

PENNSYLVANIA BULLETIN

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See Part II page 5341 for the
Environmental Quality Board
Storage Tank Technical Standards

Part I

Agencies in this issue:

The Governor
The Courts
Department of Banking
Department of Conservation and
Natural Resources
Department of Environmental Protection
Department of General Services
Department of Health
Department of Labor and Industry
Department of Transportation
Environmental Quality Board
Executive Board
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Securities Commission
State Police
Turnpike Commission

Detailed list of contents appears inside.

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

No. 275, October 1997

PENNSYLVANIA



BULLETIN

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Contents

THE GOVERNOR

GOVERNOR'S OFFICE

The 21st Century Environment Commission..... 5244

THE COURTS

CIVIL PROCEDURAL RULES

Amendment of the rules governing post-trial practice; no. 287; doc. no. 5..... 5245

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of suspension (3 documents) 5246

JUDICIAL ADMINISTRATION RULES

Amendment of Rule 301(b); no. 187; judicial administration doc. no. 1..... 5245

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING

Notices

Action on applications..... 5278

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Conservation and Natural Resources Advisory Council; meeting notice 5280

DEPARTMENT OF ENVIRONMENTAL PROTECTION

See also ENVIRONMENTAL QUALITY BOARD

Notices

Applications, actions and special notices..... 5280

Availability of technical guidance 5311

Availability of universal waste petitions for public comment 5312

DEPARTMENT OF GENERAL SERVICES

Notices

Contract awards..... 5336

State contracts information..... 5328

DEPARTMENT OF HEALTH

Notices

Advisory Health Board..... 5312

Governor's Council on Physical Fitness and Sports.. 5312

Organ Donation Advisory Committee meeting 5312

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Pennsylvania Conservation Corps; grants for projects 5313

DEPARTMENT OF TRANSPORTATION

Notices

Access route approval..... 5313

Bureau of Aviation; availability of local real estate tax reimbursement grants for taxes paid in 1997 . 5318

Retention of engineering firms..... 5318

ENVIRONMENTAL QUALITY BOARD

Rules and Regulations

Storage tank technical standards (Part II)..... 5341

Water quality standards..... 5247

EXECUTIVE BOARD

Statements of Policy

Reorganization of the:

Department of Labor and Industry..... 5275

Department of Transportation 5275

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Notice of filing of final-form rulemakings..... 5322

INSURANCE DEPARTMENT

Notices

Capital Blue Cross and Pennsylvania Blue Shield; rate hearing for non-group basic, major medical and comprehensive major medical programs and Medicare supplement/security 65 programs plans B, C and H; filing nos. 97-T, 97-U, 97-V, 97-KK, 1-DPMS-97-HI and 1-DPCM-97-HI..... 5323

Highland Insurance Company; Pennsylvania Compensation Rating Bureau; doc. no. RT97-09-030... 5323

Review procedure hearings; cancellation or refusal of insurance 5323

Review procedure hearings under The Unfair Insurance Practices Act 5324

LIQUOR CONTROL BOARD

Notices

Expiration of leases..... 5324

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking

Electric service reliability standards 5262

Electronic transaction auditing of telephone customer proprietary information 5269

Standards for changing customer's electric supplier . 5270

Notices

Equitable Gas Company—gas service 5324

Pennsylvania-American Water Company—water service 5326

Philadelphia Suburban Water Company—water service (2 documents) 5326, 5327

Service of notice of motor carrier applications..... 5325

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for proposals 5327

SECURITIES COMMISSION

Rules and Regulations

Registration of securities, broker-dealers, agents, investment advisers and administration..... 5255

5236

STATE POLICE

Rules and Regulations

Megan's law—neighbor notification 5253

TURNPIKE COMMISSION

Notices

Request for proposals 5327

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.

