Creek in Concord Township, **Butler County**. Application received May 12, 1997.

**10910107. Big "B" Mining Company** (R. D. 1, West Sunbury, PA 16061). Renewal of an existing bituminous

surface strip operation in Center Township, **Butler County** affecting 193.6 acres. Receiving streams: three unnamed tributaries to Stony Run and an unnamed tributary to Pine Run all to Connoquenessing Creek. Application received May 12, 1997.

*McMurray District Office, 3913 Washington Rd., McMurray, PA 15317.*

**32901604. C & G Reclamation, Inc.** (P. O. Box 329, Marion Center, PA 15759), to transfer the permit for the Marion Center Tipple in East Mahoning Township, **Indiana County** from West Penn Tipple, Inc., no additional discharge. Application received March 24, 1997.

**30841317. Consol Pennsylvania Coal Company** (P. O. Box 174, Graysville, PA 15337), to revise the permit for the Enlow Fork bituminous deep mine in Morris Township, **Greene County**, E-1 Bleeder Airshaft Site, receiving stream: unnamed tributary to Enlow Fork. Application received April 25, 1997.

**56841606. Scurfield Coal, Inc.** (228 Main Street, Berlin, PA 15530), to renew the permit for the Scurfield Coal Preparation Plant in Brothersvalley Township, **Somerset County**, no additional discharge. Application received May 5, 1997.

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

*Large Industrial Mineral Applications Received:*

**4774SM4. Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-0231), revision to an existing large industrial mineral permit to increase the permit acreage from 929.8 to 939.3 acres, Fairfield Township, **Lycoming County**, receiving streams: Bennetts Run to Tules Run to West Branch Susquehanna River, application received May 8, 1997.

**4773SM5. Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-0231), renewal of an existing large industrial mineral NPDES permit, Muncy Creek Township, **Lycoming County**, application received May 12, 1997.

**4773SM4. Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-0231), renewal of an existing large industrial mineral NPDES permit, Liberty Township, **Tioga County**, application received May 12, 1997.

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

*Industrial Mineral Applications Received:*

**29920301. NPDES Permit Renewal, H. B. Mellot Estate, Inc.** (Route 1, Box 25, Warfordsburg, PA 17267), renewal of NPDES Permit No. PA0599549 in Ayr Township, **Fulton County**, receiving stream; Esther Run, tributary to Big Cove Creek, application received May 12, 1997.

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

*Noncoal Applications Received:*

**37940302. G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Revision to an existing sand and gravel operation in Scott and Plain Grove Townships, **Lawrence County** affecting 134.0 acres. Receiving streams: an unnamed tributary to Slippery Rock Creek and an unnamed tributary to Taylor Run. Revision to include the extraction of Fireclay and Lower Kittanning Coal within the confines of the previously approved permit area. Application received April 28, 1997.



**43970301. Larry G. Temple** (228 Georgetown Road, Hadley, PA 16130). Commencement, operation and restoration of a sand and gravel operation in Sandy Lake Township, **Mercer County** affecting 28.0 acres. Receiving streams: an unnamed tributary to Sandy Creek and Sandy Creek. Application received April 28, 1997.

## APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

### ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

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

**E20-445.** Encroachment. **Crawford County Commissioners**, Crawford County Courthouse, 903 Diamond Square, Meadville, PA 16335-3481. To construct and maintain Crawford County Bridge No. 31, a prestressed concrete box beam bridge with a clear span of 75 feet on a 90 degree skew across Conneaut Creek (WWF, MF, Trout Stocked). This bridge will replace the steel truss bridge which was damaged, collapsed and was removed in July 1995. This project is located on Blood Road (T-885) across Conneaut Creek approximately 1,600 feet west of the intersection of Blood Road (T-885) and Pennside Road (T-990) (Beaver Center, PA Quadrangle N: 16.2 inches; W: 3.85 inches) located in Spring Township, **Crawford County**.

**E37-113.** Encroachment. **Lawrence County Commissioners**, 430 Court Street, New Castle, PA 16101. To rehabilitate the Historic Covered Bridge on McConnells Mill Road (T-415) across Slippery Rock Creek (CWF, TSF, Nominated 1-A Scenic) in McConnells Mill State Park. This rehabilitation will include the replacement of the wood deck, roof and wood siding, and the painting of the entire bridge. The project is located on McConnells Mill Road (T-415) across Slippery Rock Creek approximately

8,600 feet south of the McConnells Mill State Park entrance at the intersection of S. R. 0422 and McConnells Mill Road (T-415) (Portersville, PA Quadrangle N: 14.1 inches; W: 6.25 inches) located in Slippery Rock Township, **Lawrence County**.

**E43-257.** Encroachment. **Consumers PA Water Company**, Shenango Valley Division, Water Purification Facility, 665 South Dock Street, Box 572, Sharon, PA 16146-1835. To construct and maintain the following: a raw water intake structure along the west bank of the Shenango River (WWF), a partially submerged raw water intake crib within the Shenango River and two stormwater outfalls into the Shenango River to replace existing outfalls. This project is part of an upgrade/expansion of the existing Consumers PA Water-Shenango Valley Division Water Purification Facility. The facility is located on the east side of North Water Street (S. R. 0718) approximately 3,400 feet north of the intersection of North Water Street (S. R. 0718) and West State Street (S. R. Business 0062), in the City of Sharon (Sharon West, PA Quadrangle N: 21.4 inches; W: 1.6 inches) located in City of Sharon, **Mercer County**.

**E61-207.** Encroachment. **PA Dept. of Transportation, Engineering District 1-0**, 1140 Liberty Street, Franklin, PA 16323-1289. To pave the streambed with concrete to a depth of 1 foot below existing streambed elevation under the existing bridge and to place rock protection at the inlet and outlet of the existing bridge located on S. R. 0157 across Wolf Branch (CWF). This project will protect the existing structure from further scour damage. The project is located on S. R. 0157 across Wolf Branch approximately 4.3 miles east of the intersection of S. R. 0157 and S. R. 0062 (President, PA Quadrangle N: 3.4 inches; W: 14.2 inches) located in Cranberry Township, **Venango County**.

**E61-208.** Encroachment. **PA Dept. of Transportation, Engineering District 1-0**, 1140 Liberty Street, Franklin, PA 16323-1289. To pave the streambed with concrete to a depth of 1 foot below the existing bridge and to place rock protection at the inlet and outlet of the existing bridge located on S. R. 4011 (T-302) across a tributary to Prather Creek (Prather Creek-CWF, Stocked Trout, and Wild Trout). This project will protect the existing structure from further scour damage. The project is located on S. R. 4011 (T-302) across a tributary to Prather Creek approximately 2.3 miles south of the intersection of S. R. 4011 (T-302) and S. R. 0027 in the village of Gresham (Titusville South, PA Quadrangle N: 16.3 inches; W: 15.8 inches) located in Cherrytree Township, **Venango County**.

*Northcentral Region, Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.*

**E19-167.** Encroachment. **Benton Area School District**, R. R. 2, Box 8, Benton, PA 17814. To construct and maintain a 18,625 square foot school building addition in the floodfringe of Fishing Creek plus excavation, to allow for additional storage capacity, in the floodway of Fishing Creek located approximately 2,500 feet east of First St. from SR 487 (Benton, PA Quadrangle N: 16.1 inches; W: 3.3 inches) in the Borough of Benton, **Columbia County**.

**E19-168.** Encroachment. **John A. Bruno**, R. R. 3, Box 291, Catawissa, PA 17820. To construct and maintain three 24-inch diameter culvert pipes, 12 feet long in Lick Run located off T-418 about 0.3 mile north of SR 2008 (Ashland, PA Quadrangle N: 21.0 inches; W: 16.7 inches) in Locust Township, **Columbia County**. Estimated

stream disturbance is 20 feet of stream with no wetland impact; stream classification is CWF.

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

**Permit No. E64-182.** Encroachment. **Russell M. and Marie H. Palmer**, R. R. 4, Honesdale, PA 18431. To place fill in 0.72 acre of wetlands to expand an existing business. This project is located along the southwest side of S. R. 0006, approximately 0.3 mile northeast of S. R. 0652 in Indian Orchard Village (White Mills, PA Quadrangle N: 9.2 inches; W: 12.9 inches) in Texas Township, **Wayne County**. Philadelphia District Army Corps of Engineers.

**Permit No. E64-183.** Encroachment. **Paul and Geraldine Duplatre**, R. R. 1, Box 91D, Pleasant Mount, PA 18435-9725. To excavate 0.74 acre of PEM/PSS wetlands to construct a pond and to construct and maintain a dry hydrant consisting of an 8-inch intake pipe to be used for fire protection purposes. This project is located along the south side of Township Road T-599, approximately 2,000 feet west of S. R. 4007 (Lake Como, PA Quadrangle N: 5.3 inches; W: 6.1 inches) in Buckingham Township, **Wayne County**. Philadelphia District, Army Corps of Engineers.

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

**E21-265.** Encroachment. **Nelson Minich**, N. L. Minich & Sons, Inc., 730 N. College St., Carlisle, PA 17013. To construct and maintain a 96-inch diameter steel culvert across Meetinghouse Run to expand the noncoal mining operation located about 1,100 feet upstream of North Middleton Road (T-495) (Carlisle, PA Quadrangle N: 22.34 inches; W: 14.52 inches) in North Middleton Township, **Cumberland County**.

**E36-632.** Encroachment. **Bart Township**, Ray Marvin, 46 Quarry Road, Quarryville, PA 17566. To remove the existing structure, construct and maintain a steel I-beam bridge having a clear span of 69 feet with an average underclearance of 17.4 feet across the West Branch Octoraro Creek on Hollow Road (T-367) (Gap, PA Quadrangle N: 3.7 inches; W: 12.2 inches) in Bart Township, **Lancaster County**.

**E38-115.** Encroachment. **Pine Meadows Golf Course**, Adam Moyer, P. O. Box 247, Myerstown, PA 17067. To construct and maintain two golf cart bridges having a clear span of 90 feet each with average underclearances of 13 feet each across the Little Swatara Creek for access to a future 9-hole golf course (Fredericksburg, PA Quadrangle N: 6.5 inches; W: 7.0 inches) in Bethel Township, **Lebanon County**.

**E50-185.** Encroachment. **Foster Kisner**, R. D. 4, Box 4460, Duncannon, PA 17020. To construct and maintain a bridge having a span of 25 feet and an underclearance of 5 feet across the channel of Raccoon Creek at a point along Route 17 approximately 7,300 feet west of Donnally Mills (Ickesburg, PA Quadrangle N: 1.4 inches; W: 1.6 inches) in Tuscorora Township, **Perry County**.

#### DAM SAFETY

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. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to

certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

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

**D10-108.** Dam. **Madison Heights Associates** (215 Executive Drive, Suite 300, Cranberry Township, PA 16066). To construct, operate and maintain a dam across a tributary to Brush Creek (WWF) impacting approximately 0.14 acre of wetlands (PSS) located approximately 1 mile upstream of the Pennsylvania Turnpike (Baden, PA Quadrangle N: 20.1 inches; W: 2.1 inches) in Cranberry Township, **Butler County**.

**D46-319.** Dam. **North Penn School District** (401 East Hancock Street, Lansdale, PA 19446). To construct, operate, and maintain a stormwater detention dam across a tributary to Towamencin Creek (TSF) (Lansdale, PA Quadrangle N: 19.3 inches; W: 9.1 inches) in Towamencin Township, **Montgomery County**. This dam is part of the stormwater management plan for the proposed expansion of the North Penn Senior High School and the Calvary Baptist Church.

#### ENVIRONMENTAL ASSESSMENT

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#### 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.

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

**EA59-006C0.** Environmental assessment. **Ed Signor** (Box 89, Arnot, PA 16911). To construct and maintain a nonjurisdictional dam across a tributary to Sand Run (CWF) for the purpose of recreation located approximately 2,900 feet southwest of the intersection of T-670 and S. R. 2016 in Maple Hill (Cherry Flats, PA Quadrangle N: 11.3 inches; W: 7.0 inches) in Covington Township, **Tioga County**.

## WATER ALLOCATIONS

**Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

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

**WA30-587E.** Water allocation. **Southwestern Pennsylvania Water Authority, Greene County.** Southwestern Pennsylvania Water Authority has submitted an application to expand its service area, with the source being the Monongahela River, Greene County.

## ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

##### (Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514, and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

##### *Permits Issued*

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

**Permit No. 3997403.** Sewerage. **South Whitehall Township Authority**, 4444 Walbert Avenue, Allentown, PA 18104-1699. Permit to construct and operate sewers and appurtenances (Cedar Creek Relief Interceptor), located in South Whitehall Township, **Lehigh County**.

**Permit No. 5497401.** Sewerage. **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. Permit to construct and operate a sewer extension and pump stations to serve the Schuyl-

kill Highridge Business Park (Industrial/Commercial), located in Cass and Foster Townships, **Schuylkill County**.

**NPDES Permit No. PA-0061603.** Sewerage. **Eagle Lake Community Association, Inc.**, P. O. Box 305, Gouldsboro, PA 18444-0305 is authorized to discharge from a facility located in Covington Township, **Lackawanna County** to an unnamed tributary to Tamarack Creek.

**NPDES Permit No. PA-0036439.** Sewerage. **Commonwealth of Pennsylvania, Department of Public Welfare**, White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661 is authorized to discharge from a facility located in Foster Township, **Luzerne County** to Linesville Creek.

**NPDES Permit No. PA-0027235.** Sewerage. **Easton Area Joint Sewer Authority**, 50-A South Delaware Drive, Easton, PA 18042 is authorized to discharge from a facility located in the City of Easton, **Northampton County** to the Delaware River.

**NPDES Permit No. PA-0051721.** Sewerage. **Richard C. Becker**, t/a Mountain View Mobile Home Park, Route 145, 901 South Best Avenue, Walnutport, PA 18088 is authorized to discharge from a facility located in Lehigh Township, **Northampton County** to an unnamed tributary of Bertsch Creek.

**NPDES Permit No. PA-0062642.** Industrial waste. **Blythe Township Municipal Authority**, 375 Valley Street, New Philadelphia, PA 17959 is authorized to discharge from a facility (the Glen Dower Water Treatment Plant) located in Foster Township, **Schuylkill County** to Taylorsville Creek.

**NPDES Permit No. PA-0062693.** Industrial waste. **Blythe Township Municipal Authority**, 375 Valley Street, New Philadelphia, PA 17959 is authorized to discharge from a facility (the Moss Glen Water Treatment Plant) located in Schuylkill Township, **Schuylkill County** to Big Creek.

**NPDES Permit No. PA-0060518.** Sewerage. **Hallstead-Great Bend Joint Sewer Authority**, P. O. Box 757, Great Bend, PA 18821-0757 is authorized to discharge from a facility located in Great Bend Borough, **Susquehanna County** to the Susquehanna River.

#### **Actions under the Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Northcentral Regional Office: Department of Environmental Protection, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.*

##### *Permits Issued*

**Permit No. NPDES PA0027324, Amendment.** Sewerage. **Shamokin-Coal Township Joint Sewer Authority**, R. D. 2, Box 35, Shamokin, PA 17872. Approval to amend Shamokin-Coal Township Authority NPDES permit was granted. Facility located at Ralpho Township, **Northumberland County**.

**Permit No. NPDES PA0009300.** Industrial waste. **Howes Leather Corporation**, P. O. Box 57, Cooper Road, Curwensville, PA 16833. Approval was granted to renew their NPDES permit to discharge wastewater from three outfalls to the West Branch of the Susquehanna River, which is classified as warm water fishery. Howes is located in Curwensville Borough, **Clearfield County**.

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

**Permit No. 0496202.** Industrial waste. **Beaver Falls Municipal Authority**, 1425 8th Avenue, Beaver Falls, PA 15010. Construction of a Water Treatment Plant located in the Borough of Eastvale, **Beaver County** to serve the Eastvale Water Plant.

**NPDES Permit No. PA0095907.** Sewage. **Albert Gallatin Area School District**, 10 West Church Street, Masontown, PA 15461 is authorized to discharge from a facility located at George J. Plava (formerly German Central) Elementary School Sewage Treatment Plant, German Township, **Fayette County** to Unnamed Tributary of North Branch Brown Run.

**NPDES Permit No. PA0217565.** Sewage. **John and Lynae Williams**, 308 North Main Street, Punxsutawney, PA 15767 is authorized to discharge from a facility located at Maple Valley Personal Care Home Sewage Treatment Plant, S. R. 3039, Armstrong Township, **Indiana County** to Anthony Run.

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

**NPDES Permit No. PA0029823.** Sewerage. **Tussey Mountain School District**, R. D. 1, Box 178A, Saxton, PA 16678-9742 is authorized to discharge from a facility located in Broad Top Township, **Bedford County** to the receiving waters named Six Mile Run.

**NPDES Permit No. PA0022250.** Sewerage. **Biglerville Borough Authority**, 33 Musselman Avenue, Biglerville, PA 17307 is authorized to discharge from a facility located in Butler Township, **Adams County** to the receiving waters of an unnamed tributary to Conewago Creek.

**NPDES Permit No. PA0085006.** Sewerage. **Conoy Township**, 211 Falmouth Road, Bainbridge, PA 17502 is authorized to discharge from a facility located in Conoy Township, **Lancaster County** to the receiving waters named Conoy Creek.

**NPDES Permit No. PA0085022.** Sewerage. **Conoy Township**, 211 Falmouth Road, Bainbridge, PA 17502 is authorized to discharge from a facility located in Conoy Township, **Lancaster County** to the receiving waters of an unnamed tributary to the Susquehanna River.

**NPDES Permit No. PA0024457.** Sewerage. **Halifax Municipal Authority**, P. O. Box 443, Halifax, PA 17032 is authorized to discharge from a facility located in Halifax Borough, **Dauphin County** to the receiving waters named Susquehanna River.

**NPDES Permit No. PA0020851.** Sewerage. **Hyndman Borough Municipal Authority**, P. O. Box 445, Hyndman, PA 15545 is authorized to discharge from a facility located in Hyndman Borough, **Bedford County** to the receiving waters named Wills Creek.

**NPDES Permit No. PA0082325.** Sewerage. **SMD Enterprises, Inc.**, 252 Bow Creek Road, Grantville, PA 17028 is authorized to discharge from a facility located in East Hanover Township, **Dauphin County** to the receiving waters of an unnamed tributary to Bow Creek.

**NPDES Permit No. PAG043547.** Sewerage. **Woodrow Heilman**, 94 Hunter Forge Road, Barto, PA 19504 is authorized to discharge from a single family residence sewage treatment plant to an unnamed tributary to the West Branch Perkiomen Creek located in Hereford Township, **Berks County**.

**NPDES Permit No. PA0029335.** Sewerage. **PA Lions Beacon Lodge Camp**, 114SR 103 South, Mt. Union, PA

17066-9601 is authorized to discharge from a facility located in Wayne Township, **Mifflin County** to the receiving waters named Sugar Valley Run.

**NPDES Permit No. PA0085332.** Sewerage. **Delta Borough**, R. D. 3, Box 470, Delta, PA 17314 is authorized to discharge from a facility located in Peach Bottom Township, **York County** to the receiving waters named Scott Creek.

**NPDES Permit No. PA0026051.** Sewerage. **Borough of Chambersburg**, 100 South Second Street, Chambersburg, PA 17201 is authorized to discharge from a facility located in Chambersburg Borough, **Franklin County** to the receiving waters named Conococheague Creek.

**NPDES Permit No. PAG043564.** Sewerage. **Daniel J. Kyle**, Six Bridgewater Road, Newville, PA 17241 is authorized to discharge from a facility located in North Newton Township, **Cumberland County** to the unnamed tributary to Green Spring Creek.

**NPDES Permit No. PA0024074.** Sewerage. Amendment 97-2. **Shoemakersville Municipal Authority**, 242 Main Street, Shoemakersville, PA 19555 is authorized to discharge from a facility located in Shoemakersville Borough, **Berks County** to the receiving waters named Schuylkill River.

**NPDES Permit No. PA0085065.** Industrial. **Process Recovery Corporation**, 2909 Windmill Road, Sinking Spring, PA 19608 is authorized to discharge from a facility located in Cumru Township, **Berks County** to the receiving waters named Schuylkill River.

**NPDES Permit No. PA0084743.** Industrial. **Exxon Company, USA**, 2567 University Avenue, Suite 5008, Morgantown, WV 26505 is authorized to discharge from a facility located in Hollidaysburg Borough, **Blair County** to an unnamed tributary to Brush Run.

**NPDES Permit No. PA0082066.** Industrial. **Valley Proteins, Inc.**, 1444 Indian Hollow Road, Winchester, VA 22604 is authorized to discharge from a facility located in East Earl Township, **Lancaster County** to the receiving waters named Muddy Creek.

**NPDES Permit No. PA0084166.** Industrial. **City of Lebanon Authority**, 400 South Eighth Street, Lebanon, PA 17042 is authorized to discharge from a facility located in Swatara Township, **Lebanon County** to the receiving waters of an unnamed tributary of Swatara Creek.

**Permit No. 3697402.** Sewerage. **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552. Construction of Sewers and Appurtenances in Mount Joy Borough, **Lancaster County**.

**Permit No. 6797403.** Sewerage. **New Freedom Borough Authority**, 150 East Main Street, New Freedom, PA 17349. Construction of Pump Station in New Freedom Borough, **York County**.

**Permit No. 2197401.** Sewerage. **Daniel J. Kyle**, Six Bridgewater Road, Newville, PA 17241. Construction of sewage treatment facilities serving a single family residence in North Newton Township, **Cumberland County**.

**Permit No. 2896404.** Sewerage. **Borough of Chambersburg**, 100 South Second Street, Chambersburg, PA 17201. Construction of sewage treatment facilities in Chambersburg Borough, **Franklin County**.

**Permit No. 6796401.** Sewerage. **Delta Borough**, R. D. 3, Box 470, Delta, PA 17314. Construction of sewage treatment facilities in Peach Bottom Township, **York County**.

**INDIVIDUAL PERMITS  
(PAS)**

**The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream</i>
PAS10-D087	New Hope Solbury School District 180 West Bridge Street New Hope, PA 18938	New Hope Borough Bucks County	Unnamed Tributary to Delaware River

**INDIVIDUAL PERMITS  
(PAR)**

**APPROVALS TO USE NPDES GENERAL PERMITS**

The following parties have submitted Notices of Intent (NOI) for Coverage under General NPDES Permits to discharge wastewater into the surface waters of the Commonwealth of Pennsylvania. The Department of Environmental Protection approves the following coverages under the specified General Permit. This approval is subject to applicable effluent limitations, monitoring and reporting requirements and other conditions set forth in the respective General Permit.

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

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

List of NPDES General Permits issued by the Department of Environmental Protection:

*NPDES General Permit Type*

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Allegheny County East Deer Township	PAR236112	Air Products and Chemicals, Inc. 7201 Hamilton Boulevard Allentown, PA 18195- 1501	Allegheny River	Southwest Regional Office: Water Management Pro- gram Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
Millcreek Twp., Erie County	PAR808363	Transportation Services 3025 West 17th St. Erie, PA 16505	Marshall Run	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335
Luzerne County Hazle Township	PAR222201	Allsteel, Inc. 425 Jaycee Drive West Hazleton, PA 18201	Black Creek	Northeast Regional Office, Water Management 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2553

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Northumberland, Milton Boro	PAR804801	ACF Industries, Inc. P. O. Box 109 Milton, PA 17847	West Branch of Susquehanna River	Northcentral (717) 327-3664
Columbia Co., Stillwater Boro	PAR224809	Charles D. Roberts Co. P. O. Box 6 Stillwater, PA 17878	Raven Creek to Fishing Creek	Northcentral
Columbia Co., Town of Bloomsburg	PAR134801	Magee Rieter Automot- ive System 408 West 5th Street Bloomsburg, PA 17815	Fishing Creek	Northcentral (717) 327-3664
Clearfield Co., Wallacton Twp.	PAR224824	Wallacton Hardwoods P. O. Box 54 Wallacton, PA 16870	UNT to Laural Run	Northcentral (717) 327-3664
Columbia Co., Town of Bloomsburg	PAR124806	Ore-IDA Foods Inc. 595 West 11th Street Bloomsburg, PA 17815	Susquehanna River	Northcentral (717) 327-3664
Lycoming Co., Jackson Twp.	PAR224826	Wheeland Lumber Co., Inc. R. R. 1, Box 220B Liberty, PA 16930	UNT to Blackhouse	Northcentral
Northumberland, Mt. Carmel Boro	PAR144804	International Paper P. O. Box 407, Cardinal Dr. Mt. Carmel, PA 17851	Locust Ck. Shamokin Ck.	Northcentral (717) 327-3664
Clearfield Co., Curwensville Boro	PAR134804	Wickett & Craig of Ameria Inc. 120 Cooper Road Curwensville, PA 16833	W. Br. Susquehanna	Northcentral (717) 327-3664
Lycoming Co., Clinton Twp.	PAR224802	Koppers Industries, Inc. P. O. Box 189 Montgomery, PA 17752	W. Br. Susquehanna	Northcentral
Northumberland Co., Delaware Twp.	PAR214814	Watson town Brick Com- pany Inc. P. O. Box 68 Watson town, PA 17777	W. Br. Susquehanna	Northcentral
Bradford Co., Boro of Canton	PAR124805	H. Rockwell & Son P. O. Box 197 Canton, PA 17724	Mill Creek	Northcentral (717) 327-3664
Lycoming Co., Williams- port	PAR804808	Williamsport Bureau of Transportation 1500 West Third St. Williamsport, PA 17701	Cemetery Run Susquehanna River	Northcentral (717) 327-3664
Bradford Co., Wysox Twp.	PAR224806	Masonite (International Paper) P. O. Box 311 Towanda, PA 18848	Laning Creek to Susquehanna	Northcentral (717) 327-3664
Lycoming Co., Williams- port	PAR604807	Staiman Brothers Inc. P. O. Box 1235 Williamsport, PA 17703- 1235	West Branch of Susquehanna	Northcentral (717) 327-3664
Clinton Co., Pine Creek Twp.	PAR604806	Staiman Brothers, Inc. P. O. Box 1235 Williamsport, PA 17703- 1235	West Br. Susquehanna	Northcentral (717) 327-3664
Tioga Co., Duncan Twp.	PAR604803	Phoenix Resources, Inc. P. O. Box 38 Blossburg, PA 16912	UNT Rock Run to Babb Creek	Northcentral (717) 327-3664

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Northumberland Co., Coal Twp.	PAR804805	Adam Deitrick & Sons Disposal 1410 W. Sterling St. Shamokin, PA 17872	Shamokin Creek	Northcentral (717) 327-3664
Bradford Co., Troy Twp.	PAG 044940	Burt L. Cleveland R. R. 2, Box 34 Troy, PA 16947	UNT to Fall Brook	Northcentral (717) 327-3664
Northumberland, Coal Twp.	PAG064802	Township of Coal 805 W. Lynn Street Coal Township, PA 17866-1900	Shamokin Creek, Coal Run, Quaker Run	(717) 327-3664
Northumberland, Shamokin Twp.	PAG064801	City of Shamokin 47 E. Lincoln Street P. O. Box Q Shamokin, PA 17872	Shamokin Creek, Coal Run, and Carbon Run	Northcentral

### SAFE DRINKING WATER

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

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

**5897501.** Public Water supply. **Gracious Living Estates**, Richard Serfass, President, R. R. 1, Box 226A, Springville, PA 18844. This proposal involves the construction of a new water supply system serving a proposed 93 resident personal care home. The water supply consists of a well with disinfection and storage. Permit issued May 1, 1997.

**6495502.** Public Water Supply. **Himalayan Institute**, Linda Blanchard, Chairperson, R. D. 1, Box 400, Honesdale, PA 18431. This proposal involves permitting of the existing PWS system which includes three wells, associated pressure tanks and distribution system, with the addition of UV disinfection. Permit issued May 12, 1997.

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

**Permit No. 5696505.** Public water supply. **Lincoln Township Municipal Authority**, P. O. Box 162, Sipesville, PA 15561-0162. Storage Reservoir. Permit to Operate Issued May 15, 1997.

### LAND RECYCLING AND ENVIRONMENTAL REMEDICATION

#### Under Act 2, 1995

#### Preamble 3

#### Acknowledgment of the Submission of Final Reports on Attainment of Background and State-wide Health Standards (Sections 302(e)(2) and 303(h)(2)).