4 Pa. Code (Administration)

Adopted Rules

1	919, 1003, 1007
5	921, 1782, 1918, 3207, 4721
7	921, 1005, 1781, 1785, 3784, 5244
120b	2415
121	3046
401	2415
402	2415
403	2415
405	2415
407	2415
409	2415

Statements of Policy

9	450, 737, 1048, 1367, 1656, 2143, 2431, 3528, 3681, 4002, 4353, 4469, 5275
---	---

7 Pa. Code (Agriculture)

Adopted Rules

3	1791
5	1791
7	1791
8	1791
9	1791
110	1793

Proposed Rulemaking

76	2936
104	2124
138e	3751
Unclassified	2936

10 Pa. Code (Banks and Banking)

Proposed Rulemaking

11	1813
13	1813
17	1813
35	1813
41	1813
42	807
61	1809
63	1809
65	1809
67	1809

12 Pa. Code (Community and Economic Development)

Adopted Rules

1	2415
2	2415
11	2415
31	2415
41	2415
51	2415
61	2415
63	2415
71	2415
73	2415
81	2415
111	2415
113	2415
115	2415
117	2415
119	2415

121	2415
131	2415
133	2415
135	2415
141	2415
145	2415, 4828
147	2415

Statements of Policy

123	3531
-----	------

13 Pa. Code (Commerce and Trade)

Adopted Rules

1	2415
2	2415
3	2415
9	2291
11	2291
13	2291
41	2291
53	2291
55	2415
57	1645, 2415
69	2415
71	2291
101	2415
103	2415
105	2415
201	2415
202	2415
203	2415
205	2415
207	2415
209	2415
301	2415
303	2415

Statements of Policy

55	1369
----	------

16 Pa. Code (Community Affairs)

Adopted Rules

1	2415
3	2415
4	2415
11	2415
13	2415
15	18, 2415
23	2415
25	2415
28	2415
29	2415
30	2415
36	2415
36a	2415
36b	2415
37	2415
38	2415
40	2415

17 Pa. Code (Conservation and Natural Resources)
Proposed Rulemaking
 21 4744

22 Pa. Code (Education)
Adopted Rules
 335 2926

Proposed Rulemaking
 14 2428
 49 2011
 101 1648
 342 2423

25 Pa. Code (Environmental Protection)
Adopted Rules
 83 3161
 89 2371
 93 3050, 3522, 5247
 245 5341
 250 4181
 260 237
 261 237, 2889
 262 237, 2889
 263 237
 264 237, 2889
 265 (with correction) 237, 413, 2889
 266 237, 2889
 270 237
 271 521
 272 521
 273 521
 275 521
 277 521
 279 521
 281 521
 283 521
 285 521, 1794
 287 521

Proposed Rulemaking
 77 875
 78 2126
 79 2126
 80 2126
 86 730, 1446, 2255
 87 2245, 2255
 88 2245, 2255
 89 2255, 2379
 90 2255
 91 4343
 92 1459
 93 1449, 1561, 2427, 2428, 4094
 94 4334
 95 1459
 97 4343
 101 1459, 4343
 103 1553
 121 1822, 1829, 2130, 4325, 4340
 122 1822
 123 1822, 1829, 4340
 126 2130
 128 3058
 129 2239, 3058, 4325
 131 3058
 137 1822
 139 1822, 2130, 3058
 171 735
 271 893
 272 893

273 893
 277 893
 279 893
 281 893
 283 893
 285 893
 287 893
 288 893
 289 893
 291 893
 293 893
 295 893
 297 893
 299 893
 901 2753, 4726

Statements of Policy
 83 1472, 4355

Proposed Statements of Policy
 15 1473

28 Pa. Code (Health and Safety)
Adopted Rules
 23 4317

Proposed Rulemaking
 6 1939
 13 1553
 15 1553
 25 1939
 29 928
 51 2703
 136 2703
 138 2703
 139 2703
 158 2703
 201 3609
 203 3609
 205 3609
 207 3609
 209 3609
 211 3609
 551 3609
 553 3609
 555 3609
 557 3609
 559 3609
 561 3609
 563 3609
 565 3609
 567 3609
 569 3609
 571 3609
 573 3609
 701 1815
 709 1815
 711 1815
 713 1815

31 Pa. Code (Insurance)
Adopted Rules
 66 19
 101 3054
 109 3055
 111 5093
 113 3056, 5093
 163 295

Proposed Rulemaking
 1 3231
 5 3231
 7 3231
 9 3231
 41 3062
 65 3061
 71 3796
 73 3796
 103 3064
 111 1565
 113 1564, 1848
 117 1845
 131 1941
 135 2824
 137 1850
 242 4460
 246 4460

Statement of Policy
 65 2557
 90b 3235
 153 4102
 247 3067

34 Pa. Code (Labor & Industry)
Proposed Rulemaking
 123 3141
 127 3141

Statements of Policy
 122 1731

37 Pa. Code (Law)
Adopted Rules
 55 5253
 81 (with correction) 1929, 2292

Proposed Rulemaking
 91 4832
 93 5095

40 Pa. Code (Liquor)
Adopted Rules
 3 4432
 5 4432
 7 4432
 9 4432
 11 4432
 13 4432
 15 4432

Proposed Rulemaking
 3 1852
 5 1852
 7 1852
 9 1852
 11 1852
 13 1852
 15 1852

49 Pa. Code (Professional and Vocational Standards)
Adopted Rules
 5 413, 2540
 7 2542
 23 2543, 4466
 27 2545, 2931
 33 2547
 37 2548
 40 2819
 51 2934

53 2934
 55 2934

Proposed Rulemaking
 5 3232
 9 1566
 16 2947
 21 2950, 2953
 23 2955
 25 2957
 29 2960
 33 1577, 3525
 43b 2745

Proposed Statements of Policy
 21 194

52 Pa. Code (Public Utilities)
Adopted Rules
 1 414
 3 414
 5 414
 29 3676
 30 3676
 31 3676
 53 301
 57 414
 59 414, 3215
 63 3217
 65 799
 69 799

Proposed Rulemaking
 1 2134
 53 1012, 1027, 4099
 54 1012, 1027
 57 1162, 5262, 5270
 58 1165
 63 5269
 74 2134
 Unclassified 809, 934, 2825

Statements of Policy
 69 1658, 4102, 4109

55 Pa. Code (Public Welfare)
Adopted Rules
 1187 2636

Proposed Rulemaking
 141 2424
 155 3679
 165 4615
 168 4615
 183 4615
 3040 4615

Statements of Policy
 140 3235
 1101 4005
 1241 3818
 3040 4114
 3270 1579, 2827
 3280 1579, 2827
 3290 1579, 2827

58 Pa. Code (Recreation)
Adopted Rules
 51 1153
 53 1153, 3999

61 1155
 65 1155
 69 1155, 1934
 91 1156
 97 1156
 99 1156
 105 3999
 109 3999
 111 1156, 1934
 115 1156
 135 1646, 3788
 139 2417
 141 (with correction) 313, 586, 2743, 3788
 143 2417, 3788
 147 2550, 2743

Proposed Rulemaking

21 2555
 51 4441
 53 1159, 4441
 61 1653, 4450
 63 4450, 4456
 65 1468, 4450, 4456
 67 1468, 4450
 69 1468, 4456
 93 4445
 105 1159
 109 1159, 4441
 135 2553
 139 928
 141 1364, 2553, 4458
 143 928, 2553, 4458
 147 1161, 1364

Statements of Policy

57 317, 1944

61 Pa. Code (Revenue)

Adopted Rules

2 4322
 899 3046

Proposed Rulemaking

31 933
 71 3790
 72 3790
 73 3790
 75 3790
 76 3790
 77 3790
 79 3790
 83 3790
 85 3790
 93 4750
 101 4436
 103 4436
 117 2125
 155 4436
 162 4434
 899 1939