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require

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

For further information concerning the final report, contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports.

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

**John Girman Property** (2524 Mossie Boulevard), Borough of Monroeville, **Allegheny County**. John Girman, 3948 William Penn Highway, Pittsburgh, Pa 15146 and Randolph L. Bowers, 3862 East Street, Pittsburgh, Pa 15214 has submitted a Final Report addressing soil contaminated with BTEX and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

### SOLID AND HAZARDOUS WASTE

#### Plan Revision Approval Under the Municipal Waste Planning Recycling and Waste Reduction Act

The Department of Environmental Protection (DEP) approved a revision to the Lehigh County Municipal Waste Management Plan on April 30, 1997.

Condition number 4 of this approval is as follows:

"The County will assure disposal capacity through the use of the facilities identified in Table 12 of the plan

revision, by entering into disposal agreements in which the facilities agree to accept Lehigh County municipal solid waste (MSW) for the 10-year life of the plan. The plan revision also authorizes MSW disposal at other facilities not included in Table 12, as long as the facilities are fully licensed and permitted by all Federal, State and local agencies with the authority to regulate such operations."

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984.

The plan revision is a public document and may be viewed at the Lehigh County Office of Solid Waste, 930 Hamilton Street, Allentown, PA, or at the Office of the Lehigh County Commissioners, 455 Hamilton Street, Allentown, PA or at the DEP Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA.

Questions concerning this approval should be directed to Sally Lohman, Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472; or Christopher Fritz, Regional Planning and Recycling Coordinator, Bureau of Land Recycling and Waste Management, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711, or Julia Murano, Lehigh County Office of Solid Waste, P. O. Box 1548, 930 Hamilton Street, Allentown, PA 18105.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Applications withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) regulations to operate solid waste processing or disposal area or site.**

*Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, Pa 17110.*

**Application No. 603452. Summit Level Farm,** Land Resource Recycling Management, Inc., (1296 High Street, Pottstown, PA 19464). Application for agricultural utilization of sewage sludge to a site in Robeson Township, **Berks County**. Application withdrawn from the Regional Office May 6, 1997.

#### MINING

#### CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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).

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

#### Coal Permits Issued

**03900112. Canterbury Coal Company** (R. D. 1, Box 119, Avonmore, PA 15618). Revision issued adding 4.4 acres to an existing bituminous surface auger mine with sandstone and shale removal located in Kiskiminetas Township, **Armstrong County**, now affecting 74.1 acres. Receiving streams: unnamed tributary to Long Run to Kiskiminetas River. Revision application received February 18, 1997. Revision issued April 30, 1997.

**63860106R. Boyle Land & Fuel Company** (P. O. Box 576, Fredericktown, PA 15333). Renewal permit issued for continued reclamation of a bituminous surface mine located in Deemston Borough, **Washington County**, affecting 210.0 acres. Receiving streams: unnamed tributary to Ten Mile Creek. Renewal application received January 21, 1997. Renewal permit issued May 2, 1997.

**03960105. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision to mine through unnamed tributary #3 to Huskins Run; mine within 100 feet of unnamed tributary #6 to Huskins Run; to relocated 1.5 acres of the permit boundaries; and add two new haul roads issued on an existing bituminous surface auger mine located in Cowanshannock Township, **Armstrong County**, affecting 485.0 acres. Receiving streams: unnamed tributaries to Huskins Run and Huskins Run. Revision application received March 10, 1997. Revision issued May 2, 1997.

**65840103. M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319). Revision to relocate the unnamed tributary to Stony Run and to use a stream ford over Stony Run for a one-time dozer crossing and return issued on an existing bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 133.5 acres. Receiving streams: Stony Run. Revision application received March 31, 1997. Revision issued May 2, 1997.

**03940113T. Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Transfer issued from Alt, Incorporated of an existing bituminous surface auger mine located in Washington Township, **Armstrong County**, affecting 68.7 acres. Receiving streams: unnamed tributary "A" to Huling Run, Huling Run to Allegheny River. Transfer application received November 21, 1996. Transfer issued May 8, 1997.

**03970101. Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Permit issued for commencement, operation and reclamation of a bituminous surface auger mine located in Bradys Bend and Sugar creek Townships, **Armstrong County**, affecting 74.9 acres. This permit replaces and encompasses permit number 03940112. Receiving streams: unnamed tributary to the Allegheny River and unnamed tributary to Snyders Run. Application received January 22, 1997. Permit issued May 9, 1997.

**30940102. Patriot Mining Co., Inc.** (Rte. 12, Box 245, Morgantown, WV 26505). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Greene Township, **Greene County**, affecting 17.0 acres. Receiving streams: unnamed tributary to Whitely Creek. Application received September 13, 1994. Permit issued May 12, 1997.

**63930103T. Patterson Coal Company** (R. R. 2, Box 335, Smithfield, PA 15478). Transfer from Todd Stash



Mining of an existing bituminous surface mine located in German Georges Townships, **Fayette County**, affecting 110.0 acres. Receiving streams: North Branch, Browns Run and its unnamed tributaries then to the Monongahela River. Transfer application received February 13, 1997. Transfer issued May 14, 1997.

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

**17950115, Larson Enterprises, Inc.** (P. O. Box 96, Kylertown, PA 16847), revision to an existing bituminous surface mine permit for a Change in Acreage from 46.6 to 50.1 acres, Morris and Graham Townships, **Clearfield County**. Receiving streams: Flat Run. Application received February 18, 1997. Permit issued April 28, 1997.

**17840141, Larry W. Evans, R. R. 2, Box 48, Curwensville, PA 16833**, transfer of an existing bituminous surface mine permit from Forcey Coal, Inc., Decatur Township, **Clearfield County** affecting 109.3 acres. Receiving streams: an unnamed tributary of Laurel Run to Laurel Run; Laurel Run to Moshannon Creek; Moshannon Creek to West Branch Susquehanna River, West Branch Susquehanna River to Susquehanna River, application received April 7, 1997. Permit issued May 2, 1997.

**17960117, Thunder Coal Company** (R. R. 1, Box 447, Grampian, PA 16838), commencement, operation and restoration of a bituminous surface mine permit in Pike Township, **Clearfield County** affecting 125.3 acres. Receiving streams: Welch Run to West Branch Susquehanna River. Application received September 19, 1996. Permit issued May 7, 1997.

**17860142, Clair C. McGovern Coal Company** (Karthaus, PA 16845), renewal of an existing bituminous surface mine permit in Karthaus Township, **Clearfield County** affecting 112 acres. Receiving streams: unnamed tributaries of Salt Lick Run to Salt Lick Run, Salt Lick Run to West Branch Susquehanna River; and unnamed tributaries of Dutch Hollow Run to Dutch Hollow Run; Dutch Hollow Run to Mosquito Creek, Mosquito Creek to West Branch Susquehanna River. Application received April 11, 1997. Permit issued May 7, 1997.

**14960101, Chestnut Ridge Coal Company** (LeContes Mills, PA 16850-0047), commencement, operation and restoration of a bituminous surface mine permit in Snow Shoe Township, **Centre County** affecting 48.5 acres. Receiving streams: North Fork Beech Creek to Beech Creek, Beech Creek to Bald Eagle Creek, Bald Eagle Creek to West Branch Susquehanna River. Application received June 19, 1996. Permit issued May 12, 1997.

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

**56860105, Permit Renewal, Croner, Inc.** (R. D. 4, Box 83-C, Berlin, PA 15530), commencement, operation and restoration of a bituminous strip-auger mine in Brothersvalley Township, **Somerset County**, affecting 192.3 acres. Receiving streams: unnamed tributaries to Blue Lick Creek and Swamp Creek. Application received March 10, 1997. Permit issued May 8, 1997.

**32970101, Fossil Fuel, Inc.** (R. D. 2, Box 173, Marion Center, PA 15759), commencement, operation and restoration of a bituminous strip-auger mine in Grant Township, **Indiana County**, affecting 24.5 acres. Receiving streams: unnamed tributaries to Little Mahoning Creek. Application received January 8, 1997. Permit issued May 12, 1997.

**56823143, Permit Renewal, Croner, Inc.** (629 Main Street, Berlin, PA 15530), commencement, operation and

restoration of a bituminous strip mine in Quemahoning Township, **Somerset County**, affecting 202.0 acres. Receiving streams: unnamed tributaries to Beaverdam Creek and Beaverdam Creek. Application received March 11, 1997. Permit issued May 13, 1997.

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

**10860105, Mahoning Mining, Inc.** (P. O. Box 171, Slippery Rock, PA 16057). Renewal of an existing bituminous strip operation in Slippery Rock and Worth Townships, **Butler County** affecting 251.0 acres. This renewal is issued for reclamation only. Receiving streams: Wolf Creek, unnamed tributary to Slippery Rock Creek and Slippery Rock Creek. Application received November 7, 1996. Permit issued May 6, 1997.

**33930111, Falls Creek Energy Co., Inc.** (R. D. 6, Box 231, Kittanning, PA 16201). Transfer of an existing bituminous strip and auger operation in Young, Bell and McCalmont Townships, **Jefferson County** affecting 212.0 acres. This permit is transferred from Maud Mining Company. Receiving streams: unnamed tributaries to Elk Run. Application received December 27, 1996. Permit issued May 8, 1997.

**102893-33930111-E-9 Falls Creek Energy Co., Inc.** (R. D. 6, Box 231, Kittanning, PA 16201). Application for a stream encroachment to mine through and reconstruct both unnamed tributaries B and C to Elk Run in Young, Bell and McCalmont Townships, **Jefferson County**. Receiving streams: unnamed tributaries to Elk Run. Application received December 27, 1996. Permit issued May 8, 1997.

**102327-24890101-E-1, Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Application for a stream encroachment to mine through and reconstruct unnamed tributary No. 2 to Little Toby Creek in Horton and Fox Townships, **Elk County**. Receiving streams: Boderocco Run, Brandy Camp Run and unnamed tributary to Little Toby Creek. Application received January 13, 1997. Permit issued May 7, 1997.

*McMurray District Office, 3913 Washington Road, McMurray, PA*

**63831302, Eighty Four Mining Company**, (P. O. Box 729, Indiana, PA 15701), to revise the permit for the Mine 84 in North Strabane Township, **Washington County** to add 6" bulk material borehole, no additional discharge. Permit issued May 15, 1997.

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

**40733203R2, UGI Utilities, Inc.**, (400 Stewart Road, Hanover Industrial Estates, Wilkes-Barre, PA 18706-1495), renewal of an existing coal refuse reprocessing operation in Hanover Township, **Luzerne County** affecting 59.81 acres. Receiving stream: none. Renewal issued May 14, 1997.

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

*Coal Applications Withdrawn.*

**65970101, M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319). Application withdrawn for commencement, operation and reclamation of a bituminous surface auger mine located in Ligonier Township, **Westmoreland County**, proposed to affect 135.0 acres. Receiving streams: unnamed tributaries to Four Mile Run, and Loyalhanna Creek to Four Mile Run to Loyalhanna Creek. Application received February 20, 1997. Application withdrawn May 2, 1997.

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

*Coal Applications Denied*

**65960112. Thomas C. Mull** (500 Backwoods Lane, North Huntingdon, PA 15642). Application denied for commencement, operation and reclamation of a bituminous surface mine located in North Huntingdon Township, **Westmoreland County**, that was proposed to affect 42.0 acres. Receiving streams: unnamed tributaries of Brush Creek to Brush Creek to Turtle Creek to the Monongahela River. Application received October 21, 1996. Application denied May 1, 1997.

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

*Noncoal. Permits Issued*

**37910305. G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057). Renewal of NPDES No. PA0208485, Plain Grove Township, **Jefferson County**, Receiving streams: Taylor Run and unnamed tributary to Taylor Run. Application received December 23, 1996. Permit issued May 7, 1997.

**37920303. S & S Processing, Inc.** (P. O. Box 32, Ellwood City, PA 16117-0032). Transfer of an existing sand and gravel operation in Taylor Township, **Lawrence County** affecting 56.3 acres. This permit is transferred from S & S Processing. Receiving streams: None. Application received September 16, 1996. Permit issued May 6, 1997.

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

**8274SMIC2. D. M. Stoltzfus & Son, Inc.** ((P. O. Box 84) Talmaga, PA 17580), correction to an existing quarry operation in Manheim and Upper Leacock Townships, **Lancaster County** affecting 78.1 acres. Receiving stream: Conestoga River. Correction issued May 12, 1997.

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

*General Small Noncoal Authorizations Granted*

**16970801. Reichard Contracting, Inc.** (R. D. 3, New Bethlehem, PA 16242). Commencement, operation and restoration of a small noncoal sandstone operation in Porter Township, **Clarion County** affecting 3.9 acres. Receiving streams: None. Application received January 6, 1997. Permit issued April 29, 1997.

**20970802. Vera I. Marzka** (29730 Hogback Road, Cambridge Springs, PA 16403). Commencement, operation and restoration of a small noncoal sand and gravel operation in Rockdale Township, **Crawford County** affecting 6.0 acres. Receiving streams: None. Application received February 19, 1997. Permit issued April 30, 1997.

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

**66960804. Randy M. Wiernusz** (R. R. 7, Box 502, Tunkhannock, PA 18657), commencement, operation and restoration of a small quarry operation in Eaton Township, **Wyoming County** affecting 1.0 acres. Receiving stream: none. Authorization granted May 13, 1997.

**52960802. Gibson E. McKean** (P. O. Box 61, Barryville, NY 12719), commencement, operation and restoration of a small quarry operation in Blooming Grove Township, **Pike County** affecting 5.0 acres. Receiving stream: none. Authorization granted May 16, 1997.

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

**ENCROACHMENTS**

**Dams, Encroachments and Environmental Assessments**

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

(Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

*Permits Issued and Actions on 401 Certifications*

*Northcentral Region, Water Management-Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

**E41-395.** Encroachment. **Daniel Dutton**, 2826 Oakland Drive, Condo 4, Billings, MT 59102. To reconstruct and maintain the superstructure and abutments of an existing bridge, placing riprap at the wigwalls as necessary on a private road over Mill Creek immediately off SR 864, 0.6 mile east of SR 087 (Montoursville North, PA Quadrangle N: 5.25 inches; W: 2.88 inches) in Upper Fairfield Township, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E01-171.** Encroachment. **Middle Creek Bible Conference, Inc.**, Elizabeth Crowley, P. O. Box 1, Cascade, MD 21719. To place fill in a de minimis area of wetlands less than or equal to 0.05 acre for the purpose of providing an emergency access drive for the proposed Middle Creek Conference and Retreat Center located north of the intersection of Water Street and Station Road in Freedom and Liberty Townships, **Adams County**. (Fairfield, PA

Quadrangle N: 2.0 inches; W: 10.0 inches). This permit also includes 401 Water Quality Certification.

**E01-176.** Encroachment. **John Rautzahn**, PA Dept. of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove a structure and to construct and maintain a precast concrete box culvert with a normal span of 20 feet and a minimum underclearance of 4 feet and to fill a de minimis area of wetlands less than or equal to 0.01 acre associated with this bridge located over an unnamed tributary to Tom's Creek on SR 0116, Segment 0040, Offset 1686 (Iron Springs, PA Quadrangle N: 1.85 inches; W: 0.85 inch) in Carroll Valley Borough, **Adams County**. This permit also includes 401 Water Quality Certification.

**E05-241.** Encroachment. **Ken Burket**, R. D. 2, Box 347, Hollidaysburg, PA 16648. To maintain three barrels of 48-inch diameter corrugated galvanized steel pipes across an unnamed tributary to Raystown Branch Juniata River (locally called Todd Run) to provide continued access to the Burket and Charles Mackall, Jr., properties located about 1,300 feet north of the PA 56 and US 30 intersections (Bedford, PA Quadrangle N: 9.2 inches; W: 7.3 inches) in Bedford Township, **Bedford County**. This permit was issued under Section 105.13(e) "Small Projects."

**E07-266.** Encroachment. **Lloyd Gummo**, R. R. 7, Box 592, Altoona, PA 16601. To remove two 4-foot diameter culverts and to construct and maintain a box culvert having a span of 11.0 feet and a rise of 5.0 feet in an unnamed tributary of the Little Juniata River to provide access to private property. (Bellwood, PA Quadrangle N: 16.0 inches; W: 10.2 inches) in Aris Township, **Blair County**. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E31-135.** Encroachment. **US Army Corps of Engineers**, Raystown Lake, Dwight Beall, R. D. 1, Box 222, Hesston, PA 16647. To construct and maintain five 1.5 foot diameter culverts in the channel of Tatman Run to create a foot bridge crossing located in the Tatman Run Access Area at Lake Raystown Dam (Entriken, PA Quadrangle N: 10.25 inches; W: 10.75 inches) in Lincoln Township, **Huntingdon County**. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

#### ENVIRONMENTAL ASSESSMENT

##### ENVIRONMENTAL ASSESSMENT APPROVALS AND ACTIONS ON 401 CERTIFICATION

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

**EA46-026CO.** Environmental Assessment. **Gene Yerger** (314 Main Street, Collegeville, PA 19426). To construct and maintain a nonjurisdictional dam (Basin A) in the watershed of a Tributary to Perkiomen Creek (TSF) impacting approximately 0.19 acre of wetlands (PFO) for the purpose of stormwater management at the proposed Salford Knoll subdivision located approximately 600 feet southeast of the intersection of Salford Station Road (S. R. 1024) and Fulmer Road (T-359) (Perkiomenville, PA Quadrangle N: 7.1 inches; W: 13.2 inches) in Lower Frederick Township, **Montgomery County**. The applicant has made a contribution to the Pennsylvania Wetland Replacement Project as compensatory mitigation for wetland impacts.

#### WATER ALLOCATIONS

**Actions taken on application filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631-641) relating to the acquisition of rights to divert waters of this Commonwealth.**

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

**WA 26-846B.** Water Allocation. **Pleasant Valley Water Authority, Fayette County**, Pennsylvania. The right to purchase a maximum of 50,000 gallons per day of water from the Indiana Creek Valley Water Authority, Fayette County, PA. Permit issued on May 13, 1997.

#### SPECIAL NOTICES

##### Additional planning grant eligibility under the Municipal Waste Planning Recycling and Waste Reduction Act

The Department of Environmental Protection announces that eligibility for grants under section 901 of Act 101 has been expanded to include activities of Chapter 2 of Act 190 of 1996 as prescribed by that chapter. The application period will continue to be open with no deadline date. Eligible applicants will continue to be counties. The limit set by Act 101 of no more than 10% of the section 901 budget for any fiscal year for any county will continue to be in force, with Act 190 activities being part of that 10%.

All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472. Application forms may be obtained from the Department of Environmental Protection Regional Planning and Recycling Coordinator as listed below.

##### 901 Grant Eligibility Under Act 190 of 1996

Act 190, Chapter 2 provides grants for educational programs on pollution prevention, technical assistance to small businesses for pollution prevention, and educational programs for Household Hazardous Waste.

Pollution prevention and source reduction techniques are those that reduce pollution forming in the first place and lessen transfers between air, water and land.

Educational and technical assistance programs focusing on Small Business Pollution Prevention may include tasks directed toward source reduction techniques, energy conservation, waste minimization, reduction in the toxicity of wastes generated, beneficial use, reuse, recycling or reclamation.

A Small Business is defined as a business with 100 or fewer employees or a political subdivision.

Household Hazardous Waste educational programs should be directed toward wastes which would be chemically or physically classified as a hazardous waste but are excluded from regulation as a hazardous waste under the regulation of the Department of Environmental Protection because it is generated by a household.

*Fundable Tasks*

1. Costs incurred by a county by contract with another sponsor or other person selected by the county to develop educational and technical assistance programs.
2. Tasks associated with the gathering of information for subsequent inclusion into educational materials such as brochures, posters, fact sheets, training programs and the like.
3. Tasks associated with the gathering of information, developing, printing and distributing eligible pollution prevention and household hazardous waste educational materials.
4. Tasks associated with conducting training, conferences, teleconferences, and the like which result in educational and technical assistance directed toward Small business Pollution Prevention or Household Hazardous Wastes.
5. Tasks associated with the distribution of materials, and co-sponsorship of educational and technical assistance programs in conjunction with DEP staff.

*Non-Fundable Tasks*

1. The acquisition of equipment of any type and other capital expenditures.
2. Any task that fails to produce a measurable end product.
3. Tasks associated with the production of a grant application, or with the production of the audit report required by the grant contract.
4. Tasks associated with the collection of household hazardous wastes.

**Regional Planning and Recycling Coordinators***Coordinator*

Calvin Ligons  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 Lee Park, Suite 6010  
 555 North Lane  
 Conshohocken, PA 19428  
 (610) 832-6212

Chris Fritz  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 2 Public Square  
 Wilkes-Barre, PA 18711-0790  
 (717) 826-5425

Belinda May  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 1 Ararat Boulevard  
 Harrisburg, PA 17110  
 (717) 657-4588

Ron Somers  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 208 West Third Street, Suite 101  
 Williamsport, PA 17701  
 (717) 327-3653

Sharon Svitek  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 400 Waterfront Drive  
 Pittsburgh, PA 15222  
 (412) 442-4125

Guy McUmbert  
 Department of Environmental Protection  
 Bureau of Land Recycling and Waste Management  
 230 Chestnut Street  
 Meadville, PA 16335-3481  
 (814) 332-6848

*Counties*

Bucks, Chester, Delaware, Montgomery,  
 Philadelphia

Carbon, Lackawanna, Lehigh, Luzerne, Monroe,  
 Northampton, Pike, Schuylkill, Susquehanna, Wayne,  
 Wyoming

Adams, Bedford, Berks, Blair, Cumberland, Dauphin,  
 Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon,  
 Mifflin, Perry, York

Bradford, Cameron, Centre, Clearfield, Clinton, Columbia,  
 Lycoming, Montour, Northumberland, Potter, Snyder,  
 Sullivan, Tioga, Union

Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene,  
 Indiana, Somerset, Washington, Westmoreland

Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson,  
 Lawrence, McKean, Mercer, Venango, Warren

## Availability of Technical Guidance

### *Governor's Office List*

Once a year on the first Saturday in August, the Governor's Office publishes a list of the nonregulatory guidance documents of all State agencies in the *Pennsylvania Bulletin*. The first publication of this list was in the August 3, 1996, edition of the *Pennsylvania Bulletin*. The next publication of this list will be in the August 2, 1997, *Pennsylvania Bulletin*.

### *DEP's Technical Guidance Document Inventory*

DEP publishes a list of its technical guidance documents in its Technical Guidance Document Inventory twice a year. The most recent edition of the Inventory is the December 1996 edition. This edition is now available on DEP's World Wide Web site. DEP's Web address is <http://www.dep.state.pa.us>. To go to the location of the Inventory once on the DEP home page, persons should choose the Public Participation Center/Technical Guidance Document/Basic Inventory.

Bound paper copies of the Inventory are available now for those who do not have access to the Web site. DEP automatically mails a paper copy of the December 1996 Inventory to persons who received a bound paper copy of the June 1996 Inventory. Persons who wish to add their address to the mailing list should call Nina Huizinga at (717) 783-8727.

### *DEP's Technical Guidance Documents on the World Wide Web*

DEP's Web address is <http://www.dep.state.pa.us>. To go to the location of DEP's Technical Guidance Documents once on the DEP home page, persons should choose the Public Participation Center. The Center contains several links to DEP's Technical Guidance Documents. Persons should look under the heading "Proposals Open to Comment" for the link to "Draft Technical Guidance." Persons should look under the heading "Proposals Recently Finalized" for the link to "Technical Guidance." Persons should look under the heading "Technical Guidance" for one link to the "Basic Inventory" and a second link to "Final Guidance." The final documents menu will list DEP's bureaus. Persons should click on the name of the bureau to get to the list of the documents from that bureau that are currently on the Web. Then, to see a document, persons should click on the ID number of the document. DEP will be adding its revised documents to the Web throughout 1997.

### *Help Protect the Environment: Use the Web and Save Trees*

DEP encourages members of the public who read these announcements in the *Pennsylvania Bulletin* and DEP's *UPDATE* and who have access to the World Web to avoid the needless duplication of paper copies of DEP's technical guidance documents. Persons can download those DEP documents which are posted on DEP's Web site onto their computers and read them electronically. This method saves both paper and money.

### *Ordering Paper Copies of DEP Technical Guidance*

Although DEP promotes the use of electronic copies of its technical guidance rather than paper copies, there are still reasons for DEP to continue to provide members of

the public with paper copies: 1) It may be more convenient to use some documents in a paper form, 2) Not everyone has access to the World Wide Web and 3) Not all DEP documents are on DEP's Web site yet. Persons can order an unbound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

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

### *Changes to Technical Guidance Documents*

Between publication of its Inventory, DEP announces changes to its technical guidance documents in its weekly newsletter, the *UPDATE* and the *Pennsylvania Bulletin*. Here is the current list of recently finalized documents, draft documents and notices of intended changes to technical guidance.

Persons who have any questions on comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments about the Inventory, the documents on the World Wide Web, the availability of paper copies from the printer or the technical guidance document process in general should call Nina Huizinga at (717) 783-8727.

### *Final Technical Guidance—New Guidance*

DEP ID: 273-4000-007 Title: Interim Compliance Strategy on Reasonable Available Control Technology (RACT) for Major Nitrogen Oxide (NO<sub>x</sub>) Sources with Continuous Emission Monitoring Systems (CEMSs) Description: This guidance document is to assist the Department's Regional Air Quality staff in dealing with NO<sub>x</sub> RACT sources with CEMSs that are in noncompliance. It establishes uniform criteria for the settlement of penalties arising from exceeding NO<sub>x</sub> RACT emission limits, data availability, and delinquency in filing reports. The policy will apply on an interim basis until a new Compliance Assurance Policy is developed for NO<sub>x</sub> RACT with CEMSs. Page Length: 3 pages Location: Volume 2, Tab 34 Contact Ralph Scanlan at (717) 787-9702.

### *Draft Technical Guidance*

DEP ID: 560-0700-304 BMR PGM: II:03:04 Title: Review of Surface Mine Applications on High Quality Waters Background: This guidance establishes criteria for review of surface mine applications on high quality waters based on the requirements of the proposed amendments to 25 PA. Code Chapter 93. Final rulemaking has not been scheduled yet; this guidance will be finalized once the final rulemaking for Chapter 93 is effective. Deadline for Submittal of Comments is July 15, 1997. Contact Thomas L. Whitcomb at (717) 783-8845.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-882. Filed for public inspection May 30, 1997, 9:00 a.m.]

## Low-Level Waste Advisory Committee Meeting

The date for the next meeting of the Department of Environmental Protection's Low-Level Waste Advisory Committee (LLWAC) has been changed from June 12 to June 16, 1997. The meetings will begin at 9 a.m. and end at 12 noon at the Forum Building, Room G-50, South Drive and Commonwealth Avenue, Harrisburg, PA 17120.

Questions concerning the agenda should be addressed to Rich Janati at (800) 232-2786 or e-mail at Janati.Rich@a1.dep.state.pa.us. The agenda is also available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marianne Hansen at (717) 787-2480 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-883. Filed for public inspection May 30, 1997, 9:00 a.m.]

### Wetlands Protection Advisory Committee Meeting

The Wetlands Protection Advisory Committee meeting scheduled for July 8, 1997, has been rescheduled for July 1, 1997, in the 1st Floor Conference Room of the Rachel Carson State Office Building.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-884. Filed for public inspection May 30, 1997, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Availability of Draft Maternal and Child Health Services Block Grant Application for Federal Fiscal Year 1998

Under 42 U.S.C.A. § 705(a)(5)(F), the Department of Health is making available copies of the draft Maternal and Child Health Services Block Grant Application for FFY 1998. This application is the Commonwealth of Pennsylvania's draft request to the United States Department of Health and Human Services for block grant funding.

The block grant application describing proposed services, program goals and objectives and activities can be obtained by contacting the Department of Health, Bureau of Maternal and Child Health, Room 733, Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, (717) 787-7192 [TDD: (717) 783-6514].

Written comments will be accepted and should be sent to the Department of Health, Bureau of Maternal and Child Health at the above address, and should be received no later than 4 p.m. Monday, June 30, 1997.

Persons with a disability who require an alternative format of the above mentioned application (for example, large print, audio tape, braille) should notify the Bureau of Maternal and Child Health at the above address or number, or at TDD: (717) 783-6514.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 97-885. Filed for public inspection May 30, 1997, 9:00 a.m.]

### Availability of Federal Fiscal Year 1998 Draft Application for Funding for Abstinence Education and Related Services

The Department of Health is making available copies of its Federal fiscal year 1998 draft application for Abstinence Education and Related Services funding. This application is the Commonwealth of Pennsylvania's draft request to the United States Department of Health and Human Services for funds to implement an abstinence education and related services plan and program as set out in 42 U.S.C.A. §§ 705(a)(5)(F) and 710(c)(2).

This application describing proposed services, program goals and objectives and activities can be obtained by contacting the Department of Health, Bureau of Maternal and Child Health, Division of Maternal and Child Health, Room 725, Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, (717) 787-7440 [TDD: (717) 783-6514].

Written comments will be accepted and should be sent to the above address, and must be received by no later than 4 p.m. Monday, June 30, 1997.

Persons with a disability who require an alternative format of the above-mentioned application (for example, large print, audio tape, braille) should notify the Division of Maternal and Child Health at the above address or number, or at TDD: (717) 783-6514.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 97-886. Filed for public inspection May 30, 1997, 9:00 a.m.]

### Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on June 11, 1997, at 10 a.m. in Room 812, Health and Welfare Building, Commonwealth and Forster Streets, Harrisburg, PA.

For additional information, or for persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation, contact Robin Bowman at (717) 783-2500.

This meeting is subject to cancellation without notice.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 97-887. Filed for public inspection May 30, 1997, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Retention of Engineering Firms

#### Armstrong, Butler, Clarion, Indiana and Jefferson Counties

#### Project Reference No. 08430AG2073

The Department of Transportation (Department) will retain a surveying and/or engineering firm with a minimum of two survey corps for preliminary, final and

construction surveys for projects in Engineering District 10-0, which is Armstrong, Butler, Clarion, Indiana and Jefferson Counties.

The contract will be for a period of 60 months from the date of the notice to proceed. It is estimated that approximately 1,000 crew days may be required for the firm selected.

The selected firm will be required to staff adequately a minimum of two survey crews consisting of three and/or four persons. The firm will be required to furnish each survey crew with all required material, equipment, liability insurance, safety equipment and procedures necessary for the efficient, timely and professional completion of preliminary highway surveys, property surveys, construction stakeouts for structures and roadways, retracing alignment, referencing control points and right-of-way and other related projects as directed by the Department. To ensure that all survey data is collected in a format that is compatible with the Department's existing Electronic Theodolite Interface (ETI) Software, the Department will provide Department-developed Electronic Survey Collection (ESC) Software and User's Manual to the selected firms. The software will be restricted to use on Department projects. The selected firm will be responsible for providing the hardware configuration necessary to complete surveys using the Department's software.

The hardware requirements are a Corvallis Micro-technology, Inc., M C V-Q hand-held computer with 640K of memory or compatible data collection equipment: a 3-1/2" floppy disk drive; and an electronic total station surveying instruments and serial cables to communicate with the hand-held computer. The Total-Station will be comparable or better than a five second instrument (5").

The Department will establish an order of ranking of a minimum of three firms for the purpose of negotiating an 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 employes' resumes with emphasis on surveying capabilities and specialized experience in Highway/Route Surveying.
- b) Consultant's proposed plan to provide the Department a survey crew at the project site.
- c) Understanding the Department's requirements, policies and specifications.
- d) Ability to provide survey crew on short (5-day minimum) notice.
- e) Present workload.
- f) Past performance.
- g) Additional equipment not required above such as: radios, laptop computers, calculators, digital levels and the like, will be considered.

The qualifications and experience required of the firm's personnel must meet or exceed the requirements of the Department's surveyor class specification. The descriptions for these classifications can be obtained from the District contact person identified at the end of this solicitation.

The survey personnel and supporting resume information must be submitted with the letter of interest. There shall be no substitution or addition of personnel without first submitting resumes and receiving written approval by the Department.

- 1) All field survey work shall be under the supervision of a Professional Land Surveyor licensed in this Commonwealth.
- 2) Each survey crew shall consist of a minimum of one party chief, one instrument person and rod/prism/chain personnel to complete the crew, whether it be three or four people.
- 3) Electronic equipment and procedures, as described above, must be utilized in completion of surveys, unless otherwise directed by the Department.
- 4) The party chief should have a minimum of 3 years experience as a party chief in highway related work. When the party chief is unavailable for work, the crew will work only when the Professional Land Surveyor is available to be in charge of the survey crew.
- 5) Provisions will be included for railroad insurance, rental of arrow boards, ladders, and/or boats when and if needed.

If a survey firm is submitting the letter of interest, it must indicate in the body of its transmittal letter the names and Professional Land Surveyor License Number of individuals who are directing heads or employes of the firm who have responsible charge of the firm's surveying activities, and whose names and seals shall be stamped on plans, specifications, plans and reports issued by the firm.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Craig Chelednik, P. E., District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830.

Technical questions concerning the requirements for this project should be directed to Thad Mikolajczyk, P.L.S., Chief of Surveys, District 10-0 at (412) 357-2474, or Craig Chelednik, P. E., District Location and Liaison Engineer, 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.

### **Lycoming County**

#### **Project Reference No. 08430AG2074**

The Department of Transportation will retain an engineering firm to perform full in-depth bridge inspection (including underwater), environmental studies, preliminary engineering, final design and engineering services during construction of a bridge located in Lycoming County on S. R. 0405 in the Village of Muncy over the West Branch of the Susquehanna River and ConRail Railroad.

The bridge has 18 spans: 11 spans of steel plate girder pin hanger system, and 7 spans of steel I-beams, having a total length of 2,134 feet. The estimated construction cost is \$5 million and will include any needed minor approach roadway work.

The selected consultant will be required to prepare an in-depth bridge inspection report and structural analysis, identifying structural components and/or members that govern load ratings, and determine both short and long term rehabilitation needs; prepare alternative analysis report for rehabilitation; determine environmental studies

and permit issues needed for each alternative, and complete the environmental studies needed for NEPA clearance for the selected alternative; perform all final design and construction plans including contract special provision and construction cost estimates; and provide engineering services during construction including shop drawing reviews and approvals.

Letters of interest will be evaluated at the Engineering District 3-0 office with emphasis on the following factors:

- Specialized experience and technical competence of the firm including the firm's experience with similar type projects and their ability to provide innovative solutions to complex technical problems.
- Experience of employees to be associated with this project. Particularly important are the key people assigned to the project including their experience and past record of performance with similar projects.
- Overall current workload of the firm.
- Past performance record.

The District will announce the firms that have been shortlisted at an open public meeting scheduled for July 18, 1997, at 10 a.m. at Engineering District 3-0, 715 Jordan Avenue, Montoursville, PA 17754.

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

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to Paul E. Heise, P. E., District Engineer, Engineering District 3-0, 715 Jordan Avenue, Montoursville, PA 17754.

Technical questions concerning the requirements for this project should be directed to Robert H. Haase, P. E., District 3-0, at (717) 368-4391.

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

#### **Berks County**

##### **Project Reference No. 08430AG2075**

The Department of Transportation will retain a consulting firm to provide Right-of-Way Acquisition Services for the S. R. 0222, Section 001 (Lancaster Pike Reconstruction) and Section 002 (Warren Street Extension) projects in Berks County. The estimated construction cost of these projects is \$57 million.

These highway improvement projects will consist of the extension of the Warren Street By-Pass and an upgrade of existing State Route 222 from the existing connection with State Route 422 (Penn Avenue) in Wyomissing Borough to the Lancaster County line near Adamstown with a four-lane limited access facility. Section 001 will be an upgrade of State Route 222 and will include two interchanges. Section 002 will be constructed on new alignment and will include two interchanges and a tie-in to the existing interchange with State Route 422. The total project length for the two sections is approximately 7 miles.

The required services for these projects include, but are not limited to: relocation assistance, appraisal planning, negotiation, title services, property management and claim payment. These projects will include land acquisi-

tion in Wyomissing Borough, Cumru Township, South Heidelberg Township and Brecknock Township.

These projects will involve approximately 215 properties. The number of total takes are 117, with 85 residential and 32 commercial. The number of partial takes are 98, with 80 residential, 12 commercial, one combination commercial/residential and five other (community and the like). The Department will provide the total take plan for these projects.

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

1. Familiarity with the applicable provisions of the Department's Right-of-Way Manual in compliance with Federal and State Regulations, including but not limited to the Pennsylvania Eminent Domain Code, the State Highway Law and the Real Estate Law and the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

2. Experience as a firm with personnel experienced and qualified in performing their assigned functions.

3. Demonstrate ability to perform work in compliance with current Federal and State policies, procedures and regulations.

The District will announce the firms that have been shortlisted at an open public meeting scheduled at Engineering District 5-0 on June 30, 1997, at 11 a.m. in Conference Room A.

Technical questions concerning the requirements for these projects should be directed to Donald E. Lerch, P. E., Design Services Engineer, Engineering District 5-0, at (610) 791-6019.

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

#### **Bucks County**

##### **Project Reference No. 08430AG2076**

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 who will perform construction inspection services on various projects in Bucks County in Engineering District 6-0, on an as-needed basis. The Contract will include roadway and bridge construction projects. The Contract will be for a period of 60 months, with a maximum cost of \$1 million.

It is anticipated that a maximum supplementary construction inspection staff of 15 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 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, Department and District experience and supervisory experience.



b. Specialized experience in asphalt paving, structures, concrete, drainage, paint inspection and Maintenance and Protection of Traffic.

c. Number of NICET certified inspectors in each payroll classification.

d. Understanding of Department's requirements, policies and specifications.

e. Ability to provide CPM scheduling (TCM-1 Classification).

f. Ability to provide a "CDS" operator or someone capable of inputting data into a personal computer (TCIS Classification).

g. Past Performance.

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:

Classification	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1)	1 (1)
(NICET Highway Construction Level 4 or equivalent)	
Transportation Construction Insp. Super. (TCIS)	3 (2)
(NICET Highway Construction Level 3 or equivalent)	
Transportation Construction Inspector (TCI)	6 (4)
(NICET Highway Construction Level 2 or equivalent)	
Technical Assistant (TA)	3 (1)
(NICET Highway Construction Level 1 or equivalent)	
NACE Intermediate Coating Inspector	1 (0)**
NACE Basic Coating Inspector	1 (0)**

\*\* These two specialized classifications will be used for bridge painting inspection. Under these classifications, the selected firm must provide lead abatement training for these employees prior to a job assignment. In addition, the firm must establish, implement and maintain an effective employee medical surveillance in accordance with 29 CFR 1926 throughout the duration of this inspection assignment.

These two specialized classifications will have the following requirements:

1. NACE Intermediate Coating Inspector Training or equivalent.

The inspector for the above NACE Intermediate Coating Inspector Training category shall have completed at least 80% of the required credits for this NACE category or equivalent training; have a minimum of 5 years coating inspection experience on heavy industrial or highway projects; have a minimum of 1 year experience of coatings inspection on a lead removal project where air monitoring, blood monitoring, containment and disposal of lead debris were performed; know OSHA 1926.62 lead regulations, applicable OSHA regulations governing proper respirator usage (29 CFR 1910.134) and lead exposure (29 CFR 1910-1025); be capable of "climbing" on high bridge members to perform coatings inspection;

and be capable of supervising and training lower level coatings inspectors, both consultant and State if necessary. The inspector shall also complete EPA accredited training for lead removal (Title X, Sections 402 and 404) within 6 months of final issuance by approximately June 1997.

2. NACE Basic Coating Inspector Training or equivalent.

The inspector for the NACE Basic Coating Inspector shall have completed at least 80% of the required credits for this category or equivalent training; have a minimum of 3 years coating inspection experience on heavy industrial or highway project; have a minimum of 6 months experience on lead removal project; know OSHA 1926.62 lead regulations, applicable OSHA regulations governing proper respirator usage (29 CFR 1910.134) and lead exposure (29 CFR 1910.1025); be capable of "climbing" on high bridge members to perform coatings inspection; be capable of working with state inspectors; and complete EPA accredited training for lead removal (Title X, Sections 402 and 404) within 6 months of official issuance by approximately June 1997.

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

Payroll Classification	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCM-1)	\$43.61
(TCIS)	\$38.21
(TCI)	\$33.44
(TA)	\$22.98
NACE Intermediate Coating Inspector	\$56.46
NACE Basic Coating Inspector	\$49.09

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

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

The firm selected may be required to attend a 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 complying with the labor standards, safety and accident prevention and equal opportunity provisions of the contract item; and perform other duties as required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation or construction.

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

- 2 Paint Test Kits per project or as needed
- 2 Two-way Radios per project or as needed
- 2 Cellular Phones per project or as needed

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

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI	7
NACE Intermediate	2
NACE Basic	2

No resumes are required for the TA Classification.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to Andrew Warren, District Administrator, District 6-0, 200 Radnor-Chester Road, St. Davids, PA 19087.

Technical questions concerning the requirements for this project should be directed to George Koch, District 6-0, at (610) 964-6719.

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

#### **Statewide**

##### **Project Reference No. 08430AG2077**

The Department of Transportation will retain two engineering firms specializing in protective coatings for two separate Open-End Contracts to perform various tasks specifically for the Districts and/or the Central Office related to painting steel structures. The Contracts will be for a period of 5 years with a maximum cost of \$1.5 million each with projects being assigned on an "as-needed" basis.

The required services may include evaluating the paint condition of steel structures, both field and shop, including corrosion surveys and identification of candidate structures for maintenance painting; assisting the Districts in the design and preparation of structure painting contracts, including recommendations for the selection of the paint system; preparing structure painting specifications; evaluating new coating products; assisting the Districts and Central Office in establishing a bridge painting maintenance program; assisting the Districts in inspecting structure painting contracts; and analyzing paint failures.

The required services may include performing the air, water and soil monitoring for applicable projects and providing the services of a Certified Industrial Hygienist (CIH) as required.

Firms expressing interest in this project must indicate engineering experience in the areas of evaluating, design-

ing, testing, analyzing and inspecting protective coatings for steel structures and must demonstrate familiarity with the Department's policies, procedures and publications.

Firms expressing interest in this project must have the in-house laboratory testing capability for all major paint analyses.

Firms expressing interest in this project must have the potential responsibility to represent the Commonwealth in legal proceedings stemming from this work.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Director, Bureau of Construction and Materials, Attention Kevin Keefe, 1118 State Street, Harrisburg, PA 17120.

Technical questions concerning the requirements for this project should be directed to Kevin M. Keefe, at (717) 783-6298 or David Kuniega, at (717) 787-3966.

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

#### **Statewide**

##### **Project Reference No. 08430AG2078**

The Department of Transportation will retain an engineering firm to provide Fabricated Structural Steel Inspection under the supervision of the Chief Structural Materials Engineer. This inspection will be performed "Statewide" and at out-of-State locations as directed by the Chief Structural Materials Engineer. The contract will include Fabricated Structural Steel Inspection and other items incidental to highway construction at steel fabrication shops and project sites designated by the Department. Inspection will be conducted in accordance with Department's Publication No. 135. The contract will be for a period of 24 months.

It is anticipated that the maximum inspection staff will consist of:

a) 30 Certified Welding Inspectors and 10 Qualified Welding Inspectors (Non-Certified Welding Inspector) may be required at various Statewide and out-of-State fabrication shops as the workload dictates.

b) One two-man crew may be required to perform radiographic inspection as requested by the Chief Structural Materials Engineer.

c) One Staff Engineer may be required to perform professional services at a location at the request of the Chief Structural Materials Engineer.

d) One Metallurgical Engineer may be required to perform professional services at a location at the request of the Chief Structural Materials Engineer.

e) Two Structural Steel Supervisors are required to perform supervisory duties at various Statewide and out-of-State fabrication shops and field locations as the workload dictates.

f) One two-man crew may be required to perform test methods for assessing the adhesion of coating films. This work will be performed at various Statewide and out-of-State fabrication shops and field locations.

g) One two-man crew may be required to perform timber bridge fabrication inspection at various Statewide and out-of-State timber fabrication plants.

The job description for these classifications can be obtained from the Chief Structural Materials Engineer, who is identified at the end of this solicitation.

The Department will establish an order of ranking of a minimum of three firms for the purpose of negotiating a 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 inspector's qualifications with emphasis on fabricated structural steel.
- b) Understanding of the Department's requirements, policies and specifications (including AASHTO and AWS Specifications).
- c) Review of the firm's "Management Plan" for the shop inspection staff.
- d) Number of Certified Welding Inspectors and Non-Certified Welding Inspectors available for this contract within the continental United States.
- e) Key personnel experienced with structural steel shop fabrication practices.
- f) Firm's in-house training program.
- g) Past performance of structural steel inspection in fabrication shops.

The maximum straight time reimbursement per hour of inspection for each Department payroll classification for calendar years 1998 and 1999 will be as follows:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>	
	<i>1998</i>	<i>1999</i>
Certified Welding Inspector (CWI) (ASNT)	40.13	41.54
Qualified Welding Inspector (Non-CWI)	35.12	36.35
Two-man crew performing Radiographic Inspection		
(a) Level II ASNT Radiographer	40.13	41.54
(b) Level I ASNT Radiographer	35.12	36.35
Staff Engineer any location	75.60	75.60
Metallurgical Engineer any location	75.60	75.60
Structural Steel Supervisor	45.79	47.39
Two-man crew performing test methods for assessing the adhesion of coating films		
(a) NACE Corrosion Specialist	75.60	75.60
(b) Corrosion Technician	40.13	41.54
Two-man crew performing Timber Fabrication Inspection		
(a) Structural Supervisor	45.79	47.39
(b) Timber Fabrication Inspector	35.12	36.35

The firm selected will be required to attend prefabrication meetings, quarterly progress review meetings and other meetings with the Department at the request of the Chief Structural Materials Engineer. Under the supervi-

sion and direction of the Department, the selected firm will be required to keep records and documentation and submit inspection charges as outlined in Publication 135. The firm will also assist the Department in complying with the labor standards, safety and accident prevention and equal opportunity provisions of the contract item. The firm must provide American Society of Nuclear Testing (ASNT) Level II Inspectors to witness Radiographic Testing, Ultrasonic Testing, Magnetic Particle Testing and Penetrant Testing. Performing of Ultrasonic Testing, Magnetic Particle Testing and Penetrant Testing may be required by ASNT Level II inspectors.

The qualifications and experience required for 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.

Also, the following minimum qualifications will be taken into consideration:

1. Ability to speak, write, read and understand the English language.
2. Basic knowledge of structural steel fabrication.
3. Prior experience in structural steel shop fabrication.
4. Ability to act as a direct representative of the Engineer.
5. Knowledge of applicable non-destructive testing as required by fabrication specifications.
6. Demonstration of qualifications to the Chief Structural Materials Engineer or his representative. Resumes, showing technical knowledge and experience, have to be submitted to the Department before assigning inspectors to various shops.

The firm's inspection staff assigned to the Structural Materials Unit of the Bureau of Construction and Materials must comply with the following:

80% of the inspection staff must be Certified Welding Inspectors

60% of the inspection CWI staff must be ASNT Level II Inspectors

This inspection staff is under the supervision of a manager who is a Professional Engineer registered in the Commonwealth of Pennsylvania with no less than 4 years of welding related experience.

The Inspection Supervisor shall be a Professional Engineer registered in the Commonwealth or a Certified Welding Inspector (CWI) by the American Welding Society. The Inspection Supervisor is required to provide direct supervision of the inspection staff by making routine visits to assigned shops.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to Direct, Bureau of Construction and Materials, Attention William Miller, 1118 State Street, Harrisburg, PA 17120.

Technical questions concerning the requirements for this project should be directed to William J. Miller, P. E., Chief Structural Materials Engineer, Bureau of Construction and Materials at (717) 787-1950.

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

#### **General Requirements and Information**

Firms interested in providing the above work and services are invited to submit two copies of a letter of

interest and required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the letter of interest and required information must be submitted to Charles W. Allwein, P.E., Chief, Consultant Agreement Division, 7th Floor, Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1900.

The letter of interest and required information 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. prevailing time of the thirteenth day.

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

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

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

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation, shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

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

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

Each letter of interest must include the following information, and the information must be packaged and presented in the following order:

1. Transmittal Letter (maximum of two typed pages, one side)

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

2. Project Organization Chart (one page, one side)

This chart should show key staff from the prime and each subconsultant and their area of responsibility.

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

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

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

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

A Standard Form 254, not more than 1 year old as of the date of this advertisement, must accompany each letter of interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor or a company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

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

These forms shall be assembled with the prime's first, followed by the subconsultant's in the same order as they appear in Item 6 of Form 255.

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

A Workload Projection Graph for the prime and each subconsultant should indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next 2-year time frame. The

Workload Projection Graph should be submitted for the offices where the work would be performed and should only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (if required)

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

7. Registration To Do Business

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

8. Overhead Rates (one page)

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

9. Additional Information

Additional information, not to exceed ten one sided pages or five double sided pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisements will be made to one of the firms who submitted an acceptable letter of interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-888. Filed for public inspection May 30, 1997, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Exide Corporation v. DEP; EHB Doc. No. 96-099-MR**

The parties have agreed to a settlement, the major provisions of which include:

1. Exide will complete construction of a system to collect all "first flush" stormwater; all stormwater collected in that system will be treated at the onsite wastewater treatment plant (WWTP). The collection system shall be completed by March 8, 1998.

2. Exide will pursue relocating its treated wastewater discharge from the unnamed tributary to Bernhart's Creek to the storm sewer which flows into the Schuylkill River. All systems required to complete the relocation shall be constructed no later than April 8, 1999.

3. The Interim Limits contained in the Permit for the following parameters: aluminum, phosphorus, 5-day CBOD, dissolved oxygen, osmotic pressure and MBA's, shall expire on April 30, 1999.

4. Exide must comply with the Final Limits contained in the Permit, or such other final limits as are set by the Department after review of a Toxics Reduction Evaluation, by April 8, 2001, unless Exide has relocated its treated wastewater discharge and is no longer discharging to the unnamed tributary.

5. The Department will modify the Permit at Part A, Pages 3 and 5 to state that Chronic Whole Effluent Toxicity Tests shall be required once every 6 months.

Copies of the full agreement are in the hands of:

Kurt J. Weist, Assistant Counsel, DEP, 400 Market Street, Ninth Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-8790;

David S. Rifkind, Assistant General Counsel, Exide Corporation, 654 Penn Street, Reading, PA 19601, (610) 378-0294;

and at the office of the Environmental Hearing Board and may be reviewed by any interested party on request during normal business hours.

Any person aggrieved by the above settlement has a right to appeal to the Environmental Hearing Board, 400 Market Street, Second Floor, P. O. Box 8457, Harrisburg, PA 17105-8457.

Appeals must be filed within 20 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 783-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

The Environmental Hearing Board is empowered to approve this settlement if no objection is timely made.

[Pa.B. Doc. No. 97-889. Filed for public inspection May 30, 1997, 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>
11-154	Insurance Department Premium Taxes for Foreign Fire Insurance	5/15/97
11-156	Insurance Department Investments of Fire and Casualty Companies	5/15/97
11-158	Insurance Department Conversion of Certain Mutual Insurance Companies	5/15/97

JOHN MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 97-890. Filed for public inspection May 30, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### 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 Rensa, Mary Alyce; file no. 97-264-31977; State Farm Insurance Companies; doc. no. PH97-05-015; June 24, 1997, at 9 a.m.;

Appeal of Horos, Gregory; file no. 97-265-32080; Allstate Insurance Co.; doc. no. PH97-05-016; June 24, 1997, at 9 a.m.;

Appeal of Lawrie, Robert J.; file no. 97-223-30839; State Farm Mutual Automobile Insurance Co.; doc. no. PH97-05-020; June 24, 1997, at 10 a.m.;

Appeal of Leon, Ellen; file no. 97-121-02802; Pennsylvania National Mutual Insurance Co.; doc. no. P97-05-018; June 24, 1997, at 2 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) 787-4289.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-891. Filed for public inspection May 30, 1997, 9:00 a.m.]

### Review Procedure Hearings under The Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insured's policies.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Melko, Richard and Margaret; file no. 97-198-02576; Allstate Insurance Company; doc. no. P97-05-014; June 24, 1997, at 10 a.m.;

Appeal of Buchko, Olga; file no. 97-121-02629; Firemen's Insurance Co. of Washington, D.C.; doc. no. P97-05-013; June 24, 1997, at 11 a.m.

Appeal of Gibbons, William J.; file no. 97-215-30406; Keystone Insurance Company; doc. no. PH97-05-017; June 24, 1997, at 2 p.m.;

Appeal of Cahn, Arminta Fisher; file no. 97-198-02528; American Motorists Insurance Company; doc. no. P97-05-023; July 1, 1997, at 11 a.m.;

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an

auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4289.

LINDA S. KAISER,  
Insurance Commissioner

[Pa.B. Doc. No. 97-892. Filed for public inspection May 30, 1997, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Chester County, Wine & Spirits Shoppe #1521.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in an area north of Route 30, south of Route 401, east of Route 10, and west of Route 29.

*Proposals due:* June 27, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, 4501 Kelly Drive, Philadelphia, PA 19129-1794  
**Contact:** Robert Jolly, (215) 560-5310

Northampton County, Wine & Spirits Shoppe #4807, 401 Main Street, Hellertown, PA 18055-1721.

*Lease Expiration Date:* February 28, 1998

Lease retain commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within 1 mile of the intersection of Main Street (Rt. 412) and Saucon Street, Hellertown Borough.

*Proposals due:* June 27, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Willard J. Rhodes, (717) 657-4228

Allegheny County, Wine & Spirits Shoppe #0240, 111 Herman Avenue, Wilmerding, PA 15148-1226.

*Lease Expiration Date:* May 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 1,800 net useable square feet of new or existing retail commercial space in Wilmerding's Central Business District.

*Proposals due:* June 20, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0280, Eastgate Commerce Center, 2701 Robinson Boulevard, Pittsburgh, PA 15235-1470.

*Lease Expiration Date:* April 30, 1998

Lease retail commercial space to the Commonwealth of

Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 3,500 net useable square feet of new or existing retail commercial space near the intersection of Frankstown Road and Robinson Boulevard in Penn Hills.

*Proposals due:* June 20, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Blair County, Wine & Spirits Shoppe #0707, Valley View Shopping Center, 613 Pleasant Valley Boulevard, Altoona, PA 16602-4803.

*Lease Expiration Date:* March 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in a shopping center environment on Pleasant Valley Boulevard North of 7th Street serving the Altoona area.

*Proposals due:* June 20, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Elk County, Wine & Spirits Shoppe #2402, St. Marys Plaza Shopping Center, 832 S. St. Marys Road, St. Marys, PA 15857-2831.

*Lease Expiration Date:* March 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment in St. Marys.

*Proposals due:* June 13, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Joseph J. Molhoek, (215) 565-5130

Somerset County, Wine & Spirits Shoppe #5601, 41 Center Street, Meyersdale, PA 15552-1101.

*Lease Expiration Date:* May 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space serving the Meyersdale area.

*Proposals due:* June 20, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Westmoreland County, Wine & Spirits Shoppe #6503, 925 Donner Avenue, Monessen, PA 15062-1002.

*Lease Expiration Date:* January 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor

Control Board with approximately 2,000 to 2,500 net useable square feet of new or existing retail commercial space in a shopping center environment in Monessen.

*Proposals due:* June 20, 1997 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 97-893. Filed for public inspection May 30, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Railroad Without Hearing

**A-00113978. 4 States Railway Service, Inc.** Application of 4 States Railway Service, Inc., t/a West Chester Railroad Company for approval to begin to offer, render, furnish or supply rail service to the public between MP 20.1 Glen Mills, Delaware County, and Market Street, West Chester, Chester County, 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 June 16, 1997, under 52 Pa. Code (relating to public utilities).

*Applicant:* 4 States Railway Service, Inc., t/a West Chester Railroad Company, P. O. Box 385, Yorklyn, DE 19736.

*By and Through Counsel:* Gawthrop, Greenwood & Halsted, 119 N. High Street, West Chester, PA 19381-0562.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 97-894. Filed for public inspection May 30, 1997, 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 the 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 June 23, 1997, as set forth at 52 Pa. Code

§ 3.381 (relating to the applications for the transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00113977. U.S.A. Taxi Inc.** (11 Fawn View Road, P. O. Box 1138, Brodheadsville, Monroe County, PA 18322), a corporation of the Commonwealth of Pennsylvania—persons, upon call or demand in the county of Monroe. *Attorney:* John Dunn, 530 Main Street, Stroudsburg, PA 18360.

**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-00113979. Aurora Taxi, Inc.** (114 Mill Street, Danville, Montour County, PA 17821), a corporation of the Commonwealth of Pennsylvania—persons, upon call or demand, in the borough of Danville, Montour County; the boroughs of Riverside, Milton and Watsonstown, Northumberland County; and the borough of Lewisburg, Union County; and within an airline distance of 5 statute miles of the limits of the municipalities; which is to be a transfer of all of the rights authorized under the certificate issued at A-00111375 to Joseph Kenneth Schoppy, t/d/b/a Joe & Jans Taxi Cab, subject to the same limitations and conditions.

**Application of the following for the approval of the transfer of stock as described under each application.**

**A-00109577, Folder 5000. Clearfield Transportation Services, Inc.,** R. D. 2, Box 179, Eldred, McKean County, PA 16731), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of all the issued and outstanding shares of stock from Joan Denochick and Steve Denochick (500 shares) to Brian L. Gustafson, a certificated carrier at A-00111878. *Attorney:* Dwight L. Koerber, Jr., 110 North Second Street, P. O. Box 1320, Clearfield, PA 16830.

**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-00109365, F. 1, Am-C. Milepost Inns, Inc., t/d/b/a Milepost Industries** (775 Baywood Drive, Suite 215, Petaluma, Sonoma County, CA 94954), a corporation of the State of Nevada—inter alia, to transport, as a contract carrier, by motor vehicle, rail carrier employes and their equipment and baggage for Consolidated Rail Corporation (CONRAIL), between points in Pennsylvania: so as to permit the transportation of rail carrier employes and their equipment and baggage, as a contract carrier, for Norfolk Southern Corporation, between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.



**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 June 16, 1997.

A-00113976 P & N Transportation and Leasing, Inc.  
R. D. 1, Box 1283, Orwigsburg, PA 17961

A-00113981 Princeton Armored Service, Inc.  
245 Whitehead Road, Trenton, NJ 08619; Douglas R. Hoffman, 2631 Nottingham Way, Trenton, NJ 08620

A-00113982 Lucille M. Boczar, t/d/b/a Sierra I  
R. D. 1, 323A, Olyphant, PA 18447

A-00113989 Raymond C. Cook, t/d/b/a R. C. Cook  
R. R. 3, Box 65, Tunkhannock, PA 18657

A-00113987 Richard F. Fabery, t/d/b/a Fabery Trucking  
250 Elm Road, Uniontown, PA 15401

A-00095172, F. 5 Evans Delivery Company, Inc.  
P. O. Box 268, Pottsville, PA 17901

A-00113988 NSL, Inc.  
3564 Scottsdale Street, Portage, IN 4638-5420; Mickey Chestovich, 4100 Edison Lakes Parkway, Mishawauka, IN 46545

A-00113990 Shirley Wilson, t/d/b/a S & W Wilson Trucking Co.  
25 Oak Forest Drive, Tunkhannock, PA 18657

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 97-895. Filed for public inspection May 30, 1997, 9:00 a.m.]

**STATE EMPLOYEES' RETIREMENT BOARD****Hearings Scheduled**

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

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

June 18, 1997	Zaynabb El Hashim Bey (Annuity Exemption)	1 p.m.
June 23, 1997	James L. Mann, Sr. (Disability)	1 p.m.
June 30, 1997	Leonard Kern (Decd) (Option Selection)	1 p.m.
July 9, 1997	Charles L. Guise (Annuity Reduction)	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. 97-896. Filed for public inspection May 30, 1997, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

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

**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

#### 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.

BARBARA HAFER,  
State Treasurer

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

**Commodities**

**8126970** Chemicals and containers—25,000 liquid magnesium chloride and 5 each 5,000 gallon tanks, furnish and set up.

**Department:** Transportation  
**Location:** Uniontown, Fayette County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8141300** Construction and building materials—bituminous wearing course: 1800 ton, ID-2, scratch course, SRL-any; 8300 ton ID-2 leveling course, SRL-L and 16600 ton ID-2, SRL-M.

**Department:** Transportation  
**Location:** Mercer, Mercer County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970430** Construction, mining, excavating and highway maintenance equipment—plows: 16 each 721, 46 each 721-B, 16 each 731 and 2 each jump type.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970500** Construction, mining, excavating and highway maintenance equipment—plows, power angle, dual taper: 14 each worm drive and 25 each cylinder.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8126980** Maintenance and repair shop equipment—1 each 75,000 lb. capacity heavy duty track type vehicle lift.

**Department:** Transportation  
**Location:** Uniontown, Fayette County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8126980** Maintenance and repair shop equipment—1 each 75,000 lb. capacity heavy duty track type vehicle lift.

**Department:** Transportation  
**Location:** Uniontown, Fayette County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8118280** Metal bars, sheets and shapes—1730 s. f. corrugated steel 2" x 6" (7 gauge) bridge flooring (galvanized) 24" cover and 663 lbs. 3 1/2" w X 7 gauge cont. steel pl (galvanized) 2 1/2" w X 7 gauge cont. steel pl (galvanized).

**Department:** Transportation  
**Location:** Somerset, Somerset County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970040** Motor vehicles, trailers and cycles—10 each 1997 or 1998 model truck, sign with bucket.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970180** Motor vehicles, trailers and cycles—4 each latest model tractor, manual transmission, tandem, lowboy with wetline, without trailer; 2 each latest model trailer, tandem, lowboy without wetline and 2 each latest model trailer, triaxle, lowboy with air lift rear axle without wetline.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970320** Motor vehicles, trailers and cycles—1997 or 1998 model pickup trucks with air conditioning: 2 each compact, heavy duty; 8 each compact, heavy duty, extended cab; 4 each compact, heavy duty, extended cab with cruise control and 4 each compact, 4 x 4, extended cab.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8970340** Motor vehicles, trailers and cycles—1997 or 1998 model vans with air conditioning and cruise control: 4 each 5 passenger and 2 each mini, passenger.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1953206** Promotional items—40,000 each stickers, peel-off type, illustrated; 80,000 each pencils, round, No. 2 lead various neon colors, printed and 30,000 each identification tags for use on kid's bicycles, book bags, etc., soft vinyl, printed.

**Department:** State Police  
**Location:** Hershey, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1056207** Weapons and accessories—8 each rifles, .308 Winchester tactical. Agency offering trade-ins.

**Department:** State Police  
**Location:** Hershey, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

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# SERVICES

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## Advertising—1

**RFP 98-05**—Kutztown University is seeking proposals from qualified advertising agencies to provide advertising services to the University. The ideal agency will be responsible for but not limited to: placing advertising created by the University in selected media, performing primary/secondary research, serving as creative consultants in advertisement development, etc. All requests for RFP packages should be made in writing and directed to: Barbara Reitz, Director of Purchasing, Kutztown University, Administration Building, Room 224, Kutztown, PA 19530, phone (610) 683-4674, fax: (610) 683-4674, e-mail: reitz@kutztown.edu. The reference RFP number is RFP No. 98-05. Packages will be available June 2, 1997. There will be a pre-proposal meeting on June 13, 1997 at 2:00 p.m. The proposals are due on July 2, 1997 at 2:00 p.m.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 1 year after Notice to Proceed with optional 3 year renewals  
**Contact:** Barbara Reitz, (610) 683-4132

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## Computer Related Services—8

**Project No. 96-36** "Geographic Information System Strategic Plan." The objective of this project is to assist PennDOT in developing a vision for a Geographic Information System (GIS), review and re-engineer the existing GIS accordingly, and create, with an option to implement, a multi-year Strategic Plan for GIS (with an option to implement any or all portions), including time frames and resources needed. Detailed requirements and an RFP are available upon request. Fax requests to Tina Chubb at (717) 783-7971.

**Department:** Transportation  
**Location:** Bureau of Office Services, 8th Floor, 555 Walnut Street, Forum Place, Harrisburg, Dauphin County, PA  
**Duration:** 12 months  
**Contact:** Tina Chubb, (717) 787-7001

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**RFP No. 1997-01** The Department of Aging is seeking to secure a contractor to develop, design and implement an automated computer reporting system including: consumer-based data set, database system and further refinement of the PDA reporting system. The vendor shall provide the necessary services, equipment and software to complete the task. Sealed proposals will be received by the Department until 3 p.m. on Friday, July 25, 1997. A preproposal conference will be held Tuesday, June 16, 1997, at 9 a.m., in the 2nd Floor Auditorium, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301. Interested bidders must request a copy of the RFP by calling (717) 783-3704, or by writing to the Department of Aging, Bureau of Administrative Services, 400 Market Street, 7th Floor, Harrisburg, PA 17101-2301.

**Department:** Aging  
**Location:** Statewide  
**Duration:** Indeterminate 1996-97  
**Contact:** Patricia Lingle, (717) 783-3704

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## Construction Maintenance—9

**Project No. 802** Furnish and install two 8' deep concrete of refueling pads 15' x 30' each surrounding an existing raised concrete meter and pump island.

**Department:** Military and Veterans Affairs  
**Location:** OMS No. 16, 599 Chesapeake Street, Lancaster, Lancaster County, PA  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

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**Project No. 806** Installation of three hydronic unit heaters.

**Department:** Military and Veterans Affairs  
**Location:** OMS, 826 Crane Avenue, Pittsburgh, Allegheny County, PA  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

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**010508** Crawford County—Group 1-97-108; Erie County—Group 1-97-208; Mercer County—SR 0358-409; Mercer County—Group 1-97-408; Venango County—SR 0417-508; Warren County—Group 1-97-608.

**Department:** Transportation  
**Location:** District 1-0  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

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**020711** Clearfield County Group 2-97-ST8; Centre County Group 2-97-ST9; Mifflin County Group 2-97-CR1; McKean County Group 2-97-ST11; Cameron and Clinton Counties Group 2-97-ST12; Juniata County Group 2-97-ST13; Clinton County SR and Section 0220-000; District Wide Group 2-97-ST14; Centre County SR and Section 3014-115; Potter County SR and Section 0006-000; Elk County SR and Section 0948-000.

**Department:** Transportation  
**Location:** District 2-0  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

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**060195** Removal of existing pavement marking by an approved method that causes the least damage to the pavement surface. Furnish all traffic control devices and materials necessary to maintain and to protect traffic during the removal operation. Removal of pavement markings to be performed in two stages.

**Department:** Transportation  
**Location:** Limekiln Pike between Easton Road and Mt. Carmel Avenue in Cheltenham Township, Montgomery County, PA  
**Duration:** August 1, 1997 to August 31, 1997  
**Contact:** Larry Bucci, (610) 768-3056

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**080969** Bradford County State Route 14, Section 60M; Bradford County State Route 220, Section 61M; Lycoming County State Route 118, Section 01M.

**Department:** Transportation  
**Location:** District 3-0  
**Duration:** FY 1997/98  
**Contact:** Paul W. Beaver, Contract Management Supervisor, (717) 368-4263

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**080971** Crawford County SR 322 (08M); Erie County SR 90 (ITS); McKean County SR 59 (C01); Elk County SR 120 (808); District Wide Group 3-96-DPM; Columbia County SR 11 (54S); Lycoming County SR 220 (053); Union County SR 15 (96M); Lehigh County SR 1002 (05S); Bucks County SR 2002 (52M); Montgomery County SR 76 (PM2); Philadelphia County SR 3017 (09N); District Wide 9911-ITS; Adams County SR 94 (005); Franklin County SR 995-003/2002-002; York County SR 2031 (003); York County SR 3020 (002); York County SR 262 (004); Dauphin County SR 3006 (004); Lebanon County SR 4004-002/4022-002; District Wide Group 9-97-EPM2; Bedford County SR 96 (I0M).

**Department:** Transportation  
**Location:** Districts 1-0, 2-0, 3-0 5-0, 6-0, 8-0, 9-0  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

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**080972** Allegheny County Group 111-97-7135-1; Beaver County Group 112-97-7135-1; Greene County SR 19 (08R); Westmoreland County Speers Run Bridge; Westmoreland County SR 1055 (A11); Lehigh County Group 5-97-POC3D.

**Department:** Transportation  
**Location:** Districts 11-0, 12-0, 5-0  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

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**120S11** Surface Improvement Projects as follows: Group 12-97-SI1-2 in Fayette and Westmoreland Counties, Group 12-97-SI2-2 in Greene County, Group 12-97-SI4-2 in Washington County, Group 12-97-SI5-3 in Westmoreland County.

**Department:** Transportation  
**Location:** District 12-0  
**Duration:** FY 1997-98  
**Contact:** V. C. Shah, (717) 787-5914

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**08430AG2075** To provide Right-of-Way Services for the S. R. 0222, Section 001 (Lancaster Pike Reconstruction) and Section 002 (Warren Street Extension) projects in Berks County, Engineering District 5-0.

**Department:** Transportation  
**Location:** Engineering District 5-0  
**Duration:** 36 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**DGS A 555-62** Project title: Replace and upgrade existing Heating and Air Conditioning Systems. Brief description: Remove existing cast iron radiators and related steam and condensate piping and furnish and install a new 4-pipe fan coil heating and air conditioning system including all electrical circuits, controls, pipe chases and soffits. Extend new piping systems and electrical circuits from existing systems in the building. Mechanical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125, (717) 787-3923. Bid date: Wednesday, June 11, 1997 at 11 a.m. A prebid meeting will be held June 2, 1997, at 10 a.m., 1st floor conference room Building No 17, Room 114, Hamburg Center, Hamburg, PA. Contact Bruce Tasker at (610) 562-6124.

**Department:** General Services  
**Location:** Hamburg Center, Hamburg, Berks County, PA  
**Duration:** 150 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS 581-8** Project title: New Bathrooms in Hemlock Hall. Brief description: Demolition and reconstruction of existing bathroom facilities including HVAC, plumbing, electrical upgrades and replacement of systems. General, HVAC, plumbing and electrical construction. Plans deposit: \$77 per set. Payable to: Michael J. Pasonick, Jr. & Associates, Inc. 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 requests to: Michael J. Pasonick, Jr. & Associates, Inc., 165 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18702, (717) 823-4712. Bid date: Wednesday, June 11, 1997 at 2 p.m.

**Department:** General Services  
**Location:** White Haven Center, White Haven, Luzerne County, PA  
**Duration:** 250 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**Contract No. DGS 583-10** Project title: Renovate Unit V. Brief description: HVAC work covering installation of fan coil units, air handling units, air cooled chiller with underground piping, cold water and hot water pumps with piping and ductwork with associated electric renovations. HVAC and electrical construction. Plans deposit: \$80 per set. Payable to: Ridgeline Engineering, Inc. 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. Ridgeline Engineering, Inc., 445 Schoolhouse Road, Room F-206, Johnstown, PA 15904, (814) 266-1253. Bid date: Wednesday, June 11, 1997, at 11 a.m.

**Department:** General Services  
**Location:** Ebensburg Center, Ebensburg, Cambria County, PA  
**Duration:** 270 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**ESU 405-352A** ESU is accepting bids on ESU 405-352A, Abeloff Convocation Center Interior Refurbishment. General estimate \$500K, electric estimate \$200K. Nonrefundable bid specs at \$50 payable to Kieran, Timberlake & Harris, 20 North 3rd Street, Philadelphia, PA 19106. Work includes interior refurbishment of seats, wood paneling, paint, plaster and electrical. For special accommodations call Zaffy Zaffuto at (717) 422-3595. All responsible bidders are invited to participate, including MBE/WBE firms. Pre-bid June 11, 1997. Bid open July 2, 1997.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, East Stroudsburg, PA 18301-2999  
**Duration:** 190 days after Notice to Proceed  
**Contact:** Kieran, Timberlake & Harris, (215) 922-6600

**WC 635** West Chester University is soliciting sealed bids for Project WC 635—renovation of 102 West Rosedale Avenue. The work consists of the complete renovation of porch to indoor space, and new stair addition to 3 story stone house. New mechanical, electrical, telephone fire alarm and partial sprinkler systems. Four prime contracts will be awarded—general construction, mechanical, plumbing and electrical. The prebid conference and site visit will be held at 10 a.m. meeting at the site, and bids will be due and publicly opened at 11 a.m. on July 3, 1997. Specifications are available from Cecil Baker & Associates, Attn: Kirsten Westlund, (215) 928-0202. Prevailing wages apply.

**Department:** State System of Higher Education  
**Location:** West Chester University, 102 West Rosedale Avenue, West Chester, PA 19383  
**Duration:** 120 calendar days from Notice to Proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

## Elevator Maintenance—13

**304-07397** The awarded contractor must provide a "full service" elevator maintenance program on the elevator equipment which are 6 Grearless Passenger and 1 Grearless Passenger/Service both manufactured by Haughton. Said service shall include labor, supervision, materials, equipment and tools necessary to maintain the elevators in first-class operating condition at all times.

**Department:** General Services—Buildings & Grounds  
**Location:** Buildings and Grounds, Philadelphia State Office Building, 1400 West Spring Garden Street, Philadelphia, PA 19130  
**Duration:** July 1, 1997 through June 30, 1999  
**Contact:** William Ivers, (215) 560-2518

## Engineering Services—14

**260211** Hydrogeologic investigation and site assessment project at Mayview State Hospital to determine presence of soil and groundwater contamination resulting from release of product from an underground storage tank that has been removed from the facility; and also to determine the magnitude and the lateral/vertical direction of the residual contaminants. It shall be the intent of the contract for the contractor to provide a complete investigation of the site, furnish all management, equipment, materials and labor necessary to conduct the project in compliance with the applicable laws, regulations and procedures of all authorities governing the work required and to provide a final report of activities and findings.

**Department:** Public Welfare  
**Location:** Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599  
**Duration:** 7-1-97—6-30-98  
**Contact:** F. Molisee, Purchasing Agent, (412) 257-6215

**08430AG2073** On-call survey contract for preliminary, final and construction related survey on various projects in Engineering District 10-0, which is Armstrong, Butler, Clarion, Indiana and Jefferson Counties.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** 30 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2074** Retain an engineering firm to perform in-depth bridge inspection, environmental studies, preliminary engineering, final design and services during construction for S. R. 0405, Section 064 in Lycoming County.

**Department:** Transportation  
**Location:** Engineering District 3-0  
**Duration:** 48 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2076** Open-End Contract to provide supplementary construction inspection staff to perform construction inspection services in Bucks County on an as-needed basis.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** 60 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2077** Two separate open-end contracts to perform various specialty tasks related to painting steel structures throughout the Commonwealth of Pennsylvania on an as-needed basis.

**Department:** Transportation  
**Location:** Statewide  
**Duration:** 60 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2078** To provide fabricated structural steel inspection for Statewide and out-of-State locations.

**Department:** Transportation  
**Location:** Statewide  
**Duration:** 24 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**PDA398** The PA Hardwoods Development Council established in 1988 by the Legislature, is now seeking grant proposals for FY 1997/1998. The Council's mission is to promote the economic development and expansion of PA's hardwood industry. Priority areas for grant awards include: projects that identify opportunities or initiatives involving local governments and other entities to promote access to the timber resource on both public and private lands; projects that assist with the development of domestic and international markets for the PA forest products industry; projects that seek to expand the development, processing and manufacturing of value-added forest products; projects that seek to promote public knowledge and understanding regarding the role that the forest industry and its products play in our society. Include a full description of how the funds will be allocated. Proposals will be evaluated promptly by a review team. No single grant shall exceed \$50,000. Total grant awards will not exceed \$250,000. Grants awarded will be for a one-year period (FY 1997/1998) with three, one-year options to extend. Proposals relating to the priorities of the Council will have a greater probability of funding. Proposals, outside the scope of the Council's priorities will also be given consideration. The review team may choose to award a portion of the proposed grant amount. Send three copies of the proposal by close of business 4 p.m. EDT, July 1, 1997, to Bradley R. Jones, PA Hardwoods Development Council, 2301 North Cameron Street, Room 310 Agriculture Building, Harrisburg, PA 17110-9408, phone (717) 772-3715; Fax (717) 705-0663.

**Department:** Agriculture  
**Location:** Statewide  
**Duration:** 1 year with three 1-year options to extend  
**Contact:** PA Hardwoods Development Council, (717) 772-3715

**08430AG2069** Inventory and inspection of various locally owned bridges located in Cameron, Centre, Clearfield, Elk and Juniata Counties all within Engineering District 2-0.

**Department:** Transportation  
**Location:** Engineering District 2-0  
**Duration:** 60 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2070** To provide supplementary construction inspection staff of approximately 13 inspectors under the Department's Inspector-in-Charge for construction inspection and documentation services on seven projects in Engineering District 12-0, which is Greene, Washington and Westmoreland Counties.

**Department:** Transportation  
**Location:** Engineering District 12-0  
**Duration:** 12 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2071** To define problems and needs; investigate all applicable Intelligent Transportation System (ITS) user services and each component of an Intelligent Transportation Infrastructure; establish performance criteria; develop a user service plan; define functional requirements, architecture and deployment plan for the Harrisburg, Lebanon and Carlisle Metropolitan Area.

**Department:** Transportation  
**Location:** Engineering District 8-0  
**Duration:** 18 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2072** Retain an engineering firm to perform environmental and preliminary engineering, final design and services during construction for S. R. 6015, Section E61 and S. R. 0015, Sections F12 and F13 in Tioga County.

**Department:** Transportation  
**Location:** Engineering District 3-0  
**Duration:** 48 months  
**Contact:** Consultant Agreement Division, (717) 783-9309

## Environmental Maintenance Services—15

**A-112-101.7** On-call contract for mechanical maintenance of Acid Mine Drainage Treatment Plants at Rausch Creek, Sandy Run and Buck Mountain. Estimated quantities 200 hours for mechanic, 150 hours for helper, repair parts and materials at cost.

**Department:** Environmental Protection  
**Location:** Schuylkill, Luzerne and Carbon Counties, PA  
**Duration:** Until June 30, 1998  
**Contact:** Construction Contracts Unit, (717) 783-7994

**A-113-101.7** On-call instrumentation maintenance for the Rausch Creek Acid Mine Drainage Treatment Plant. Involves the services of a technician for an estimated 150 hours, repair parts and materials to be paid at invoice price.

**Department:** Environmental Protection  
**Location:** Hegins Township, Schuylkill County, PA  
**Duration:** Until June 30, 1998  
**Contact:** Construction Contracts Unit, (717) 783-7994

## Financial and Insurance Consulting—17

**015** Request for proposal to provide consultation and evaluation to analyze the Commonwealth's self-insurance program; consisting of: Underwriting, Safety and Loss Prevention, Tort claims and Pre-litigation, Group Life Insurance and Annuity program. The selected vendors will waive the right to participate in recommended contracting solutions.

**Department:** General Services  
**Location:**  
**Duration:** 3 months  
**Contact:** Michael Adams, (717) 782-0274

## Food—19

**8318** Miscellaneous foods. Delivery dates, special delivery instructions and quantities may be obtained from the Hospital. Award to be made on an item for item basis. Delivery schedules 8 a.m.—3:30 p.m., Monday—Friday except State and National holidays.

**Department:** Public Welfare  
**Location:** Warren State Hospital, Institutional Storeroom, Route 62 North, North Warren, Warren County, PA 16365  
**Duration:** July 1997  
**Contact:** JD Sample, (814) 726-4448

**8319** Meat and meat products. Delivery dates, special delivery instructions and quantities may be obtained from the Hospital. Award to be made on an item for item basis. Delivery schedules 8 a.m.—3:30 p.m., Monday—Friday except State and National holidays.

**Department:** Public Welfare  
**Location:** Warren State Hospital, Institutional Storeroom, Route 62 North, North Warren, Warren County, PA 16365  
**Duration:** July 1997  
**Contact:** JD Sample, (814) 726-4448

**8329** Bread, rolls and related products, fresh. Delivery dates, special delivery instructions and quantities may be obtained from the Hospital. Award to be made on an aggregate basis. Delivery schedules 8 a.m.—3:30 p.m., Monday—Friday except State and National holidays.

**Department:** Public Welfare  
**Location:** Warren State Hospital, Route 62 North, North Warren, Warren County, PA 16365  
**Duration:** July 1997—December 1997  
**Contact:** BD Muntz, (814) 726-4496

**PB-0055** White bread—124,650 loaves. To be bid out by institution as needed.

**Department:** Corrections  
**Location:** State Correctional Institution at Coal Township, 1 Kelley Drive, Coal Township, PA 17866  
**Duration:** July 1, 1997 through June 30, 1998  
**Contact:** Nancy A. Lasko, Purchasing Agent II, (717) 644-7890, ext. 142

**SWIF-3-97** Supply drinking water and hot/cold water coolers to State Workers' Insurance Fund. Deliveries on a weekly or bi-weekly basis, as determined by SWIF.

**Department:** Labor and Industry  
**Location:** State Workers' Insurance Fund, 100 Lackawanna Avenue, Scranton State Office Building, Scranton, Lackawanna County, PA 18503  
**Duration:** 07/01/97 to 06/30/98  
**Contact:** Anne Kearney, Purchasing Agent, (717) 963-4614

**Fuel Related Services—20**

**159 Rebid—Corrected** Removal of three underground storage tanks. One of the tanks is a fuel oil storage tank located at Power Plant and the other two tanks are gasoline storage tanks located at the Warehouse.

**Department:** Public Welfare  
**Location:** Polk Center, Polk, Venango County, PA 16342  
**Duration:** 8/1/97—10/31/97  
**Contact:** Patty Frank, Purchasing Agent, (814) 432-0397

**Project No. AST-157** Project title: Install 5 ASTs. Project description: Install five 1,000 gallon gas/1,000 gallon diesel dual aboveground fuel storage tanks (ASTs). Fuel tanks, tank accessories and concrete base slabs provided by the PA Game Commission. Contractor to coordinate tank delivery and provide crane to lift and set tank; install electrical conduit, junction boxes, conductors, light fixture and switches; install leak detection probes and alarm box. Bid opening date: June 20, 1997.

**Department:** Game Commission  
**Location:** SGL's 33 and 176 Centre County, SGL 84 Northumberland County, SCRO Huntingdon County and Western Game Farm, Crawford County, PA  
**Duration:** 60 calendar days from issuance of contract  
**Contact:** Engineering and Contract Management Division, (717) 787-9620

**Contract No. FDC-003-81** Removal of existing fuel systems at two sites (1—1,000 and 1—2,000 gallon gasoline tanks and 1—1,000 and 1—2,000 gallon diesel tanks); soil testing; and contaminated soil disposal (25 c. y.). Work sites are at the East Licking Creek Ranger Headquarters and Bryner Ranger Headquarters.

**Department:** Conservation and Natural Resources  
**Location:** Milford Township, Juniata County and Toboyne Township, Perry County, PA  
**Duration:** 60 days  
**Contact:** Construction Management Section, (717) 787-5055

**Heating, Ventilation, Air Conditioning—22**

**Project No. 801** HVAC: furnish and install two 200,000 BTU blower-type automatic gas unit heaters and two 16,700 BTU input high efficiency vented gas heaters.

**Department:** Military and Veterans Affairs  
**Location:** OMS No. 16, 599 Chesapeake Street, Lancaster, Lancaster County, PA 17602  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 803** Renovations and repairs to propane fired heating units.

**Department:** Military and Veterans Affairs  
**Location:** OMS, 1300 Penn Street, Williamsport, Lycoming County, PA 17602  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 805** Connect electric to the fuel dispensing system.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG, 111 Armory Drive, Spring City, Chester County, PA 17602  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

**Contract No. FDC-104-271** Providing, installing, testing and balancing of the heating, ventilating and air conditioning system for the new maintenance building at Chapman State Park. Main items of work include: condensing and air handling units; duct work; grilles and diffusers; exhaust equipment and duct work; gas fired unit heaters; and associated piping and electrical interface and connections.

**Department:** Conservation and Natural Resources  
**Location:** Pleasant Township, Warren County, PA  
**Duration:** 90 days  
**Contact:** Construction Management Section, (717) 787-5055

**Contract No. FDC-104-272** Providing, installing and testing of all water and gas supply piping and equipment for the new maintenance building at Chapman State Park. Main items of work include: gas fired hot water heaters and vent system; hot and cold domestic water supply and gas supply piping, valving and fittings; and connection of piping to all fixtures, devices and radiant slab heating system.

**Department:** Conservation and Natural Resources  
**Location:** Pleasant Township, Warren County, PA  
**Duration:** 90 days  
**Contact:** Construction Management Section, (717) 787-5055

**WC 649** West Chester University is soliciting sealed bids for the mechanical work at 210 East Rosedale Avenue. The building is a two story structure with masonry bearing walls and light steel and wood joist interior framing. The new occupancy will be offices for University departments. The mechanical system is a split system providing both heating and air conditioning. The mechanical work shall consist of modifications to existing rooftop units, installation of one new rooftop unit and an exhaust fan, interior ductwork and air devices and associated controls. The work will be coordinated with that of West Chester University forces performing the work of all other trades. Prevailing wages apply.

**Department:** State System of Higher Education  
**Location:** West Chester University, 210 East Rosedale Avenue, West Chester, PA  
**Duration:** 45 calendar days from Notice to Proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

**Janitorial Services—23**

**4610** To provide and maintain a standard of sanitation in offices, lunchrooms, meeting rooms, locker rooms, shower stalls and restrooms at the equipment division.

**Department:** Transportation  
**Location:** 17th and Arsenal Boulevard, Harrisburg, PA 17120  
**Duration:** August 1997 to July 2002  
**Contact:** Carla Crist, (717) 787-2335

**025001** Janitorial services at maintenance building located at Cyclone, PA. Contractor to supply necessary supervision and personnel for daily cleaning (Monday through Friday) of 17 areas, consisting of: floors, desks, tables and filing cabinets. Restroom areas cleaned and sanitized daily. Contractor to supply all materials and equipment.

**Department:** Transportation  
**Location:** Star Route 1, Box 124, Cyclone, PA 16726  
**Duration:** 07-01-97 to 06-30-98  
**Contact:** Ronald J. Kein, (814) 465-7754

**Service Purchase Contract Number 337502** \*Rebid Janitorial Services. Provide janitorial services for ten family cabins located within French Creek State Park, Berks County, PA. Documents containing all pertinent information can be obtained from the Park Office.

**Department:** Conservation and Natural Resources  
**Location:** French Creek State Park, 843 Park Road, Elverson, Berks County, PA 19520-9523  
**Duration:** October 1, 1997 through December 31, 1998 (with renewal option)  
**Contact:** Randall L. Frey, Park Manager, (610) 582-9680

**Laboratory Services—24**

**C 03418** Services to provide detailed analysis of bituminous and anthracite coal samples to determine their chemical and physical characteristics.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Topographic and Geologic Survey, Harrisburg, PA  
**Duration:** 7/1/97—6/30/98 (w/renewal option)  
**Contact:** Corey Gaiski, (717) 783-0760

**Lodging/Meeting Facilities—27**

**SPC No. 216943** Contractor will provide lodging, meals (breakfast/lunch/dinner/am and pm breaks), meeting rooms and ancillary equipment for assessment advisory committee meetings within a 20-mile radius of 333 Market Street, Harrisburg, PA. Meetings will be held on various dates from July 1, 1997 through June 30, 1998. Meetings will be for 25 to 75 persons each. Quiet, well-lighted, spacious meeting facilities are mandatory. All sites will be subject to inspection prior to contract award.

**Department:** Education  
**Location:** Within 20-mile radius of 333 Market Street, Harrisburg, PA  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Lee Plempel, (717) 787-4234

**Medical Services—29**

**Inquiry No. 110006** Contractor to provide basic life support and advanced life support ambulance services as required by Southwestern Veterans Center. Specifications of contract available upon request.

**Department:** Military and Veterans Affairs  
**Location:** Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206-1297  
**Duration:** 7/1/97 to 6/30/99  
**Contact:** Ken Wilson, Purchasing Agent, (412) 365-5594

**RFA 96-07-13** To provide medical, psychological, or social programs for persons with sickle cell disease to improve their quality of life.

**Department:** Health  
**Location:** Statewide  
**Duration:** January 1, 1998—December 31, 2000  
**Contact:** Maryann McCarthy, R. N., C., (717) 783-8143

**SP284327** Medical treatment and care for our 340+ residential students at SSV. This service is required when students are on campus (mid August through the first week in June). Services include, but are not limited to, providing daily "sick call" visits to campus (Monday—Friday, Saturday if necessary); providing physical examinations, particularly for athletes; performing minor surgery and providing on-call service, providing assistance to our registered nurses concerning medical care, if necessary. Contract will be a four-year option to renew by mutual agreement.

**Department:** Military and Veterans Affairs  
**Location:** Scotland School for Veterans' Children, 2583 Scotland Road, Scotland, PA 17254-0900  
**Duration:** August 11, 1997—June 30, 1998, four year option to renew  
**Contact:** Ronald J. Sheppard, (717) 264-7187, ext. 690

**Personnel, Temporary—31**

**IFB No. 1997-02** The State System of Higher Education—Dixon University Center is soliciting Invitations to Bid to supply temporary personnel services to various operating components of the Office of the Chancellor. State proposes that if a contract is entered into as a result of this IFB, it will be a multi-year "Blue Back" contract. Interested parties should call A. Jane Collier at (717) 720-4086 or Linda Venerri at (717) 720-4135 to receive a bid package. All bids must be received by June 17, 1997, 4 p.m.

**Department:** Employee and Labor Relations  
**Location:** State System of Higher Education Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110  
**Duration:** 7/1/97 to 6/30/98  
**Contact:** Nancy Zeigler or A. Jane Collier, (717) 720-4151 or (717) 720-4086

**Property Maintenance—33**

**Project No. 804** Install security fence with gate around Motor Vehicle Storage Compound.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG, 304 Church Street, New Milford, Susquehanna County, PA  
**Duration:** 1 July 97—30 September 1998  
**Contact:** Emma Schroff, (717) 861-8518

**800** Furnish all labor, equipment and markings materials required to renew and/or refurbish, Rest Area Parking Stalls, State Police Aerial Reconnaissance and Enforcement Stripes (S.P.A.R.E.), Gore/Buffer Zone Cross Striping, and Railroad Crossing Markings and Legends at various locations within 8 Counties of District 8-0, PennDOT. Prequalification required and bid bond required. All work must conform to existing PA Department of Transportation Specifications.

**Department:** Transportation  
**Location:** Various locations within PennDOT District 8-0—8 County Area  
**Duration:** 1 year  
**Contact:** Ronald C. Brown, P. E., (717) 783-3981

**Real Estate Services—35**

**987A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Agriculture with 5,150 useable square feet of new or existing office space, with minimum parking for 15 vehicles in Gibsonia, Allegheny County, PA, within a 4 mile radius of Exit 4, Gibsonia, of the PA Turnpike. Proposals due: June 23, 1997. Solicitation No.: 92484.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1997-98  
**Contact:** Doris Deckman or Edward P. Meyer, (717) 787-4394



**988A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 9,157 useable square feet of new or existing office space in Huntingdon, Huntingdon County, PA, with minimum parking for 18 vehicles, within the Borough of Huntingdon and/or Smithfield Township. In areas where street or public parking is not available; an additional 18 parking spaces are required. Proposals due: June 30, 1997. Solicitation No. 92485.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1997-98  
**Contact:** Doris Deckman or Cynthia T. Lentz, (717) 787-4394

### Vehicle, Heavy Equipment—38

**0810** Preventative maintenance service on overhead doors and related hardware.

**Department:** Transportation  
**Location:** 1185 Fairfield Road, Gettysburg, PA  
**Duration:** 12 months  
**Contact:** Charles F. Duncan, (717) 783-1392

**0880** Tire repair including mounting and dismounting.

**Department:** Transportation  
**Location:** 1445 Cumberland Street, Lebanon, PA  
**Duration:** 1 year with renewal options  
**Contact:** Dennis Hartman, (717) 272-6636

### Miscellaneous—39

**RFP No. 13-97** The general objective of this Request for Proposal (RFP) is to obtain support services for The Nursing Facility Information System (NIS) Case-Mix Reimbursement System. The Department of Public Welfare Nursing Facility Services Case-Mix Reimbursement regulations (Chapter 1187) place requirement on the collection of resident assessment information, cost data and the development of quarterly payments rates for nursing facilities. The NIS is used to compute these per diem rates. This proposed contract will provide a continuation of these services as implemented by our current contract. Also, the long term care industry has requested that we automate the MA 11 Cost Report that they are required to submit annually to the Department and the task of developing the automated (electronic) system is included in our RFP.

**Department:** Public Welfare  
**Location:** Statewide  
**Duration:** The initial contract will be for 3 years with the option to renew for 2 additional years.  
**Contact:** Polly Hahn, (717) 787-7585

**Inquiry No. 110-0005** Contractor to supply professional services of funeral director/staff. Specifications of contract available upon request.

**Department:** Military and Veterans Affairs  
**Location:** Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206-1297  
**Duration:** 7/1/97 to 6/30/99  
**Contact:** Ken Wilson, Purchasing Agent, (412) 365-5594

**012-9005-04** Learn & Serve America: Community-based Program Grants. PennSERVE: The Governor's Office of Citizen Service announces the availability of funds for the development or expansion of high quality service-learning programs for fiscal year 1997-98. Eligible applicants are non-profits (including a church or religious entity) that have been in existence and have been performing service-learning activities for a year prior to this announcement. Program Application with original and 10 unbound copies are due to the PennSERVE Office by 4 p.m., EST, June 23, 1997.

**Department:** Labor and Industry  
**Location:** PennSERVE, 1304 Labor and Industry Building, Harrisburg, PA 17120  
**Duration:** 1 year  
**Contact:** Harry Krot/Margaret F. Madigan, (717) 787-1971

**B-7727** Vendor to repair services to emergency generators and integral switchgear located at State Correctional Institution-Graterford. Vendor to respond to repair calls on a 24 hour basis. A 2 hour response time on emergency calls will be required. Equipment included on contract: 2 each O-Brien Model OB1025K-DW63-Substation, 1 each Caterpillar Model AR 4W 3812 Waste Treatment Plant, 1 each Onan Model 300.00 FM-172/30744 Warehouse, 1 each Cummins SO 49558 Powerhouse, 1 each Onan Model 150.OV E-15R-28374B J Block.

**Department:** Corrections  
**Location:** State Correctional Institution-Graterford, Box 246, Graterford, PA 19426  
**Duration:** 3 years  
**Contact:** Kelly Richardson, (610) 489-4151

[Pa.B. Doc. No. 97-897. Filed for public inspection May 30, 1997, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

STATE CONTRACT INFORMATION

2699

**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>
1018157-01	5/15/97	Innovative Control Source	13,486.00
1569116-01	5/14/97	Iris Ltd., Inc.	16,880.00
1677116-01	5/16/97	Atlantic Textiles Co.	162,000.00
1677116-02	5/16/97	ATD American Co.	128,800.00
1743116-01	5/14/97	Allegheny Refrigeration Service	8,160.00
1753356-01	5/15/97	Keystone Airgas, Inc.	79,443.00
1769356-01	5/16/97	Cumberland Truck Equipment Company	65,954.00
1786226-01	5/14/97	American Excelsior	11,625.00
1795306-01	5/15/97	Steel Fixture Mfg. Co.	16,596.57
1831356-01	5/14/97	Frank Barker Associates, Inc.	12,004.50
1832386-01	5/14/97	Borealis Yurts	13,339.60
1891116-01	5/14/97	JC Vinyl Window Mfg. Co.	15,505.50
1906386-01	5/20/97	Mabie Brothers, Inc.	54,900.00
1911166-01	5/14/97	Xerox Corporation	10,972.00
1913216-01	5/14/97	Unionvale Coal Co.	39,460.32
1923156-01	5/14/97	Baltimore Aircoil	6,198.00
1934216-01	5/14/97	Rumsey	9,850.50
1935216-01	5/14/97	F. T. Thomas Pump and Supply, Inc.	3,672.72
1938076-01	5/15/97	Moores Business Forms and Systems Div.	8,522.50
1940076-01	5/15/97	Moore Business Forms and Systems Div.	15,592.00

**Requisition**

<b>Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
1948206-01	5/14/97	Fisher Scientific Co.	19,320.00
1993116-01	5/14/97	J. Weinstein & Sons, Inc.	66,566.97
1999306-01	5/14/97	Zachary Plumbing and Htg.	9,865.00
4230-01	5/27/97	Susquehanna Fire Equip. Co.	59,298.00
4230-01	5/27/97	Mack Sales and Service, Inc.	190,421.00
4230-01	5/27/97	Miller Fire and Safety Equipment	7,154.50
4230-01	5/27/97	National Mine Service, Inc.	36,253.11
4230-01	5/27/97	Halprin Supply Company	178.00
4230-01	5/27/97	Mine Safety Appliances Co.	359.80
4230-01	5/27/97	Safeware, Inc.	5,662.45
4230-01	5/27/97	IPCO	977.00
6760-02	5/23/97	Eastman Kodak Company	9,000.00
6760-02	5/23/97	IMR Limited	153,000.00
6760-02	5/23/97	Micrographic Systems, Inc.	300,000.00
6760-02	5/23/97	Reynolds Business Sys., Inc.	4,000.00
6760-02	5/23/97	Commonwealth Office Sys., Inc.	27,000.00
6760-02	5/23/97	Anacomp, Inc.	705,000.00
7313830-01	5/15/97	Weldon Williams & Lick	3,264.24
8010-08	5/23/97	Sherwin Williams	34,840.00
8122180-01	5/14/97	Load O Meter Corp.	12,800.00
8160890-01	5/14/97	Caron/East, Inc.	3,587.65

## STATE CONTRACT INFORMATION

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>	<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
8160890-02	5/14/97	Keystone Precision Instruments	3,963.00	8503830-01	5/14/97	Fleet Parts and Electrical Service, Inc.	6,980.00
8160890-03	5/14/97	Elcometer, Inc.	19,935.24				

GARY E. CROWELL  
*Secretary*

[Pa.B. Doc. No. 97-898. Filed for public inspection May 30, 1997, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 51, 136, 138, 139 AND 158]]

### Health Facility Licensure

The Department of Health (Department) proposes to amend Part IV (relating to health facilities) by adding Chapters 51, 136, 138, 158 and amending Chapter 139 to read as set forth in Annex A.

#### *Purpose and Procedure*

This proposed rulemaking amends the standards a hospital needs to satisfy to secure authorization to perform open heart surgery, cardiac catheterizations, organ transplantation surgery and to provide services to newborns under its hospital license. They also would prohibit open heart surgery, cardiac catheterizations and organ transplantation surgery from being performed at nonhospital locations. Finally, the Department proposes to add a general information chapter which would set forth regulations which are applicable to all health care facilities.

On December 18, 1996, those provisions of the Health Care Facilities Act (act) (35 P. S. §§ 448.101—448.904b), relevant to the Certificate of Need (CON) Program terminated. See section 904(a) of the act (35 P. S. § 448.904(a)). On December 14, 1996, the Department published notice that it would undertake a review of those clinically related health services covered under the CON Program. See 26 Pa.B. 6029 (December 14, 1996).

This review involved the formation of 14 work groups to review the 23 clinically related health services which were previously reviewed under the CON Program. The members of the work groups, in addition to representatives from the Department's CON licensure and legal staff, were chosen for their expertise and knowledge of the particular service. Each work group included a physician who practiced the particular specialty under review. Additionally, representatives of Statewide organizations in the health care arena were invited to participate in the work groups. The work groups were chaired by either a Deputy Secretary or the Department's Chief Counsel.

The 14 work groups were organized to review the following services: (1) ambulatory surgical care; (2) cardiac catheterization; (3) long-term care; (4) neonatal care; (5) open heart surgery; (6) vital organ transplantation; (7) comprehensive medical rehabilitation—inpatient; (8) drug and alcohol rehabilitation—inpatient; (9) emergency department; (10) intermediate care facility/mentally retarded (ICF/MR); (11) lithotripsy—biliary and renal; (12) magnetic resonance imaging (MRI) and positron emission tomography (PET); (13) medical surgery and inpatient surgery; and (14) psychiatric inpatient—adult, child and adolescent.

The Department determined that the work groups on open heart surgical services, organ transplantation surgical services, cardiac catheterization services and neonatal services should begin to meet immediately. This was due to the need to address as quickly as possible any quality assurance gaps which could be present for these high risk health services.

The work groups met during the months of January and February, 1997. Their assigned task was to examine the criteria contained in the State Health Services Plan

(SHSP) and determine if any of the criteria contained therein discussing quality assurance and patient safety should be added to existing regulations of the Department regarding licensure of health care facilities. The act provides that, in order to be issued a license, a health care provider must show that: (1) it is a responsible person; (2) the place to be used as a health care facility is adequately constructed, equipped and maintained and safely and efficiently operated; (3) it will provide safe and efficient services adequate for the care and treatment of patients or residents; and (4) it is in substantial compliance with the rules and regulations of the Department. See section 808(a) of the act (35 P. S. § 448.808(a)). Therefore, with the termination of the CON Program, the Department's focus is on the quality of care provided at the health care facilities which it licenses in this Commonwealth.

The open heart surgery, cardiac catheterization, vital organ transplantation surgery and neonatal services work groups were comprised of representatives from the Department, the Pennsylvania Medical Society (PMS), the Pennsylvania Nurses Association (PNA), the Hospital Association of Pennsylvania (HAP), Legislative staff and other persons with expertise regarding these services. The following specialists were active members of their respective work groups: cardiac surgeon (open heart surgical services), cardiologist (cardiac catheterization), transplant surgeon (organ transplant work group) and neonatologist (neonatal). These four work groups were chaired by a Deputy Secretary of the Department. The four work groups submitted to the Secretary of Health (Secretary) a report and draft regulations. Those materials were then made available to the general public and public hearings were conducted. Before the amendments in Annex A were decided upon, the written and verbal comments received during the hearing process were considered by the Secretary and Department staff. Additional input regarding the merits of recommendations contained in the comments was also solicited from persons with relevant expertise.

At the conclusion of their review and discussion of relevant material regarding these various health care services, the work groups drafted proposed recommendations to the Secretary. The recommendations of the work groups differed depending on the service being reviewed. The work groups on open heart surgery, cardiac catheterization and vital organ transplantation surgery recommended that the Department draft new regulations to address quality assurance aspects of these services. The work group on neonatal care recommended that the Department amend its current regulations so as to assure compliance with the Nationally recognized standards of neonatal care. The work groups agreed that the Department should address, in a general information chapter, the notification requirements for health care facilities that intend to offer these services.

On February 1, 1997, the Department published notice that six work group recommendations were available and that a public meeting would be held on February 11, 1997. See 27 Pa.B. 621 (February 1, 1997). These six work groups reviewed the following services: cardiac catheterization, intermediate or skilled nursing care inpatient services, ambulatory surgical care, neonatal care, open heart surgery and vital organ transplantation services. Approximately seven individuals presented testi-

mony at the public meeting on February 11. In addition, written comments were received from various individuals and institutions.

The existing hospital licensure regulations do not address or include any specific requirements that focus upon the provision of open heart surgical, cardiac catheterization services and organ transplantation surgery. The Department has concluded that the current regulations do not impose quality standards necessary to protect the health, safety and welfare of potential candidates for these services and that the regulatory deficiency requires remedy through the addition of regulations addressing these specific services and the relevant quality assurance requirements. Under CON, hospitals which planned to offer these services needed to meet quality standards in the SHSP. In the absence of quality standards, the health, safety and welfare of the patients who need these services are at risk.

Following the sunset of CON, hospitals that had not received a CON to provide open heart surgery, cardiac catheterization services, organ transplantation services and neonatal services have been able to provide those services without first demonstrating to the Department satisfaction of important quality standards. To date, the Department is aware of six hospitals that have started or intend to start to provide open heart surgery since the termination of CON. The Department has also been notified that six new cardiac catheterization laboratories are commencing to provide services and that one hospital is starting to provide transplantation surgery. Each of these services constitutes a surgical procedure involving invasion of a vital organ, and life threatening circumstances.

Similarly, while Chapter 139 (relating to newborn services) of the Department's present regulations discuss newborn services, the Department believes that the chapter is not consistent with the current standards and technology for the treatment of newborns and infants and needs to be updated. The Department is aware of at least one hospital that has opened a neonatal intensive care unit (NICU) since the termination of CON. These units provide intensive care to newborns and infants who suffer from low birth weight, respiratory distress, congenital anomalies, seizures, infections or serious feeding difficulties which pose an immediate threat to neonatal survival. The Department is concerned that NICU units meet all of the current quality assurance standards. The proposed amendments will address these issues, by adopting the current Guidelines for Perinatal Care issued by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology and by setting forth other updated standards relating to quality assurance matters.

Finally, the Department agrees with the work groups that a general information chapter should be added to the regulations to address notification requirements for the addition of services at health care facilities. The Department also proposes to address other issues in this chapter which are common to all health care facilities.

#### *Summary*

##### *Subpart A. General Provisions.*

##### *Chapter 51. General Information*

Subpart A and Chapter 51 are proposed new additions to the licensure regulations. This subpart will contain those provisions which are applicable to all health care facilities. Chapter 51 contains general information which must be followed by all health care facilities.

Section 51.1 (relating to legal base and scope) would provide that this chapter is applicable to all health care facilities.

Section 51.2 (relating to licensed facilities) would identify the types of health care facilities which are licensed by the Department.

Section 51.3(a) (relating to notification) would provide that when health care facilities wish to add new health care services, they must first notify the Department of their intent to do so and cannot add these services until the Department has informed them of their compliance with all licensure requirements. With the termination of CON, the licensure process becomes the chief mechanism by which the Department can assess compliance with quality assurance and patient safety criteria. Section 51.3(b) provides a similar notification requirement for the addition of beds to a health care facility. This language already appeared in the regulations for general and special hospitals and long term care facilities, but now will be applicable to all health care facilities. Under § 51.3(h), a health care facility may not provide a new health care service or add beds until it has been informed by the Department that it is in compliance with the licensure regulations.

Section 51.3(c) would provide that a health care facility must provide written notice to the Department at least 30 days before the date it intends to cease the provision of an existing health care service or to decrease its bed complement. Unlike § 51.3(a) and (b), the health care facility may cease these services or decrease the number of beds after the passage of 30 days from the date of notification to the Department, even if the Department has not responded to the health care facility.

Section 51.3(d) would provide that a health care facility must provide written notice to the Department at least 30 days prior to the initiation of any design phase for new construction, alteration or renovation of the facility. By requiring this notice, the Department will be apprised as soon as possible of a health care facility's construction plans and will be able to provide advice and assistance to the health care facility at an early juncture, which could lead to a cost savings for the facility if it finds at this beginning phase that its construction plans need to be modified in order to comply with the Department's regulations.

Section 51.3(e) and (f) would provide that if a health care facility becomes aware that it is in noncompliance with the Department's regulations or is aware of the occurrence of an event at the facility or a situation at the facility which could compromise the quality of care or patient safety, the facility must immediately notify the Department of this fact and the steps which it will take to bring the facility into compliance with the regulations or rectify the situation. These sections reflect the Department's concern that it be aware of any situations at licensed health care facilities which could pose a threat to the quality of care being provided and the safety of the patients or residents in that facility. By requiring immediate notification, the Department can assure that it will learn of these matters as soon as possible and can take steps, including working with the facility in question, to ensure that the matter is corrected before any further problems occur.

Section 51.4 (relating to change in ownership; change in management) would require that health care facilities inform the Department when a change of ownership or a transfer of more than 5% of the stock or equity occurs.

Section 51.5 (relating to building occupancy) would require that all health care facilities must undergo occupancy surveys at least 2 weeks prior to the expected commencement of the occupancy of new or remodeled facilities.

Sections 51.11—51.13 (relating to civil rights) would provide the civil rights compliance expected from all health care facilities.

Under §§ 51.21—51.24 (relating to restriction of provision of health care services) restrictions would be placed on the location of the provision of certain health care services. These restrictions grew out of the recommendations of the work groups that certain services should only be performed in hospitals or in appropriately equipped ambulatory surgical facilities. Under § 51.21, surgery may only be performed in an acute care hospital or in a licensed ambulatory surgical facility. Section 51.22 would limit the performance of cardiac catheterization services to acute care hospitals. Section 51.23 provides that PET may be provided only in a hospital which complies with the Department's regulations governing nuclear medicine and radiology. Section 51.24 provides that lithotripsy services may only be provided in a hospital or in an ambulatory surgical facility which is authorized to provide anesthesia. These restrictions were believed to be appropriate to assure quality of care and patient safety.

Sections 51.31—51.34 (relating to exceptions) provide for an exceptions process, wherein any health care facility may request that the Department waive the applicability of certain regulations.

The proposed addition of Chapter 51 will necessitate the future deletion of duplicative requirements elsewhere in the regulations, particularly in the general hospital, long term care facility and ambulatory surgical facility regulations.

#### *Subpart B. General and Special Hospitals*

##### *Chapter 136. Open Heart Surgical Services*

The work group that considered the provisions of the SHSP on open heart surgical services included all of the representatives of the various entities set forth previously.

After an exhaustive review of the criteria contained in the SHSP, the current regulations, National standards and the approaches taken by other states, the work group recommended that the Department promulgate new regulations addressing this service. Existing regulations do not address qualitative criteria for an open heart surgery program. Due to the complexity and life threatening aspects of this surgery, the Department agrees that specific regulations are necessary to ensure quality of care and patient safety.

Section 136.1 (relating to principle) would require that all adult open heart surgical services and all pediatric open and closed heart surgical services must be performed in hospitals and at no other location. This continues the requirement previously contained in Chapter 6 of the SHSP and is in accordance with current medical practice.

Section 136.2 (relating to definitions) would contain definitions for the various terminology associated with this service. Most of these definitions appeared in the SHSP. The terms "board certified" and "board eligible" have been defined precisely so as to indicate that a physician must maintain board certification and that board eligibility does not last indefinitely. The inclusion of both open and closed heart procedures in the definition of

"pediatric heart surgery" is in accordance with current medical practice. The age requirement contained therein was arrived at after consultation with several cardiologists.

Section 136.11 (relating to director) would require that the director of the open heart surgery program shall be a board certified surgeon whose training emphasized cardiac surgery. This requirement was contained in the SHSP.

Section 136.12 (relating to medical staff) would specify minimum qualifications for the physicians staffing the service and includes standards to ensure adequate physician staffing of the service at all times. These requirements were also contained in the SHSP.

Section 136.13 (relating to nursing staff) would address the minimum qualifications of nurses staffing the service, including the nurse who directs and supervises the nursing staff, and specifies nursing practice and procedure issues that are to be addressed and the mechanisms for doing so. These requirements reflect those contained in the SHSP.

Section 136.14 (relating to support team in the operating room) would address requirements for the operating room support team, with particular focus on requirements for perfusionists and extracorporeal pump oxygenators to enable operation of the service at all times. These requirements are consistent with those found in the SHSP.

Section 136.15 (relating to other support services) would identify supportive services which are to be available at all times, and specifies which of those services are to be available on site. As set forth in the definition section (§ 136.2), "onsite" means that the service is located in the physical structure in which the open heart surgical services are being offered or in an adjoining structure. While these proposed requirements are consistent with those contained in the SHSP, the work group carefully evaluated the need for each of them and whether the particular support service needed to be on site or simply available. This section also addresses size and equipment requirements for operating rooms. The standards for operating room size and equipment are to be consistent with the requirements of the Inter-Society Commission on Heart Disease (ICD) and the *Guidelines and Indications for Coronary Artery Bypass Graft Surgery* issued in 1991 by the American College of Cardiology/American Heart Association (ACC/AHA Guidelines).

Section 136.16 (relating to rapid mobilization) would require rapid mobilization capability and support team availability for emergency procedures at all times, and require physician on-call schedules to be posted. These requirements were contained in the SHSP. The on-call schedule must be posted at each area where cardiac surgical patients are present so that the physicians can be contacted immediately.

Section 136.17 (relating to observation of patients) would require that a cardiac surgical care service have the ability to maintain visual observation of all patients. The cardiac surgical care service is referenced instead of the open heart surgical service because the former incorporates the latter and patient observation capabilities need not be separately addressed at the open heart surgical service level. This requirement is consistent with that contained in the SHSP. The work group strongly felt that capability of the medical and nursing staff to have direct visual observation of the cardiac patients was necessary so that immediate response could occur if the patient developed problems.

Section 136.18 (relating to post-operative care) would require that an intensive surgical care service be available to the open heart surgery patient immediately following surgery, and specifies that the cardiac surgical service shall be responsible for the postoperative care of the patient and be involved in discharge planning. These requirements are consistent with those suggested in the ACC/AHA Guidelines.

Section 136.19 would address the training and education the staff of the open heart surgical program are to secure and provide. These requirements are consistent with those found in the SHSP.

Section 136.20 (relating to pediatric open heart surgery—supplementary criteria) would specify standards a hospital needs to satisfy, in addition to other standards contained in the chapter, to offer a pediatric open heart surgical program. These requirements are consistent with those found in the SHSP.

Section 136.21 (relating to quality management and improvement) would require a hospital that performs open heart surgery to maintain statistics on outcomes of its open heart surgery program, including morbidity and mortality data; to integrate that data in its quality assurance program; and to participate in the Department's collection and review of outcome data.

The quality of all open heart surgery programs will be monitored on an ongoing basis through a quality assessment process. Quality indicators such as morbidity, mortality and infection data will be used to select hospitals for a vigorous assessment of whether they are meeting quality standards. Based upon the findings, the Department will determine whether any remedial or corrective action is necessary.

The use of a quality assessment process will enable the Department to determine whether acceptable quality standards are being met based upon evolving technology and changing standards in clinical practice as embraced by the medical community. Review of services in this manner enables the Department to consider practice changes embraced in the current medical literature and avoid adopting regulations detailing precise standards of practice which may become rapidly outdated.

The work group spent a considerable amount of time on this issue and looked at the approaches taken by other states, including New York and New Jersey. The proposal will assure that the Department is able to monitor the quality assurance of each open heart surgery program without placing an undue burden on the hospitals, as most of the data requested is readily available and may already be included in reports sent to other entities. The Department intends to adopt a mechanism to implement this requirement through a statement of policy. This will allow the Department to alter the policy if other, less burdensome mechanisms can be used in the reporting of this data.

#### *Chapter 138. Cardiac Catheterization Services*

The work group that considered the provisions of the SHSP on cardiac catheterization services included all of the representatives of the various entities set forth under Purpose and Procedure. In addition to a cardiologist who attended the meetings, several additional cardiologists were also contacted and their suggestions and input were considered by the work group and the Department.

After an exhaustive review of the criteria contained in Chapter 7 of the SHSP, the current regulations, National standards and the approaches taken by other states, the

work group recommended that the Department promulgate new regulations addressing this service. Existing regulations do not address qualitative criteria for cardiac catheterization services. Due to the complexity and life threatening aspects of this service, the Department agrees that specific regulations are necessary to ensure quality of care and patient safety.

Section 138.1 (relating to principle) would require that all cardiac catheterizations be performed in hospitals in accordance with accepted and prevailing standards of medical practice. Although there has been discussion about freestanding and mobile cardiac catheterization labs, these laboratories were not permitted under the SHSP. In reviewing this area, the work group agreed that the current standard of practice is that cardiac catheterizations are performed in hospitals, due to the availability of the support services. The procedure involves the insertion of a catheter in a blood vessel of the arm or leg and manipulating that catheter into the veins and arteries of the heart. This procedure can only be performed where immediate treatment is available if a problem should occur. The potentiality of life-threatening complications necessitates that the staff, equipment and services of a hospital be immediately available.

Section 138.2 (relating to definitions) contains definitions for the various terminology associated with this service. Most of these definitions appeared in the SHSP. The term "board certified" has been defined precisely so as to indicate that a physician must maintain board certification. The distinction between "high-risk" and "low risk" cardiac catheterizations is important as only hospitals that also perform open heart surgery may also perform high-risk cardiac catheterizations. The definition of high-risk cardiac catheterization contains those type of catheterizations which present a significant risk of cardiac complication. These include certain diagnostic catheterizations, all percutaneous transluminal coronary angioplasties (PTCA) and pediatric catheterizations, and most therapeutic electrophysiology procedures. The current standards of medical practice indicate that these procedures are, or have the potential to be, in the high-risk category. The cardiologists consulted by the Department agreed that these types of catheterizations were appropriately classified as high-risk. The definition of "pediatric cardiac catheterization" was arrived at after consultation with several cardiologists. Although there is no universally agreed upon definition of when a pediatric patient becomes an adult patient, reference to the patient's physical development appears to be an appropriate measure.

Section 138.11 (relating to director) would prescribe the qualifications for the director of a cardiac catheterization program. The requirement that the director be Board certified in cardiology or pediatric cardiology is consistent with the standards established in the *Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories* issued by the American College of Cardiology/American Heart Association (ACC/AHA Guidelines) in 1991.

Section 138.12 (relating to medical staff) would specify minimum qualifications for the physicians staffing the service. The requirement that two physicians must staff the cardiac catheterization laboratory does not mean that two physicians must be present when catheterizations are performed. The laboratory must utilize the services of at least two physicians but only one physician has to be present for the actual catheterization. These requirements are consistent with those contained in the SHSP.



Section 138.13 (relating to nursing staff) would specify the minimum qualifications for the nurses staffing the service, and identifies nursing practice and procedure issues that are to be addressed and the mechanisms for doing so. Although not explicitly set forth in the SHSP, this section is consistent with general nursing staff requirements.

Section 138.14 (relating to programs and services) would specify the services that are to be onsite or available for a hospital to perform cardiac catheterization services. "Onsite" is defined as being in the same physical structure in which the cardiac catheterization services are being offered or in an adjoining structure. It also addresses requirements for performing outpatient diagnostic cardiac catheterization and the circumstances under which a mobile cardiac catheterization laboratory may be utilized on site on a temporary basis. Outpatient cardiac catheterizations are only permitted on low risk patients if a physician determines that treatment on an outpatient basis is appropriate. As stated previously, freestanding or mobile cardiac catheterization laboratories are not permitted. However, the work group recognized that a hospital may be undergoing renovation of its fixed catheterization laboratory and may need to utilize a mobile facility while the renovation is occurring. As long as all other quality standards are adhered to, this usage would be permitted.

Section 138.15 (relating to high-risk cardiac catheterizations) would require that high-risk cardiac catheterizations be performed only at a hospital that has an open heart surgical program onsite. As previously discussed, this reflects the requirements in the SHSP and the standards of current medical practice, as set forth in the ACC/AHA Guidelines.

Section 138.16 (relating to transfer agreements for low-risk cardiac catheterization hospital) would permit a hospital that does not have an open heart surgical program onsite to perform low-risk cardiac catheterizations if it has protocols for distinguishing between low and high-risk cardiac catheterization patients and an agreement which addresses designated items with at least one hospital that does have an open heart surgical program. The section also requires that an agreement be in effect at all times and reviewed at least annually. This is consistent with the requirements in the SHSP.

Section 138.17 (relating to PTCA) would establish specific physician and peer review requirements for hospitals in which elective PTCAs are performed. It also makes an exception for emergent PTCAs from the requirement that high-risk cardiac catheterizations be performed only at a hospital with an open heart surgical program onsite. It treats an emergent PTCA as an extraordinary occurrence and requires the hospital to report the circumstances to the Department within 72 hours. The Department's assessment of the propriety of performing each PTCA performed at a hospital that does not have an open heart surgical program onsite will be made by assessing the appropriateness of the hospital's protocols and its adherence to those protocols. These requirements are consistent with those found in the SHSP.

Section 138.18 (relating to EPS) would prescribe the standards that need to be met by a physician who performs EPS. It also addresses where certain types of therapeutic electrophysiology may be conducted. These standards were reviewed with several cardiologists and are consistent with current medical practice.

Section 138.19 (relating to pediatric cardiac catheterizations) would prescribe requirements in addition or alter-

native to other requirements contained in the chapter that need to be satisfied for a hospital to perform pediatric cardiac catheterizations. These requirements are consistent with the standards contained in the ACC/AHA Guidelines.

Section 138.20 (relating to quality management and improvement) would require a hospital that performs cardiac catheterizations to maintain statistics on outcomes of its cardiac catheterization patients, including morbidity and mortality data; to integrate that data in its quality assurance program; and to participate in the Department's collection and review of outcome data.

The quality of all cardiac catheterization programs would be monitored on an ongoing basis through a quality assessment process in a manner similar to the manner in which the quality of open heart surgical programs will be monitored. (See previous discussion at § 136.21.)

#### *Chapter 139. Newborn Services*

The work group assigned to review the quality criteria for neonatal care and for neonatal intensive care units which appears in the SHSP found that the existing regulations basically addressed those issues. However, the work group did recommend that the regulations be amended to incorporate the Guidelines for Perinatal Care issued by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology (Guidelines). Additionally, the work group recommended that, throughout the regulations, the term "newborn" be replaced with "neonatal," as this reflects current usage and terminology.

Under the proposed amendments, the regulations distinguish between the levels and types of care provided in "neonatal care units" and "neonatal intensive care units." Under § 139.12 (relating to neonatal care units), all hospitals that provide maternity services must also have a neonatal care unit with areas for newborn recovery, observation and isolation. Hospitals must follow the Guidelines in determination of the appropriate standards applicable for staffing, equipment and other areas for neonatal care units.

The term "neonatal intensive care unit" replaces the former designation of "special care nursery" to describe those areas in hospitals which are specifically equipped and staffed for the care and treatment of high-risk infants and those neonatals otherwise in need of intensive care. Under present § 139.12(d) (proposed as new subsection (c)), neonatal intensive care units must meet the standards established in the Guidelines for these types of units. Those hospitals which provide maternity services but do not have a neonatal intensive care unit, must have arrangements for referrals with a hospital which does possess a unit.

Section 139.3 (relating to director) provides that all neonatal care units must have a medical director who is either board eligible or board certified. Section 139.22 (relating to physicians' services) requires that a board eligible or board certified physician must be available at all times. Under § 139.2a (relating to definitions), "Board certified" is defined as a licensed physician who has passed an examination and maintained certification in the relevant medical specialty area and/or subspecialty area offered by a medical specialty board recognized by either the American Board of Medical Specialties, the American Osteopathic Association or a foreign equivalent. "Board eligible" is defined as a licensed physician who has completed the necessary requirements to take the examination recognized by one of the aforementioned organiza-

tions and who is within 3 years of attaining eligibility. The work group added these definitions to ensure that the medical director and physicians on call possessed the appropriate skills necessary for the treatment of neonatals.

*Chapter 158. Vital Organ Transplantation Services*

The work group which reviewed the quality criteria contained in the SHSP found that there was a gap between those criteria and those in the present licensure regulations. Although organ transplantation surgical services are subject to the general hospital regulations, there are no regulations which discuss the specific quality criteria which must be followed by such a program. The work group believed that it was necessary to address these specific quality criteria in the regulations.

The work group noted that organ transplantation is unique in the surgical field in that any program that wishes to obtain organs must participate in the procurement system established by the Organ Procurement and Transplantation Network (OPTN). This network was created for the express purpose of procuring and allocating organs for transplantation. See 42 U.S.C.A. § 274. In addition to this function, the OPTN also establishes membership and medical criteria which must be met by every transplantation program in the United States. The Work Group reviewed the present membership/medical criteria of the OPTN and found it to be detailed and geared to quality assurance and patient safety. The work group recommended that the OPTN standards be incorporated into the Department's regulations.

The work group concluded that a chapter addressing specific quality criteria should be added to the licensure regulations. As current standards of medical practice establish that organ transplantation can be performed safely only in a hospital setting, the work group proposed to add a chapter to the regulations pertaining to general and special hospitals.

The work group also noted that this chapter would only apply to certain organs defined as "vital organs," that is, heart, lung, liver, kidney, pancreas, small bowel. Transplantation issues regarding bone, bone marrow, tissue and eye are not covered by this proposed chapter. The work group recommended that the Department review these types of transplantations and determine if any additional regulations are necessary.

Section 158.1 (relating to principle) would set forth the requirement that all transplantation services shall be provided in hospitals. The work group found that the services, staff and programs immediately available in a hospital are crucial to a transplantation program and that performance of transplantations in hospitals is the prevailing medical practice.

Section 158.2 (relating to definitions) would set forth definitions of terminology used in the proposed amendments. Of primary importance is the distinction between "transplantation center" and "transplantation program." A transplantation center is the entire unit of a hospital which is devoted to the performance of organ transplantations. A transplantation program is the actual surgical program established for the operation of organ transplantation. Each type of organ transplanted constitutes a separate transplantation program.

Section 158.3(b) (relating to scope) would require that each transplantation program shall be a participating member of the OPTN and shall comply with its standards, guidelines and bylaws. This section also requires hospitals that provide transplantation services to make a

commitment of resources and planning. Section 158.3(a)(1)—(9) lists a variety of areas in which this commitment must be shown including an identifiable and stable transplant team, adequate support staff and appropriate mechanisms for selection of the patients who will receive transplantations.

Section 158.11 (relating to medical director) would require that the hospital appoint a medical director of transplantation who shall be either a transplantation surgeon or a transplantation physician and who is either certified or eligible for certification by the American Board of Surgery, the American Board of Internal Medicine or an equivalent board. Board eligibility must have been attained within the 3 years previous to appointment to the position of medical director. These requirements will assure that an individual with appropriate knowledge, skills and experience is in charge of the various transplantation programs at a hospital.

Section 158.12 (relating to transplantation) would require that each hospital also employ a transplantation coordinator who shall be certified by the American Board of Transplant Coordinators. This individual will assure that all of the transplantation programs are operating appropriately and will work with the OPTN and other health care facilities in the organ procurement process.

Section 158.13 (relating to medical staff) would establish the requirements for the medical staff. Section 158.13(a) requires that each transplantation program have at least one transplantation surgeon and one transplantation physician on staff. These physicians must meet OPTN standards also. Section 158.13(b) requires that certain supporting medical staff at the transplantation center be available at all times. These include nephrologists, pathologists, anesthesiologists, radiologists, internists and psychiatrists. After some discussion as to whether all of these specialists were needed for every type of transplantation program, the work group agreed that any transplantation program involving a vital organ could require the services of any one or more of these specialties.

Section 158.14 (relating to laboratories) would require that laboratory services shall be on site or immediately accessible. The requirements set forth in this section reflect those present in the current OPTN standards.

Section 158.15 (relating to support services) would require that the hospital maintain or have access to certain support services, including rehabilitation services, social services and counseling. The hospital must also maintain adequately equipped operating rooms, adequate equipment and supplies, intensive care facilities capable of maintaining transplant patients and facilities for acute hemodialysis. Many of these criteria were contained in the SHSP. The work group believed that all of these support services were necessary regardless of the type of organ being transplanted.

Section 158.16 (relating to selection criteria) would require that each transplantation program establish written procedures for selecting transplantation candidates and distributing organs in a fair and equitable manner. The section requires the program to comply with the OPTN criteria. The criteria established by OPTN are detailed and set forth specific qualifications for patient eligibility and selection. This section reinforces the necessity of establishing written patient selection criteria which must take into account the relevant ethical and medical considerations.

Section 158.17 (relating to referrals, hours of operation) would require a transplantation center to accept referrals from all physicians, ensuring that all individuals have an opportunity to be evaluated as a transplantation candidate. This section further provides that all transplantation services must be available at all times. This is of particular importance as an organ which can be transplanted may become available at any time and the organ must be transplanted within a limited period of time to retain its viability.

Section 158.18 (relating to volume of procedures) would address the number of procedures which must be performed by each program. The SHSP set a minimum number of procedures for each type of transplantation program. The standards currently adopted by the OPTN do not require a minimum number of procedures for any transplantation program. Rather, the OPTN looks at the "survivability rate" of each program. By use of a formula accounting for patient mix, severity of medical condition upon occurrence of transplantation and other relevant factors, the OPTN reviews each program to determine if it deviates significantly from the expected survival rate. If a program does deviate in this manner and it cannot be explained through some unique clinical aspect, it will be considered for probation by the OPTN. The Health Care Finance Administration (HCFA), which provides reimbursement for some types of transplantation surgery, does require a minimum number of transplant surgeries for certain types of organs (heart: 12 transplants per year; liver: 12 transplants per year; lung: 10 transplants per year) for each transplantation program which attempts to obtain reimbursement from the Medicare program.

After extensive discussion of this issue, the work group believed that the review conducted by the OPTN was probably the best method of analyzing the success of a transplantation program. However, the work group also felt that the minimum procedures established by HCFA were not unreasonable. Therefore, § 158.18(a) provides that each transplantation program must perform an adequate number of procedures to maximize quality. Section 158.18(b) provides that a program must perform the number of procedures required by either HCFA or OPTN where those standards exist. Thus, a HCFA participant is expected to perform the minimum number of transplantations established by that agency. Finally, § 158.18(c) provides that failure to meet the standards set forth in subsection (c) shall cause the Department to review the transplantation program and determine its compliance with other quality assurance criteria. These provisions will provide the Department with the flexibility of reviewing a program: (1) at any time if there are concerns that the low number of transplantations performed is negatively affecting quality outcomes; and (2) if the program fails to meet the HCFA minimums or the OPTN survivability rate.

Section 158.19 (relating to post-transplantation care) would require that the hospital maintain an extensive post-transplantation care program which shall last throughout the recipient's life. This standard is adopted from the OPTN and is a recognition that transplantation recipients require constant and extensive follow-up monitoring and treatment. It is the responsibility of the program that performed the transplantation to assure that this treatment is provided.

Sections 158.31—158.35 would set forth supplementary criteria for the various transplantation programs. Each of these sections addresses a transplantation program for a specific vital organ (§ 158.31=kidney, § 158.32=heart,

§ 158.33=liver, § 158.34=lung, heart/lung, § 158.35=pancreas). Each of these sections contains criteria relating to specific staffing or support services which must be present on site in order for the hospital to maintain one of these transplantation programs.

Section 158.36 (relating to other organs) states that any transplantation program involving organs not covered in §§ 158.31—158.35, must comply with specific criteria of the OPTN applicable to these organs.

Finally, § 158.37 (relating to pediatric transplantation programs) would set forth supplementary criteria which apply to any pediatric transplantation program. Section 158.37(b) provides that where the pediatric transplantation criteria differ from the general transplantation criteria, any hospital which provides pediatric transplantation must follow the pediatric criteria when transplants are performed on infants and children. The remainder of Section 158.37 details the specific staff and support services necessary for a pediatric transplantation program. The common element of these criteria is that certification or training is required in treating pediatric patients. This reflects the concern of the Work Group that children be considered as a group requiring individualized and specialized treatment, and not simply as "little adults."

#### *Fiscal Impact*

These proposed amendments, to ensure the quality of services being provided at licensed health care facilities, will result in some additional costs to the Department. Increased staffing may be necessary to implement the expanded quality assessment process. These resources would be needed to review submitted documentation supporting the licensure requests, to conduct onsite surveys of health care facilities and process licensure applications. Additional costs may also include stipends/fees or expenses for persons not part of the Department staff who may assist the Department in the licensure and quality assurance assessment process.

The proposed amendments to the Department's licensure regulations will impose additional costs on health care providers to some degree. Most of the proposed regulations require that medical directors of particular health care services in hospitals must now receive certification from a specialty board. The employment of these individuals could increase the cost of these services. Additionally, costs may be incurred for some minor construction/renovation, equipment or supply costs to meet new requirements. However, in most instances, the standards being adopted are those which the Department expects that the vast majority of health care facilities to already be meeting if they provide these services.

In reviewing the fiscal impact, it should be remembered that the reason for many of these amendments is the sunset of the CON Program. Most of the amendments which are being proposed cover health care services or health care facilities which previously had to undergo CON review prior to commencement of their activity. This review involved expenses for the Department in the employment of an entire division to process and review CON applications. For CON applicants, the actual costs involved the preparation of the application, hiring health care consultants to assist with the CON process, a fee to the Department which could be as much as \$20,000 and the time and resources of the facility's staff. Indirect costs included the time which the facility had to wait until its application went through the often lengthy CON process. Although these proposed amendments will not eliminate

all of the costs which health care facilities experienced under CON, the overall effect should be a reduced fiscal impact.

*Paperwork Requirements*

The Department will experience some increase in paperwork related to reviews in processing licensure requests and additional regulatory requirements. Particularly in the areas of cardiac catheterization and open heart surgical services, Department staff will be reviewing additional data, not currently collected, from providers of these services, in order to generate reports which will be used to assess quality.

In general, there will not be a significant paperwork burden on providers to comply with the expanded licensure requirements. There will also be additional reporting responsibilities for providers of cardiac catheterization and open heart surgical services, to submit data on outcomes to the Department. Options are being explored to implement the least burdensome reporting process possible consistent with obtaining the data needed to assess quality performance.

As with fiscal impact, most of these paperwork requirements should be compared with those previously required under the CON Program. Applicants were required to submit detailed applications which, depending on the health care service proposed to be offered, could be quite lengthy and require extensive documentation.

*Effective Date/Sunset Date*

The proposed amendments will become effective upon final publication in the *Pennsylvania Bulletin*.

*Statutory Authority*

Section 803(2) of the act (35 P. S. § 448.803(2)) authorizes the Department to promulgate, after consultation with the Health Policy Board, regulations necessary to carry out the purposes and provisions of the act. Section 801.1 of the act (35 P. S. § 448.801a) provides that a purpose of the act is to promote the public health and welfare through the establishment of regulations setting minimum standards for the operation of health care facilities. The same section provides that the minimum standards are to assure safe, adequate and efficient facilities and services, and are also to promote the health, safety and adequate care of patients or residents of these facilities.

These provisions, in combination with the Department's express authority under the definition of "health care facility" in section 802.1 of the act to employ regulations to create new categories of health care facilities as may be required due to the emergence of new modes of health care, confer upon the Department the necessarily implied authority to employ regulations to restrict certain modes of health care services to specified health care facilities to ensure the health, safety and adequate care of patients.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 21, 1997, a copy of the proposed amendments was submitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order

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

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 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 regulation, by the Department, the General Assembly and the Governor, of objections raised.

*Contact Person*

Interested persons are invited to submit written comments, suggestions or objections to or regarding the proposed regulations within 30 days of the date of publication of this notice in the *Pennsylvania Bulletin*. These comments should be directed to: James T. Steele, Jr., Assistant Counsel, Department of Health, P.O. Box 90, Harrisburg, PA 17108-0090, (717) 783-2500. If you are a person with a disability, comments, suggestions or objections regarding the proposed regulations may also be submitted to Mr. Steele in alternative formats, such as by audio tape, braille or by using TDD: (717) 783-6514. If you are a person with a disability and require an alternative format of this document (that is, large print, audio tape, braille) please contact Mr. Steele so that he can make the necessary arrangements.

DANIEL F. HOFFMAN,  
*Secretary*

**Fiscal Note:** 10-148. (1) General Fund;

	<i>(GGO)</i>	
	Revenue	Increased
	Loss	Cost
(2) Implementing Year 1996-97 is	\$750,000	\$10,000;
(3) 1st Succeeding Year 1997-98 is	\$750,000	\$10,000;
2nd Succeeding Year 1998-99 is	\$750,000	\$10,000;
3rd Succeeding Year 1999-00 is	\$750,000	\$10,000;
4th Succeeding Year 2000-01 is	\$750,000	\$10,000;
5th Succeeding Year 2001-02 is	\$750,000	\$10,000;
(4) Fiscal Year 1995-96	\$1.9 million;	Fiscal Year
1994-95	\$1.5 million;	Fiscal Year 1993-94
(7) General Government Operations;		(8) recommends
		adoption.

*(Editor's Note:* Chapters 51, 136, 138 and 159 are new. They have printed in regular type to enhance readability. Chapter 139 exists and appears with brackets and bold face to show changes.)

**Annex A**

**TITLE 28. HEALTH AND SAFETY**

**PART IV. HEALTH FACILITIES**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 51. GENERAL INFORMATION**

**GENERAL PROVISIONS**

Sec.	
51.1.	Legal base, scope and definitions.
51.2.	Licensed facilities.
51.3.	Notification.
51.4.	Change in ownership; change in management.
51.5.	Building occupancy.

**CIVIL RIGHTS**

51.11.	Civil rights compliance
51.12.	Nondiscriminatory policy.
51.13.	Civil rights compliance records.

**RESTRICTION OF PROVISION OF HEALTH CARE SERVICES**

- 51.21. Surgery.
- 51.22. Cardiac catheterization.
- 51.23. Positron emission tomography.
- 51.24. Lithotripsy.

**EXCEPTIONS**

- 51.31. Principle.
- 51.32. Exceptions for innovative programs.
- 51.33. Requests for exceptions.
- 51.34. Revocation of exceptions.

**GENERAL PROVISIONS****§ 51.1. Legal base, scope and definitions.**

(a) This subpart implements the act (35 P. S. §§ 448.101—448.904b).

(b) This subpart contains standards which are applicable to all entities licensed as health care facilities under the act. It also identifies specific health care services which are restricted to specified health care facilities.

(c) The following words and terms, when used in this subpart have the following meanings, unless the context closely indicates otherwise:

*Act*—The Health Care Facilities Act (35 P. S. §§ 448.101—448.904b).

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

**§ 51.2. Licensed facilities.**

The Department licenses the following health care facilities under the act:

- (1) Ambulatory surgical facilities.
- (2) General hospitals.
- (3) Special hospitals.
- (4) Long-term care nursing facilities.
- (5) Birth centers.
- (6) Home health care agencies.
- (7) Cancer treatment centers.

**§ 51.3. Notification.**

(a) A health care facility shall notify the Department in writing at least 30 days prior to the intended commencement of a health care service which has not been previously provided at that facility.

(b) A health care facility shall notify the Department in writing at least 30 days prior to the intended date of providing services in new beds it intends to add to its approved complement of beds.

(c) A health care facility shall provide similar notice at least 30 days prior to the effective date it intends to cease providing an existing health care service or reduce its licensed bed complement.

(d) A health care facility shall notify the Department in writing at least 30 days prior to the initiation of the design phase of any proposed new construction, alteration or renovation to the facility.

(e) If a health care facility is in possession of information which shows that the facility is not in compliance with any of the Department's regulations which are applicable to that health care facility, it shall immediately notify the Department in writing of its noncompliance. The notification shall include sufficient detail and information to alert the Department as to the reason for the failure to comply and the steps which the health care facility shall take to bring it into compliance with the regulation.

(f) If a health care facility is aware of a situation or the occurrence of an event at the facility which could compromise quality assurance or patient safety, the facility shall immediately notify the Department in writing. The notification shall include sufficient detail and information to alert the Department as to the reason for its occurrence and the steps which the health care facility shall take to rectify the situation.

(g) A health care facility shall send the written notification required under subsections (a)—(f) to the director of the division in the Department responsible for the licensure of the health care facility.

(h) A health care facility may not commence the provision of new health care services or provide services in new beds until it has been informed by the Department that it is in compliance with all licensure requirements.

**§ 51.4. Change in ownership; change in management.**

(a) A health care facility shall notify the Department in writing at least 30 days prior to any transfer involving 5% or more of the stock or equity of the health care facility.

(b) A health care facility shall notify the Department in writing at least 90 days prior to a change in ownership or a change in the form of ownership or name of the facility. A change in ownership shall mean any transfer of the controlling interest in a health care facility.

(c) A health care facility shall notify the Department in writing within 30 days after a change of management of a health care facility. A change in management occurs when the persons responsible for the day to day operation of the health care facility change.

**§ 51.5. Building occupancy.**

(a) New construction, alterations or renovations that provide space for patient or resident rooms or services may not be used or occupied until authorization for the occupancy has been received from the Department.

(b) The Department will conduct an onsite survey of the new or remodeled part of a health care facility prior to granting approval for occupancy.

(c) A health care facility shall request a preoccupancy survey at least 2 weeks prior to the anticipated occupancy of the facility or an addition or remodeled part thereof. The Department will conduct an onsite survey of the new or remodeled portion of the health care facility prior to granting approval for occupancy. The Department may give the authorization to occupy the new or remodeled portion of the health care facility orally. If oral authorization for occupancy is given, the Department will provide the health care facility with written confirmation of the oral authorization within 30 days.

**CIVIL RIGHTS****§ 51.11. Civil rights compliance.**

A health care facility shall comply with all civil rights laws. The Department may make onsite visits at its discretion to verify the civil rights compliance status of the health care facility.

**§ 51.12. Nondiscriminatory policy.**

(a) A health care facility shall have a nondiscriminatory policy which applies to all patients or residents and staff. The policy shall include a prohibition on the segregation of buildings, wings, floors and rooms for reasons of race, color, national origin, ancestry, age, sex,

religion, handicap or disability. The nondiscriminatory policy shall also address the following:

- (1) Inpatient or outpatient admission or care.
- (2) Assigning patients or residents to rooms, floors and sections.
- (3) Asking patients or residents about roommate preferences.
- (4) Assignments of staff to patient or resident services.
- (5) Staff privileges of professionally qualified personnel.
- (6) Utilization of the health care facility.
- (7) Transfers of patients or residents from their rooms.

(b) A health care facility is required to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000e—2000e-17) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—962.2) and to sign the following statement prior to receiving an initial license:

“This facility has agreed to comply with the provisions of the Federal Civil Rights Act of 1964 and the Pennsylvania Human Relations Act and all requirements imposed pursuant thereto to the end that no person shall, on the grounds of race, color, national origin, ancestry, age, sex, religious creed, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination in the provision of any care or service.”

#### § 51.13. Civil rights compliance records.

(a) A health care facility shall maintain the following records to show compliance with § 51.12 (relating to nondiscriminatory policy):

(1) A copy of the health care facility's admission policy which includes the date of its adoption, which sets forth in clear terms nondiscriminatory practices with regard to race, color, national origin, creed, ancestry, age, sex, religion, handicap or disability.

(2) Copies of signed and dated annual notification to physicians, social workers and others who normally refer patients or residents of the health care facility's nondiscrimination policy.

(3) A copy of a signed and dated annual notification to employees of the health care facility's nondiscrimination policy.

(4) Evidence that the nondiscriminatory practices of the health care facility have been publicized in the community at least annually, by one of the following methods: newspapers, television, radio, brochure or yellow pages.

(5) Other records or reports as may be required by the Department.

(b) Copies of the health care facility's nondiscriminatory policy shall be posted in locations accessible to the facility's staff and the general public.

(c) The health care facility shall provide the Department with a signed and dated copy of the nondiscriminatory policy within 30 days of the effective date of any change in the policy.

### RESTRICTION OF PROVISION OF HEALTH CARE SERVICES

#### § 51.21. Surgery.

Surgery shall be performed only in an acute care hospital or in a Class A, Class B or Class C ambulatory surgical facility.

#### § 51.22. Cardiac catheterization.

Cardiac catheterization shall be performed only in an acute care hospital.

#### § 51.23. Positron emission tomography.

Positron emission tomography (PET) scanning services shall be provided only in a hospital which complies with the regulations of the Department governing radiology and nuclear medicine services.

#### § 51.24. Lithotripsy.

Lithotripsy services shall be provided only in a hospital or ambulatory surgical facility authorized to provide anesthesia services under its license.

### EXCEPTIONS

#### § 51.31. Principle.

The Department may grant exceptions to this part when the policy and objectives contained in this part are otherwise met, or when compliance would create an unreasonable hardship and an exception would not impair or endanger the health, safety or welfare of a patient or resident.

#### § 51.32. Exceptions for innovative programs.

This part is not intended to restrict the efforts of a health care facility to develop innovative and improved programs of management, clinical practice, physical renovation or structural design. Whenever this part appears to preclude any program which may improve the capacity of the health care facility to deliver higher quality care and services or to operate more efficiently without compromising patient or resident care, the Department encourages the health care facility to request appropriate exceptions under this chapter.

#### § 51.33. Requests for exceptions.

(a) A health care facility shall make requests for exceptions to the Department in writing.

(b) The Department will retain the requests on file and document whether they have been approved or disapproved.

(c) If the Department proposes to approve an exception, it may request public comment on the exception by notice in the *Pennsylvania Bulletin*.

(d) The health care facility shall retain approved requests on file during the period the exception remains in effect.

#### § 51.34. Revocation of exceptions.

(a) An exception granted under this chapter may be revoked by the Department for good reason. The Department will provide notice of the revocation in writing and will include the reason for the revocation and the date upon which the exception will be terminated.

(b) In revoking an exception, the Department will provide for a reasonable period of time between the date of written notice of the revocation and the date of termination of an exception to afford the health care facility an opportunity to come into compliance with the applicable regulations.

(c) If a health care facility wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the director of the appropriate division within 30 days after service of the adverse notification.

Subpart [ A ] B. GENERAL AND SPECIAL HOSPITALS  
**CHAPTER 136. OPEN HEART SURGICAL SERVICES**

**GENERAL PROVISIONS**

- Sec.
- 136.1. Principle.
- 136.2. Definitions.

**PROGRAM, SERVICE AND PERSONNEL REQUIREMENTS**

- 136.11. Director.
- 136.12. Medical staff.
- 136.13. Nursing staff.
- 136.14. Support team in the operating room.
- 136.15. Other support services.
- 136.16. Rapid mobilization.
- 136.17. Observation of patients.
- 136.18. Postoperative care.
- 136.19. Education and training.
- 136.20. Pediatric open heart surgery—supplementary criteria.
- 136.21. Quality management and improvement.

**GENERAL PROVISIONS**

**§ 136.1. Principle.**

Adult open heart surgical services and pediatric open and closed heart surgical services shall be performed only in hospitals and shall be performed in accordance with accepted and prevailing standards of medical practice.

**§ 136.2. Definitions.**

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

*Board certified*—A physician licensed to practice medicine in this Commonwealth who has successfully passed an examination and has maintained certification in the relevant medical specialty or subspecialty area, or both, recognized by one of the following groups:

- (i) The American Board of Medical Specialties.
- (ii) The American Osteopathic Association.
- (iii) The foreign equivalent of either group listed in subparagraph (i) or (ii).

*Board eligible*—A physician licensed to practice medicine in this Commonwealth who has completed the preliminary requirements necessary to take a certification examination offered by a medical specialty board recognized by the American Board of Medical Specialties, the American Osteopathic Association or the foreign equivalent of either group, and who is presently eligible to take the examination and is within 3 years of attaining eligibility.

*CABG—Coronary artery bypass graft*—A type of open heart procedure wherein a section of a blood vessel is taken from another part of the body to create an alternative path for blood to flow around a narrow or blocked portion of a coronary artery.

*Cardiac intensive care service*—Service provided to an open heart surgery patient immediately after surgery. This service is provided in a specially equipped area in a facility wherein the highest level of medical care is available. This area shall be equipped to provide invasive monitoring, including arterial pressure, Swan-Ganz catheters and intra-aortic balloon pumps.

*Cardiac surgical service*—Those personnel involved in the preparation, operation and postoperative care of patients receiving cardiac surgery.

*Onsite*—In the physical structure at which open heart surgical services are being offered or in an adjoining structure.

*Open heart surgery*—A surgical procedure to repair acquired or congenital diseases of the heart. The procedure shall do one of the following:

(i) Include the use of an extracorporeal pump oxygenator (heart lung machine) to perform the functions of the circulatory system during the surgery.

(ii) Employ minimally invasive procedures, which do not routinely involve the use of the extracorporeal pump oxygenator to perform the same types of surgical procedures, although its presence is required because, in a certain number of cases, this approach may have to be abandoned in favor of the other method.

*Open heart surgery program*—A service established by a hospital to evaluate, operate on and provide postoperative care to individuals with cardiovascular illness who require surgical intervention.

*Operating room*—The room wherein the open heart surgery is performed.

*Pediatric heart surgery*—Includes both open heart and closed heart procedures for patients under 18 years of age whose physical development precludes them from being handled as an adult when receiving these procedures.

*Surgical suite*—That area of the hospital wherein the patient is brought for open heart surgery and which is dedicated to the preparation of the surgical team and the patient for open heart surgery and to the actual performance of that surgery.

*Twenty-four hours per day*—Refers to the availability or onsite presence of specific personnel, support services or equipment on a 24-hour-per-day, 7-days-a-week basis.

**PROGRAM, SERVICE AND PERSONNEL REQUIREMENTS**

**§ 136.11. Director.**

The Director of the open heart surgery program shall be a Board certified surgeon whose training emphasized cardiac surgery.

**§ 136.12. Medical staff.**

Supporting medical staff of the service shall include:

(1) Board certified or Board eligible surgeons whose training emphasized cardiac surgery. There shall be a sufficient number of surgeons within the service to allow for 24-hour-per-day continuous coverage. In a pediatric service, these surgeons shall have expertise in the special problems of pediatric patients.

(2) A Board certified medical cardiologist with subspecialty certification in cardiovascular disease or who has demonstrated competence as determined by peer review. A pediatric open heart surgery program shall include a board certified pediatric cardiologist.

(3) A cardiac catheterization team with interventional ability on call 24 hours per day.

(4) A Board certified anesthesiologist experienced in open heart anesthesia. There shall be a sufficient number of anesthesiologists within the service for 24-hour-per-day continuous coverage. The anesthesiologists in a service performing pediatric surgery shall have experience in pediatric anesthesia.

(5) A physician who is Board certified in anatomic and clinical pathology.

**§ 136.13. Nursing staff.**

(a) Nursing personnel shall include nurses with specialized education which includes theory, advanced technical skills and supervised experience in a surgical intensive care unit or in a postoperative cardiovascular unit before assuming primary responsibility for the nursing care of open heart patients.

(b) There shall be nursing service goals and objectives, standards of nursing practice, procedure manuals and written job descriptions for each level of personnel which shall include the following:

(1) A means for assessing the nursing care needs of the patients and determining adequate staffing to meet those needs.

(2) Staffing patterns that are adequate to meet the nursing goals, standards of practice and the needs of the patients.

(3) An adequate number of licensed and unlicensed assistive personnel to assure that staffing levels meet the total nursing needs of the patient.

(4) Nursing personnel assigned to duties consistent with their training, experience and scope of practice, where applicable.

(c) Surgical suite nursing services shall be under the direction and supervision of a registered professional nurse with specific education and experience in dealing with cardiovascular patients.

**§ 136.14. Support team in the operating room.**

(a) The operating room support team shall include:

(1) A circulating registered professional nurse and additional nursing personnel as required.

(2) A perfusionist. Each open heart procedure shall have a designated perfusionist in attendance. This individual shall have training, experience, and, preferably, certification in the techniques of cardiopulmonary bypass. The perfusionist's duties shall include the operation of the extracorporeal pump oxygenator (heart-lung machine) in accordance with the requirements of the operating surgeon. The perfusionist shall have immediate access to hospital and surgeon specific procedure manuals for the conduct of cardiopulmonary bypass during all open heart procedures.

(b) There shall be a sufficient number of extracorporeal pump oxygenators and perfusionists to allow 24-hour-per-day coverage.

(c) A back-up extracorporeal pump oxygenator shall be available during all open heart procedures.

**§ 136.15. Other support services.**

(a) Supportive services within the hospital shall include the following, which shall be provided 24 hours per day and shall be either available or onsite, as noted:

(1) Medicine (cardiology onsite; availability of nuclear cardiology; hematology; pulmonary; nephrology; neurology; and infectious disease).

(2) Anesthesiology shall be available.

(3) Clinical laboratory services, onsite for blood banking, hematology, blood chemistry and urinalysis. These services shall be under the same direct management and quality assurance programs as the main hospital laboratories.

(4) Diagnostic radiology, including bedside X-rays, onsite.

(5) Cardiac catheterization and interventional angiography laboratory, available.

(6) Respiratory care services, available.

(7) Cardiac intensive care service, onsite.

(8) Inpatient service for continuing care after transfer from the intensive care unit.

(9) Emergency department, staffed onsite with an advanced cardiac life support certified physician.

(10) Cardiographic laboratory, including continuous electrocardiogram monitoring, available.

(11) Echocardiography service (this may or may not be a part of the cardiographic laboratory), available.

(12) Installation of pacemakers, available.

(13) Organized and designated cardiopulmonary resuscitation team, onsite.

(14) Bioengineering service, available.

(15) Peripheral vascular surgery and a noninvasive vascular laboratory, available.

(16) Acute inpatient dialysis, available.

(b) An operating room shall be specifically equipped for cardiac surgery, and the room and support facilities should be of adequate size, as per Inter-society Commission on Heart Disease requirements or American College of Cardiology/American Hospital Association Guidelines.

**§ 136.16. Rapid mobilization.**

(a) An open heart surgery program shall have the capability for rapid mobilization of the cardiac surgical service and support team members for emergency procedures, 24 hours per day.

(b) There shall be an on-call schedule of physicians established and posted at each patient unit and other areas where cardiac surgical patients are admitted and at the communications center of the hospital to ensure that there is 24-hour-per-day emergency care and peri-operative care available.

**§ 136.17. Observation of patients.**

A cardiac surgical care service shall include the capability of visual observation of all patients.

**§ 136.18. Postoperative care.**

(a) An intensive surgical care service shall be available immediately after surgery to provide invasive monitoring, including Swan-Ganz catheter, arterial pressure and intra-aortic balloon pumps.

(b) The cardiac surgical service shall be responsible for postoperative care and involved in discharge planning of patients.

**§ 136.19. Education and training.**

The staff of the open heart surgical program shall engage in the following activities:

(1) Ongoing programs of continuing education in cardiovascular care.

(2) Provision of training and consultation services with other providers of cardiovascular care and others.

(3) Patient and family education.

**§ 136.20. Pediatric open heart surgery—supplementary criteria.**

(a) A hospital which provides pediatric open heart surgery shall meet the standards in this chapter for a cardiovascular surgery program for adults.



(b) In addition, the following criteria shall be met by a pediatric open heart surgery program:

(1) The facility shall be capable of providing definitive diagnostic and therapeutic services for children with all types of cardiovascular disease.

(2) A diagnostic laboratory with radiographic and cardiac catheterization equipment generally similar to that for adults. Bi-plane cineangiography shall be readily available 24 hours per day, and laboratories (both catheterization and general chemical) shall be equipped for small volume samples.

(3) Surgical equipment appropriate for newborns, infants and children.

(4) Intensive care facilities for newborns (as defined by current American Academy of Pediatrics/American College of Obstetrics and Gynecology Guidelines for Perinatal Care), infants and children.

(5) Staff, including nurses and technicians, responsible for care of the pediatric patient shall have experience and training in pediatrics. Specialty staff shall include cardiac surgeons, anesthesiologists and cardiologists who have special training and experience in the care of the pediatric patient and shall be available 24 hours per day.

**§ 136.21. Quality management and improvement.**

(a) A hospital performing open heart surgery shall maintain patient data on the following:

- (1) Mortality/morbidity.
- (2) Infections and complications (stroke, deep sternal wound, bleeding requiring reoperation, length of stay, and the like).
- (3) Patient risk factors (age, medical history, and the like).
- (4) Volume of procedures performed.
- (b) The hospital shall provide this information to the Department on a quarterly basis, on a form prescribed by the Department. This data shall be integrated into the hospital's quality assurance program and used to ensure necessary corrections to improve outcomes.

(c) The Department will review the information submitted by the hospital and other relevant information which is available to assess the qualitative performance of the hospital's open heart surgery program. The Department will publish, by statement of policy, the values or standards, or both, for each of the factors reported to the Department.

(d) If the Department's review of this information raises concerns with the quality of care in an open heart surgery program, the Department will undertake a review of that program to determine if these concerns are valid. The hospital shall cooperate with the Department in this review.

**CHAPTER 138. CARDIAC CATHETERIZATION SERVICES**

**GENERAL PROVISIONS**

- Sec. 138.1 Principle.
- 138.2 Definitions.

**PROGRAM, SERVICE, PERSONNEL AND AGREEMENT REQUIREMENTS**

- 138.11. Director.
- 138.12. Medical staff.
- 138.13. Nursing staff.
- 138.14. Programs and services.
- 138.15. High-risk cardiac catheterizations.

- 138.16. Transfer agreements for low-risk cardiac catheterization hospitals.
- 138.17. PTCA.
- 138.18. EPS.
- 138.19. Pediatric cardiac catheterizations.
- 138.20. Quality management and improvement.

**GENERAL PROVISIONS**

**§ 138.1. Principle.**

Cardiac catheterizations shall be performed only in hospitals and shall be performed in accordance with accepted and prevailing standards of medical practice.

**§ 138.2. Definitions.**

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

*Board certified*—A physician licensed to practice medicine in this Commonwealth who has successfully passed an examination and has maintained certification in the relevant medical specialty or subspecialty area, or both, recognized by one of the following groups:

- (i) The American Board of Medical Specialties.
- (ii) The American Osteopathic Association.
- (iii) The foreign equivalent of either group listed in subparagraph (i) or (ii).

*Cardiac catheterization*—A procedure used to diagnose and treat various cardiac and circulatory diseases that involves inserting a thin, pliable catheter, which is viewable by X-ray, into a major blood vessel of the arm or leg, and manipulating the tip of the catheter through veins or arteries to the heart.

*EPS—Electrophysiology study*—The use of blood vessel access to position electrode catheters in various intra cardiac locations with the help of fluoroscopy for the purpose of recording the timing of electrical events to assess the location and direction of impulse propagation.

*High-risk cardiac catheterization*—Cardiac catheterization which presents a high risk of significant cardiac complication. The term includes diagnostic cardiac catheterization procedures that present a high risk of significant cardiac complication, PTCA, pediatric cardiac catheterization and therapeutic electrophysiology except for the implantation of routine permanent pacemakers.

*Low-risk cardiac catheterization*—Cardiac catheterization which is not high-risk cardiac catheterization.

*Onsite*—In the physical structure at which cardiac catheterization services are being offered or in an adjoining structure.

*PTCA—Percutaneous transluminal coronary angioplasty*—A procedure which uses a balloon catheter, plaque removing device, laser device or mechanical stent to reopen collapsed, blocked or partially blocked arteries.

*Pediatric cardiac catheterization*—The performance of cardiac catheterization on a person who is younger than 18 years of age and whose physical development precludes that person from being handled as an adult when receiving the procedure.

*Therapeutic electrophysiology*—EPS used as or in combination with a therapeutic procedure, which includes procedures designed to induce ventricular or supraventricular tachycardia; activation sequence mapping of cardiac tachyarrhythmias; electrode catheter ablation procedures; and implantation of antitachyarrhythmia devices and implantable cardioverter defibrillators.

*Twenty-four hours per day*— Refers to the availability or onsite presence of specific personnel, support services or equipment on a 24-hour-per-day, 7-days-a-week basis.

**PROGRAM, SERVICE, PERSONNEL AND AGREEMENT REQUIREMENTS**

**§ 138.11. Director.**

The director of the cardiac catheterization service shall be Board certified in cardiology or pediatric cardiology.

**§ 138.12. Medical staff.**

(a) There shall be at least two physicians staffing the cardiac catheterization laboratory to perform angiographies.

(b) These physicians shall have graduated from an accredited training program in cardiac catheterization or have demonstrated training and experience acceptable to the credentialing committee of the hospital.

**§ 138.13. Nursing staff.**

(a) There shall be at least one registered nurse assigned to the cardiac catheterization laboratory at all times who shall have intensive care or coronary care experience and knowledge of cardiovascular medications, and experience with cardiac catheterization. In pediatric units, this nurse shall also have experience in pediatric cardiac surgery units.

(b) Other nursing personnel shall include nurses with specialized education which includes theory, advanced technical skills and supervised experience in a cardiac catheterization service before assuming primary responsibility for the nursing care of cardiac catheterization patients.

(c) There shall be nursing service goals and objectives, standards of nursing practice, procedure manuals and written job descriptions for each level of personnel which includes the following:

(1) A means for assessing the nursing care needs of the patients and determining adequate staffing to meet those needs.

(2) Staffing patterns that are adequate to meet the nursing goals, standards of practice and the needs of the patients.

(3) An adequate number of licensed and unlicensed assistive personnel to assure that staffing levels meet the total nursing needs of the patient.

(4) Nursing personnel assigned to duties consistent with their training, experience and scope of practice, where applicable.

**§ 138.14. Programs and services.**

(a) To perform cardiac catheterizations a hospital shall be an acute care facility that:

(1) Has inpatient medical and surgical services onsite.

(2) Has a coronary care unit onsite with 24-hour per day monitoring capability.

(3) Has a peripheral vascular surgical program available.

(4) Provides noninvasive cardiac diagnostic modalities including exercise and pharmacologic stress testing, echo cardiography and nuclear cardiology.

(5) Has a setting in which ambulatory cardiac catheterization patients can be observed for 4 to 6 hours after the procedure.

(6) Has adequate physician coverage to manage postprocedure complications.

(b) Outpatient diagnostic cardiac catheterization services shall be performed if care is exercised in selecting only appropriate low risk patients as defined in this chapter.

(c) To allow for continuity of care, mobile cardiac catheterization laboratories may be utilized onsite at a hospital which is already providing cardiac catheterization services while the existing, fixed cardiac catheterization laboratory is being renovated or its equipment upgraded.

**§ 138.15. High-risk cardiac catheterizations.**

A hospital may perform high-risk cardiac catheterizations only if it has an open heart surgical program onsite.

**§ 138.16. Transfer agreements for low-risk cardiac catheterization hospitals.**

(a) A hospital that does not have an open heart surgical program onsite may perform low-risk cardiac catheterizations if the hospital has protocols for distinguishing between low and high-risk cardiac catheterization patients and a formal written agreement with at least one hospital that does have an open heart surgical program onsite, which agreement includes the following:

(1) Protocols addressing indications, contraindications and other criteria for the emergency transfer of patients in a timely manner.

(2) Assurance of transfer of patients to an open heart surgery program and initiation of open heart surgery in a timely manner.

(3) Provision for semiannual data exchange on performance between the hospitals party to the agreement.

(4) Specification of mechanisms for continued substantive communication between the hospital's party to the agreement, and between their sending and receiving physicians.

(5) A provision prohibiting the hospital receiving the transferred patient from duplicating the diagnostic cardiac catheterization unless clinically appropriate.

(b) The agreement shall remain continuously in effect and be reviewed at least annually.

**§ 138.17. PTCA.**

(a) In a hospital in which elective PTCA is performed, each physician performing PTCAs shall have graduated from an accredited training program in PTCA or have demonstrated training and experience acceptable to the credentialing committee of the hospital.

(b) A rigorous mechanism for valid peer review shall be established and ongoing in any hospital offering PTCA services.

(c) If a hospital that does not have an open heart surgery program onsite performs an emergency PTCA, the hospital shall report the circumstances to the Department in writing within 72 hours.

**§ 138.18. EPS.**

(a) In a hospital in which EPS is performed, each physician performing EPS shall have graduated from an accredited training program in electrophysiology or have demonstrated training and experience acceptable to the credentialing committee of the hospital.

(b) Therapeutic electrophysiology, including ablation and the implantation of automatic implantable cardiover-

tor defibrillators shall be performed in a hospital with an open heart surgery program, and not in any other facility. Implantation of routine permanent pacemakers may be performed in hospitals that do not have an open heart surgery program onsite. Pediatric diagnostic electro-physiology procedures also shall only be performed at a hospital with onsite pediatric cardiovascular surgery.

**§ 138.19. Pediatric cardiac catheterizations.**

A hospital may perform pediatric cardiac catheterizations only if:

- (1) It has a pediatric heart surgical program onsite.
- (2) The physicians and other staff who participate in the pediatric cardiac catheterizations are trained and experienced in the care of the pediatric cardiac patient.
- (3) The equipment used for pediatric cardiac catheterizations is appropriate to meet the needs of the pediatric patient. Bi-plane cineangiography shall be readily available 24 hours per day, and laboratories (both catheterization and general chemical) shall be equipped for small volume samples.

**§ 138.20. Quality management and improvement.**

(a) A hospital providing cardiac catheterization services shall maintain patient data on the following:

- (1) Mortality/morbidity.
  - (2) Infections and complications (stroke rate, rate of myocardial infarction, vascular complications, length of stay, rate of emergency bypass surgery for PTCA, and the like).
  - (3) Patient risk factors (age, medical history, and the like).
  - (4) Volume of procedures performed (including separate volumes for diagnostic visualizations, PTCA and electrophysiology procedures).
- (b) The hospital shall provide this information to the Department on a quarterly basis, on a form prescribed by the Department. This data shall be integrated into the hospital's quality assurance program and used to ensure necessary corrections to improve outcomes.

(c) The Department will review the information submitted by the hospital and other relevant information which is available to assess the qualitative performance of the hospital's cardiac catheterization program. The Department will publish, by statement of policy, the values or standards, or both, for each of the factors reported to the Department.

(d) If the Department's review of this information raises concerns with the quality of care in a cardiac catheterization program, the Department will undertake a review of that program to determine if these concerns are valid. The hospital shall cooperate with the Department in this review.

**CHAPTER 139. [ NEWBORN ] NEONATAL SERVICES  
GENERAL PROVISIONS**

**§ 139.1. Principle.**

When a hospital provides [ newborn ] neonatal services, they shall be provided in [ such ] a manner [ as to meet ] that meets the medical needs of the newborns.

**§ 139.2. Scope.**

This chapter applies to hospitals which provide obstetrical or [ newborn ] neonatal infant care, or both. **The Department recognizes the following levels of neonatal care:**

- (1) **Level I. (Normal Neonatal).**
- (2) **Level II. (Neonatal Intermediate/Intensive Care).**
- (3) **Level III. (Neonatal Intensive Care).**

**§ 139.2a. Definitions.**

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

**Board certified**—A physician licensed to practice medicine in this Commonwealth who has successfully passed an examination and has maintained certification in the relevant medical specialty area or subspecialty area, or both, offered by one of the following groups:

- (i) The American Board of Medical Specialists.
- (ii) The American Osteopathic Association.
- (iii) The foreign equivalent of either group listed in subparagraph (i) or (ii).

**Board eligibility or board eligible**—A physician licensed to practice medicine in this Commonwealth who has completed the preliminary requirements necessary to take an examination by the American Board of Medical Specialists, the American Osteopathic Association or the foreign equivalent of either group and who is presently eligible to take the examination and is within 3 years of attaining eligibility.

**Guidelines**—The term refers to the current *Guidelines for Perinatal Care* issued by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

**NICU—Neonatal intensive care unit**—The term refers to a unit which is specifically equipped and staffed for the care and treatment of high-risk infants and those infants otherwise in need of intensive care.

**§ 139.3. Director.**

A member of the medical staff shall be appointed director of [ newborn ] neonatal services. [ He ] **The director** shall be certified by the American Board of Pediatrics or an equivalent board, eligible for Board certification or have successfully completed an approved residency in pediatrics.

**§ 139.4. Nursing services.**

(a) [ **Newborn** ] **Neonatal** nursing services shall be provided in accordance with Chapter 109 (relating to nursing services) and [ **the provisions of** ] this section.

(b) A registered professional nurse, especially trained and experienced in the care of normal and high-risk infants, [ **shall be designated as the nursing supervisor of the nurseries. At least one registered professional nurse shall be on duty in at least one nursery at all times when any nursery is occupied** ] shall be responsible for the neonatal care unit at all times when the unit is occupied. No [ **occupied nursery** ] newborn shall be left unattended.

(c) [All nursery personnel shall have education and nursing skills which are appropriate to their duties and assignments] Licensed nursing personnel shall be assigned to duties consistent with their legal scope of practice. Unlicensed assistive personnel shall be assigned duties consistent with standardized training and competency evaluation.

(d) [A sufficient number of nursing personnel shall be on duty at all times to provide adequate infant care in all nurseries.] Staffing shall be adequate to meet nursing care goals, standards of nursing practice and nursing care needs of patients. The appropriate number of staff necessary to accomplish these goals, standards and needs shall be established in the written policies of the [newborn] neonatal service and shall be [based on current recommendations of the American Academy of Pediatrics] consistent with the Guidelines.

#### FACILITIES

##### § 139.11. Facilities and equipment.

The maternity and [newborn] neonatal services shall be separate and apart from other hospital services and especially from potential sources of infection. Access to each [nursery] neonatal care unit shall be controlled to insure security and safety of all infants.

##### § 139.12. [Nursery] Neonatal care units.

(a) [All hospitals] Hospitals with maternity services shall provide [well infant nurseries] neonatal care units with areas for newborn recovery, observation[, ] and isolation and provisions or arrangements for the care of high-risk infants in a [“special care nursery,”] neonatal intensive care unit either at the facility of birth or at a transfer site. Space allocation and total number of bassinets [should conform to the current recommendation of the American Academy of Pediatrics] shall be consistent with the Guidelines.

[ (b) Well newborn infants delivered within the hospital may be admitted directly to the infant nursery. The term “well infant nursery” shall mean a nursery for the care of well newborn infants.

(c) (b) There should be an isolation area for the reception and care of infants exposed to potential sources of infection and infants suspected of or having any communicable disease. Infants may be housed and nursed in the isolation area pending diagnosis, disposition[, ] or completion of treatment. This isolation area should be served by [nursery] nursing personnel and shall meet the standards established in the Guidelines for this type of care.

[ (d) (c) A [special care nursery] neonatal intensive care unit is one which is specifically equipped and staffed for the care and treatment of high-risk infants and those otherwise in need of intensive care. The neonatal intensive care unit shall meet the standards established in the Guidelines for this type of care. If such a service is not provided at the facility of birth, arrangements [must] shall be made with [a “transfer nursery”] an existing neonatal intensive care unit in the area of appropriate referral. The judgment of the attending physician and the

policies of the hospital's Neonatal Services department shall determine the need for consultation with and referral to the hospital with an existing neonatal intensive care unit. The term “high risk infant” means any infant who, on the basis of socioeconomic, genetic[, ] or patho-physiologic history prior to delivery or on the basis of findings in the newborn period, manifests or is likely to manifest persistent and significant signs of distress. This [includes but is not limited to the following] may include:

\* \* \* \* \*

[ (e) A “transfer nursery,” as used in subsection (d), is a special care nursery staffed and equipped to receive and provide appropriate care to infants transferred from the facility of birth for specialized diagnostic and treatment services. All requirements in this chapter for special care nurseries also apply to transfer nurseries. ]

##### § 139.13. [Nursery equipment] Equipment and supplies.

(a) Required equipment and supplies shall be in accordance with this section, the Guidelines for Design and Construction of Hospital and Health Care Facilities issued by the American Institute of Architects and with written policies of the [newborn] neonatal service which shall be [based upon current recommendations of the American Academy of Pediatrics] consistent with the Guidelines.

(b) An individual bassinet and equipment for the exclusive use of the infant to whom it is assigned shall be provided for each infant. All necessary supplies shall be stored in covered containers to permit individualized infant care and minimize risk of infection.

(c) Each [nursery] neonatal care unit shall have its own wash basin with hot and cold running water equipped with foot, knee[, ] or elbow control so that hand contact with the sink is avoided. A sufficient supply of an antiseptic cleansing agent and disposable towels shall be readily available. Where paper towels are used, a dispenser shall be provided.

(d) [Special care nurseries] Neonatal intensive care units shall be equipped with all equipment and supplies required for other [nurseries] care units.

##### § 139.14. Oxygen control.

Oxygen shall be administered only with proper apparatus for its safe administration and control of concentration. Concentration of oxygen should not exceed a safe level commensurate with current concepts of oxygen therapy as recommended by the [American Academy of Pediatrics] Guidelines.

##### § 139.15. Temperature control.

A stable year-round temperature and humidity shall be maintained in all [nurseries] neonatal care units in accordance with written newborn service policies consistent with [current recommendations of the American Academy of Pediatrics] the Guidelines.

##### § 139.16. Housekeeping and maintenance.

The [nursery service] neonatal care unit shall be maintained in a clean and sanitary manner at all times. An environmental services room shall be provided

for the exclusive use of the neonatal unit and shall be directly accessible from the unit.

§ 139.17. [ **Special care nurseries** ] Neonatal intensive care units (Levels II and III).

In addition to the general requirements for the equipment of [ **nurseries** ] neonatal care units, the following provisions shall be required for all new construction, renovation or expansion of [ **special care nurseries** ] neonatal intensive care units and [ **should** ] shall be available to all present [ **special care nurseries** ] neonatal intensive care units:

(1) The construction and arrangement of the [ **special care nursery** ] neonatal intensive care unit shall permit personnel to observe the infants and have immediate access to them. Total [ **nursery** ] neonatal care unit space, exclusive of anteroom, shall provide adequate floor space consistent with the [ **current recommendations of the American Academy of Pediatrics** ] the Guidelines.

(2) Each infant requiring heat or air control, or both, shall have [ **his own** ] a separate incubator or other warming device and [ **his own** ] an individual environment with individualized heat, oxygen, suction[, ] and air turnover controls, as appropriate. Any infant whose condition permits may be placed in a bassinet.

\* \* \* \* \*

(4) A double-grounded electrical outlet shall be provided for each incubator or radiant warmer. Sufficient extra outlets should be provided for other electronic patient care equipment. Some electrical outlets in the [ **nursery** ] unit shall be on the emergency electrical circuit of the hospital and shall be so marked.

(5) Resuscitation equipment [ **must** ] shall be available within the [ **nursery** ] neonatal intensive care unit. An effective method for preventing heat loss by the infant shall be available while [ **he** ] the infant is undergoing any treatment.

(6) Air within [ **special care nurseries shall** ] neonatal intensive care units may not be recirculated and shall be frequently turned over each hour.

**POLICIES**

§ 139.21. Policies and procedures.

The director of [ **newborn** ] neonatal services shall be responsible for developing written policies and procedures for [ **nursery** ] the provision of medical services within the neonatal care unit which shall be available to the medical and nursing staff. The policies and procedures shall be reviewed by the director once a year and revised as necessary, and dated to indicate the time of last review. They shall provide specifications to conform to [ **the requirements of** ] §§ 139.22—139.29 [ **of this title (relating to policies)** ].

§ 139.22. Physicians' services.

(a) [ **A physician on-call schedule shall be posted in the nursery to ensure that** ] There shall be a physician [ **is** ] available at all times. This physician shall be certified by the American Board of Pediatrics or an equivalent board, eligible for Board

certification, or have successfully completed an approved residency in pediatrics.

(b) [ **All newborn** ] Newborn infants shall have a complete physical examination [ **by a physician or his authorized delegate in the delivery room and also within 24 hours after admission to the nursery** ], at or near the time of delivery consistent with the recommendations contained in the Guidelines and the results of the examinations shall be recorded in the infant's medical record.

\* \* \* \* \*

(e) There shall be a method for the proper identification of each infant and his mother or other responsible person at the time of discharge from the hospital. Infants discharged or transferred to another [ **nursery** ] neonatal care unit or hospital shall be carefully identified.

§ 139.23. Delivery suite services.

\* \* \* \* \*

(b) The director of obstetrics and the director of [ **newborn** ] neonatal services shall formulate policies and procedures for delivery room care of infants [ **which are consistent with the recommendations of the nursery committee** ]. These policies and procedures shall be written and shall include provisions for:

(1) Notification of the physician in charge of the infant and the nurse [ **in charge of the nursery** ] responsible for the provision of nursing services in the neonatal care unit when the delivery of a potentially high-risk infant is expected.

\* \* \* \* \*

(8) A carefully planned procedure to be instituted for the transportation of newborn infants to the [ **nursery** ] neonatal care unit from the delivery room to insure maximum protection of the infant. Transfer of distressed infants to the [ **nursery** ] unit shall be done in [ **such** ] a manner [ **as to minimize** ] that minimizes heat loss and to insure adequate oxygenation.

(9) The record of the newborn infant to accompany [ **him** ] the infant from the place of delivery to the [ **nursery** ] neonatal care unit and be immediately available to [ **nursery** ] unit personnel. This record shall include information concerning prenatal history, course of labor, delivery, drug administration to mother and infant, Apgar score, relevant conditions of the mother, procedures performed on the infant in the delivery room, complications of any type, and other facts and observations.

§ 139.24. [ **Special care nurseries** ] Neonatal intensive care units (Levels II and III).

(a) In hospitals with [ **special care nurseries** ] neonatal intensive care units, the director of the [ **newborn** ] neonatal services [ **and the nursery committee** ] shall develop written policies and procedures regarding admission of infants to [ **special care nurseries** ] neonatal intensive care units.

(b) Policies for [ **special care nurseries shall** ] neonatal intensive care units include:

(1) [ **requirements** ] Requirements, in accordance with the [ **current recommendations of the Academy of Pediatrics** ] Guidelines, for staffing of [ **special**

care nurseries ] neonatal intensive care units. In addition, [ transfer and special care nurseries ] these units shall be staffed on every shift by at least one registered professional nurse who has special training, experience[ , ] and interest in infants requiring special care and who is assigned no other responsibilities.

(2) [ a ] A requirement that a pediatrician designated by the director of the [ newborn ] neonatal services shall be on call 24 hours a day.

(3) [ a ] A provision that private physicians or specialists may care for their patients in [ special care nurseries ] neonatal intensive care units. However, the final authority for policy in [ special care nurseries ] neonatal intensive care units shall reside with the director of [ the newborn ] neonatal services.

(4) [ a ] A requirement that ancillary [ nursery ] personnel employed to meet the needs of infants shall have appropriate, specified skills and training.

(5) [ provisions ] Provisions for physicians, nurses, and social service staff to assist parents of special care infants to become acquainted with their infant and [ his ] any problems during [ his ] the infant's hospitalization.

(6) [ a ] A definite written policy, developed by the [ nursery committee ] director of neonatal services, which provides for the unique problems involved in the total care of infants in [ special care nurseries ] neonatal intensive care units to be met, by making arrangements with the hospital nursing and social service departments and community health and social agencies, and by specifying what provisions will be made for continuing care, follow-up[ , ] and home assistance.

§ 139.25. Control of infection.

(a) The director of [ newborn ] neonatal services [ and the nursery committee ] through the hospital's infection control program shall establish procedures for the control of infection, governing [ such ] matters such as [ nursery ] appropriate attire, isolation, and cleaning of equipment in the neonatal care unit. Infection control procedures for [ newborn ] neonatal services may be included among the responsibilities of the committee established [ pursuant to § 147.21 (relating to infection control) ] under other licensure regulations. These procedures shall be written, reviewed at least annually[ , ] and dated to indicate the date of last review.

(b) Infection control procedures shall do the following:

(1) [ prohibit ] Prohibit common or group carriers for transporting infants to their mothers[ ; and ].

(2) [ require ] Require and specify procedures for scrupulous hand cleansing by all [ nursery ] neonatal care unit personnel and visitors before and after each infant contact.

(c) [ Consideration shall be given to the current recommendations of the American Academy of Pediatrics ] The infection control standards shall be consistent with the current Guidelines.

§ 139.26. Care given by parents.

(a) The [ maternity ] obstetrical and [ nursery ] neonatal care departments of any hospital which provides rooming-in services shall have written policies governing [ such ] the services. These procedures shall be designed to prevent cross contamination.

\* \* \* \* \*

§ 139.27. Laboratory services and radiological services.

\* \* \* \* \*

(d) A hospital in which a [ special care nursery ] neonatal intensive care unit is located shall have a licensed blood bank, available or on call to the [ nursery ] unit on a 24-hour-a-day, [ seven ] 7-day-a-week basis.

§ 139.28. Patient medical records.

Patient medical records shall be maintained in accordance with Chapter 115 (relating to medical records services). The following information shall also be included in the [ newborn ] neonatal record if the entire maternal records are not maintained as the [ newborn ] neonatal records [ as set forth ] in § 115.23(b) (relating to preservation of medical records):

\* \* \* \* \*

(9) Condition of infant at birth, including the [ one ] 1-and [ five ] 5-minute Apgar Score or its equivalent, resuscitation, time of sustained respirations, details of physical abnormalities, pathological states observed and treatments given before transfer to the [ nursery ] neonatal care unit.

\* \* \* \* \*

§ 139.29. Infant nursing records.

Upon admission to a [ nursery ] neonatal care unit, nurses shall initiate and maintain records on all infants as to weight, type[ , ] and volume of feedings; time of first voiding; time of passage of first stool; number, color[ , ] and consistency of stools; and temperature. If abnormalities are suspected or recognized, nurses shall also make notations on respiratory rate, dyspnea, color, cyanosis, jaundice, pallor, lethargy, twitching, motor activity, skin and buttocks, vomiting, condition of the eyes and umbilical cord, and other relevant factors as indicated and warranted by the condition of the infant. Treatments, medication[ , ] and special procedures ordered by a physician should also be recorded with time, date[ , ] and the name and title of the individual who administers them.

[ FORMULA ] NUTRITIONAL SERVICES

§ 139.31. Policies and procedures.

Written policies and procedures for infant feeding [ and formula preparation, if appropriate, ] shall be established and shall be available to the medical and nursing staffs.

§ 139.32. Commercial formula.

Precautions [ must ] shall be taken to prevent the contamination and expiration of commercial formulas.

**§ 139.33. Formula preparation.**

(a) A [ **professional** ] registered **professional** nurse or dietitian shall be in charge of formula preparation.

\* \* \* \* \*

**§ 139.34. Breastfeeding.**

Management of breastfeeding mothers and infants shall be [ **in accordance with current recommendations of the American Academy of Pediatrics** ] consistent with the Guidelines.

**CHAPTER 158. VITAL ORGAN TRANSPLANTATION SERVICES**

**GENERAL PROVISIONS**

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**SUPPLEMENTARY CRITERIA**

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- 158.35. Pancreas transplantation programs.
- 158.36. Other organs.
- 158.37. Pediatric transplantation programs.

**GENERAL PROVISIONS**

**§ 158.1. Principle.**

Transplantation services shall be performed only in hospitals and shall be performed in accordance with accepted and prevailing standards of medical practice.

**§ 158.2. Definitions.**

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

*Board certified*—A physician licensed to practice medicine in this Commonwealth who has successfully passed an examination and has maintained certification in the relevant medical specialty area or subspecialty area, or both, recognized by one of the following groups:

- (i) The American Board of Medical Specialties.
- (ii) The American Osteopathic Association.
- (iii) The Foreign equivalent of either group listed in subparagraph (i) or (ii).

*Board eligible*—A physician licensed to practice medicine in this Commonwealth who has completed the preliminary requirements necessary to take a certification examination offered by a medical specialty board recognized by the American Board of Medical Specialties, the American Osteopathic Association or the foreign equivalent of either group and who is within 3 years of attaining eligibility to take the examination.

*Onsite*—In the physical structure at which vital organ transplantation services are being offered or in an adjoining structure.

*Organ Procurement and Transplantation Network*—A private nonprofit entity created under 42 U.S.C.A. § 274

to coordinate organ procurement and allocation for transplants in the United States and whose duties include the establishment of membership and medical criteria for institutions that perform vital organ transplants.

*Transplantation center*—The entire unit of a hospital which is devoted to the provision of vital organ transplantation services. Within a transplantation center, separate programs shall be established for each type of vital organ transplanted.

*Transplantation program*—The offering of a surgical service which involves the transfer of a vital organ from one individual to another. Each type of organ transplantation constitutes a separate transplantation program.

**§ 158.3. Scope.**

(a) When a hospital provides transplantation services, it shall make a sufficient commitment of resources and planning to all transplantation services which it provides. This commitment shall be demonstrated as follows:

(1) Commitment of the hospital to the transplantation service shall be present at all levels and broadly evident throughout the facility. This requires a major commitment of resources. These shall include many other departments, as well as the principal sponsoring departments.

(2) The hospital shall have both the expertise and the commitment for participation in medical, surgical and other relevant areas. The hospital shall identify individuals in these areas to achieve an identifiable and stable transplant team.

(3) The component teams shall be integrated into a comprehensive team with clearly defined leadership and corresponding responsibility.

(4) The hospital shall have active medical and surgical programs in the specific areas in which transplantation services are offered.

(5) The commitment to medical staff shall include the elements in § 158.13 (relating to medical staff).

(6) The nursing service shall identify teams trained not only in the support of the patient, but also in the special problems of managing immunosuppressed patients.

(7) Adequate social services resources shall be available.

(8) Mechanisms shall be in place for managing the transplantation program which assures that:

(i) Patient selection criteria are consistent with those set forth in the hospital's written patient selection criteria.

(ii) The hospital is responsible for the ethical and medical considerations involved in the patient selection process and application of patient selection criteria.

(9) Adequate plans exist for organ procurement which meet legal and ethical criteria.

(b) Each transplantation program shall be a participating member of the Organ Procurement and Transplantation Network and shall comply with its standards, guidelines and bylaws.

**PROGRAM, SERVICE AND PERSONNEL REQUIREMENTS**

**§ 158.11. Medical director.**

The medical director of the transplantation center shall be an active member of the medical staff who is a qualified transplantation surgeon or transplantation physician and who is either certified by the American Board

of Surgery or the American Board of Internal Medicine or an equivalent board or who has become Board eligible within the previous 3 years.

**§ 158.12. Transplantation coordinator.**

Each transplantation center shall have onsite on a full time basis a transplantation coordinator. The transplantation coordinator shall be certified by the American Board of Transplant Coordinators.

**§ 158.13. Medical staff.**

(a) Each transplantation program shall have at least one transplantation surgeon and one transplantation physician who are members of the hospital's active medical staff and who meet the requirements established by the Organ Procurement and Transplantation Network to serve in that capacity.

(b) Each transplantation center shall have supporting medical staff to provide necessary services to transplant patients. Required medical staff shall be available at all times and shall include the following:

(1) Nephrology services comprised of at least one nephrologist certified or eligible for certification in nephrology by the American Board of Internal Medicine or an equivalent board. The nephrologist may also serve as the transplant physician.

(2) Pathology services with a pathologist who is certified or eligible for certification by the American Board of Clinical Pathology or an equivalent Board. The pathology service shall be available for studying and reporting promptly the pathological responses to transplantation.

(3) Anesthesiology services with an anesthesiologist who is certified or eligible for certification by the American Board of Anesthesiology or an equivalent Board. Anesthesiology shall identify a team for transplantation that is trained in transplant surgery and is available at all times.

(4) Radiology services with a radiologist who is certified by the American Board of Radiology or an equivalent board. A radiologist shall have 1 year of training or 2 years experience in imaging techniques used in transplantation of the applicable organ and shall be available at all times.

(5) An internist who is certified in infectious diseases by the American Board of Internal Medicine or an equivalent board and who shall be readily available to transplant patients. The internist shall have both the professional skills and the laboratory resources needed to discover, identify and manage the complications from organisms encountered in transplant patients.

(6) Psychiatric services with a psychiatrist who is currently certified or eligible for certification in psychiatry by the American Board of Psychiatry and Neurology or an equivalent board. The psychiatrist shall be available to meet the psychiatric needs of transplant patients.

**§ 158.14. Laboratories.**

(a) The transplantation center shall maintain, or by agreement have access to, a tissue typing laboratory with appropriate space and resources to perform required histocompatibility testing and cross matches.

(b) The transplantation center shall maintain, or by agreement have access to, laboratory facilities capable of performing virology, cytology, clinical chemistry, microbiology and monitoring of immunosuppressive drugs.

(c) The transplantation center shall have blood bank support with the capacity to supply blood components for

the number of transplants that are projected, the ability to irradiate blood components and the availability of a blood separator and central blood repository.

**§ 158.15. Support services.**

(a) The transplantation center shall maintain, or by agreement have access to, a rehabilitation center which can provide physical rehabilitation, psychological services and vocational and occupational therapy.

(b) The transplantation center shall maintain, or by agreement have access to, the social support services necessary for the care of transplant recipients and for the assistance to families coping with the transplant experience.

(c) The transplantation center shall maintain a service for counseling recipients which is directed to their particular needs and problems. Additionally, as appropriate, the transplantation service shall provide counseling to donors and to their relatives.

(d) The transplantation center shall maintain all of the following facilities:

(1) Adequately equipped operating rooms.

(2) Adequate equipment and supplies.

(3) Intensive care facilities capable of maintaining transplant patients.

(4) Facilities for acute hemodialysis.

**§ 158.16. Selection criteria.**

(a) The transplantation program shall have written procedures for selecting transplantation candidates and distributing organs in a fair and equitable manner. Selection criteria shall comply with the National Organ Procurement and Transplantation Network organ allocation priorities and shall be based on objective medical criteria and time on a waiting list.

(b) The transplantation program shall have written policies in place to assure that:

(1) Patient selection decisions are consistent with criteria set forth in the written patient selection criteria.

(2) The transplantation program is responsible for ethical and medical considerations in the patient selection process.

**§ 158.17. Referrals; hours of operation.**

(a) The transplantation center shall accept referrals from all physicians.

(b) Transplantation services shall be accessible 24 hours a day, 7-days-a-week.

**§ 158.18. Volume of procedures.**

(a) Each transplantation program shall perform an adequate number of procedures to maximize quality.

(b) Where standards exist, the transplantation program shall perform the number of procedures required by either the Health Care Finance Administration or the Organ Procurement Transplantation Network.

(c) Failure to meet the standards in subsection (b) shall cause the Department to review the transplantation program and to determine its compliance with other quality assurance criteria.

**§ 158.19. Post-transplantation care.**

(a) The transplantation center shall maintain a program for continuing patient follow-up care throughout the recipient's life.



(b) This program shall include the following:

(1) A system for referring physicians that integrates patient referral and continued patient supervision.

(2) The interchange of medical and other information necessary in the care and treatment of patients transferred between physicians responsible for patient care and the transplantation surgery.

(3) The provisions of a discharge plan to the referring physician and.

(4) An obligation to follow the patient at appropriate intervals to assess the outcome of the transplant and to provide any consultative care as necessary.

#### **SUPPLEMENTARY CRITERIA**

##### **§ 158.31. Kidney transplantation program.**

(a) The general standards in §§ 158.1—158.19 apply to kidney transplantation programs. Additionally, the criteria in this section apply only to kidney transplantation programs.

(b) A kidney transplantation program shall have overall plans and resources to assure a reasonable concentration of experience.

(c) A kidney transplantation program shall participate in and be certified by the Federal ESRD ("End Stage Renal Disease") (Medicare) program and as an ESRD center.

(d) A hospital which has a kidney transplantation program shall have a division of urology comprised of at least one urologist certified or eligible for certification by the American Board of Urology or an equivalent Board. The urologist shall be available to act as a consultant when appropriate for the preoperative, operative and postoperative surgical evaluation and management of transplant patients and living donors.

(e) In addition to dialysis facilities for acute hemodialysis, a kidney transplantation program shall be capable of providing peritoneal dialysis.

##### **§ 158.32. Heart transplantation program.**

(a) The general standards in §§ 158.1—158.19 apply to heart transplantation programs. Additionally, the criteria in this section apply only to heart transplantation programs.

(b) A heart transplantation program shall have overall plans and resources to assure a reasonable concentration of experience.

(c) A heart transplantation program shall have on staff and available at all times a cardiologist and a pulmonologist both of whom are certified or are eligible for certification by the respective appropriate American Board or an equivalent Board. Either of these specialists may also serve as the transplant physician.

(d) The hospital shall have a cardiac catheterization service which meets all of the regulatory requirements for this service. The cardiac catheterization laboratory shall be available to perform these procedures on an emergency basis.

(e) The hospital shall have an open heart surgery program and shall meet all of the regulatory requirements for this service.

(f) The hospital shall meet the following conditions:

(1) Possess expertise in other relevant areas including cardiology, cardiovascular surgery and pulmonary diseases.

(2) Identify individuals in these areas in order to achieve a stable transplant team.

##### **§ 158.33. Liver transplantation program.**

(a) The general standards in §§ 158.1—158.19 apply to liver transplantation programs. Additionally, the criteria contained in this section apply only to liver transplantation programs.

(b) A liver transplantation program shall have overall plans and resources to assure a reasonable concentration of experience.

(c) A hospital shall have on staff and available a gastroenterologist who is certified or eligible for certification by the American Board of Gastroenterology or an equivalent Board. The gastroenterologist shall have at least 2 years experience in hepatology. The gastroenterologist may also serve as the transplant physician.

(d) The pathologist shall be specifically trained in liver pathology.

##### **§ 158.34. Lung and heart/lung transplantation programs.**

(a) The general standards in §§ 158.1—158.19 apply to lung and heart/lung transplantation programs. Additionally, the criteria contained in this section shall apply only to lung and heart/lung transplantation programs.

(b) A lung or heart/lung transplantation program shall have overall plans and resources to assure a reasonable concentration of experience.

(c) A lung or heart/lung transplantation program shall have on staff and available a cardiologist and a pulmonologist certified or eligible for certification by the respective appropriate American Board or equivalent Board. Either of these specialists may also serve as the transplant physician.

(d) The hospital shall have a cardiac catheterization service which meets all of the regulatory requirements for this service. The cardiac catheterization laboratory shall be available to perform these procedures on an emergency basis.

(e) The hospital shall have an open heart surgery program and shall meet all of the regulatory requirements for this service.

##### **§ 158.35. Pancreas transplantation programs.**

(a) The general standards in §§ 158.1—158.19 apply to pancreas transplantation programs. Additionally, the criteria contained in this section shall apply only to pancreas transplantation programs.

(b) A pancreas transplantation program shall have overall plans and resources to assure a reasonable concentration of experience.

(c) A hospital in which a pancreas transplantation program performs combined kidney/pancreas transplants or sequential kidney and pancreas or sequential pancreas and kidney transplants shall have an active kidney transplantation program.

(d) A hospital which has a pancreas transplantation program shall have a division of endocrinology comprised of at least one endocrinologist currently certified by the American Board of Endocrinology or an equivalent Board. If the endocrinologist serves as the transplant physician, then the endocrinologist shall have at least 1 year of training or 2 years experience in the care of transplant patients.

**§ 158.36. Other organs.**

A facility proposing to establish a program for transplant of an organ other than kidney, heart, liver, lung, heart/lung or pancreas shall:

(1) Comply with the general criteria contained in this chapter.

(2) Comply with Organ Procurement Transplant Network criteria applicable to the specific organ.

**§ 158.37. Pediatric transplantation programs.**

(a) A transplantation center that provides a transplantation program to pediatric patients shall do the following:

(1) Follow the general criteria for transplantation centers and programs in §§ 158.1—158.19.

(2) Follow the supplementary criteria for the applicable organ transplantation program in §§ 158.31—158.36.

(3) Follow the criteria in this section in the treatment of pediatric patients.

(b) In those instances when criteria for pediatric transplantation programs differs from supplementary criteria for organ specific transplants, transplantation centers providing services to both adult and to pediatric patients are required to fulfill both the supplementary criteria for the specific organ and the following pediatric transplant criteria. Transplantation centers providing programs exclusively to pediatric patients need only meet the criteria for pediatric transplantation programs.

(c) Those transplantation centers which are exclusively pediatric shall have overall plans and resources to assure a reasonable concentration of experience.

(d) Transplantation centers providing services to pediatric patients shall have on staff and available the following specialists who shall be certified or are eligible for certification by the appropriate subspecialty board of the American Board of Pediatrics or an equivalent Board:

(1) Pediatric transplantation programs shall have on staff: a pediatric nephrologist, a pediatric infectious disease specialist and a pediatric internist.

(2) Pediatric liver transplantation programs shall have on staff: a pediatric gastroenterologist and a pediatric pulmonologist.

(3) Pediatric heart, lung and combined heart/lung transplantation programs shall have on staff: a pediatric pulmonologist, a pediatric cardiologist and a pediatric cardiac surgeon.

(4) Pediatric pancreas transplantation programs shall have on staff a pediatric endocrinologist.

(e) Transplantation centers providing services to pediatric patients shall have on staff and available the following personnel who are certified or qualified, or both, as follows:

(1) An anesthesiologist who is certified or eligible for certification by the American Board of Anesthesiology or an equivalent Board and has 2 years of experience providing anesthesiology services to pediatric patients.

(2) A dietitian who is registered by the American Dietetic Association or who is a feeding specialist and who has 2 years of experience providing dietetic services to pediatric patients.

(3) A radiologist who is certified or eligible for certification by the American Board of Radiology or an equivalent Board and who has 2 years of experience providing radiology services to pediatric patients.

(4) A physical therapist who has 2 years experience providing services to pediatric patients.

(5) A psychiatrist who is certified or eligible to be certified by the American Board of Child Psychiatry or an equivalent board.

(6) A social worker who has 1 year of experience providing social services to pediatric patients.

(7) A nursing staff that is experienced in providing nursing services to pediatric patients and is of a sufficient complement to meet nursing care goals, standards of nursing practice and nursing care needs of pediatric patients.

(8) An occupational therapist who is registered with the American Occupational Therapy Association and who has 1 year of experience in treating pediatric patients.

(f) A pediatric heart transplantation center shall have cardiac catheterization and open heart surgical services which meet all of the regulatory requirements for pediatric patients.

(g) A pediatric program which provides kidney transplantation services to pediatric patients shall have on staff and available a urologist certified or eligible to be certified by the American Board of Urology or an equivalent board and who has 2 years experience providing urology services to pediatric patients.

(h) Transplantation centers that provide transplantation programs to pediatric patients shall have appropriate equipment available to provide the following services to pediatric patients:

(1) Dialysis.

(2) Anesthesia.

(3) Intensive care.

(4) Operating room.

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