Statements of Policy

9 3237, 4115
 60 3068, 3683
 94 4115
 125 4912

64 Pa. Code (Securities)

Adopted Rules

102 5255
 202 5255

203 5255
 204 5255
 207 5255
 209 5255
 302 5255
 606 5255
 609 5255

Proposed Rulemaking

102 2639
 202 2639
 203 2639
 204 2639
 207 2639
 209 2639
 302 2639
 606 2639
 609 2639

67 Pa. Code (Transportation)

Adopted Rules

175 5003
 177 5010
 178 5010
 457 1798
 476 1352

Proposed Rulemaking

71 4439
 75 4439
 83 4439
 105 1821
 177 2639
 403 3231

Statements of Policy

82 4559

201 Pa. Code

Adopted Rules

3 4724, 5245
 7 794
 50 3503

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

29 2734
 71 795, 796, 3503
 73 797
 81 2285
 82 411
 83 1434, 2413, 2532
 85 1643, 2037
 89 288
 91 1643, 2038
 93 1643, 2037
 211 (with correction) 289, 2735
 303 (with correction) 1252, 1548, 2413

Proposed Rulemaking

81 4089
 83 4092
 303 289

207 Pa. Code (Judicial Conduct)

Adopted Rules

3 (with correction) 1010, 1920, 2041
 5 (with correction) 1010, 1920, 2042

210 Pa. Code (Appellate Procedure)

Adopted Rules

1	3503
3 (with correction)	3503, 3995
7	3503
9	3503
11	3503
13	3503
15	3503
17	3503, 4543
19	3503
21	3503
23	3503
25	3503
33	3503
51	3503
52	3503
65	715
67	1282

225 Pa. Code (Rules of Evidence)

Unclassified	1282
--------------	------

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules

200	293, 1921, 4426, 4428, 5245
1000	4426
1300	1441, 4826
1900	715
1910	722, 1549, 2532
1915	2532
1920	2042, 2532
1930	2532
3000	1441, 2045
4000	1443, 1921, 2532, 4426
Unclassified	581, 4093

Proposed Rulemaking

200	924, 1434
400	1434
1000	924, 1434, 3995
1300	1434
1910	1434
1940	4544
2300	1434
2950	1434
2970	1434
3000	1434
4000	924, 1443

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1	3996
50	2116, 2118, 2922
100	2118, 4546
1400	2121, 4549
1500	4298

249 Pa. Code (Philadelphia Rules)

Unclassified	926, 1790, 2736, 2816, 2923, 3043, 3426, 3513, 4308, 4827
--------------	---

252 (Allegheny County Rules)

Unclassified	581
--------------	-----

255 Pa. Code (Local Court Rules)

Unclassified	8, 12, 16, 17, 188, 294, 412, 583, 584, 723, 727, 798, 1011, 1152, 1552, 1644, 1927, 2047, 2414, 2534, 2537, 2635, 2740, 2817, 2923, 2924, 3043, 3044, 3213, 3426, 3427, 3520, 3670, 3671, 3997, 4313, 4314, 4429, 4430, 4724, 5091
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This part contains the
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Storage Tank Technical Standards

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 1997-4]

The 21st Century Environment Commission

September 9, 1997

The Secretary of Education and the Commonwealth's Physician General are being appointed as ex officio members of The 21st Century Environment Commission. Therefore, § 7.663(d) is replaced by the following:

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter SS. 21st CENTURY ENVIRONMENT COMMISSION

§ 7.663. Composition of the Commission.

(a) The Commission shall consist of no more than 40 members, including environmental, business, academic, elected officials, government and community leaders, who are appointed by and serve at the pleasure of the Governor. The Majority and Minority leaders of both chambers of the General Assembly shall each provide a list to the Governor of eight candidates and the Governor will appoint four members of the Commission one from each list.

(b) The Governor will designate two members to serve as co-chairpersons.

(c) Each Commissioner may designate a person to represent him on the Commission.

(d) Thirteen of the members will serve ex officio. These ex officio members will be the Governor's Director of Policy, the Secretaries of Agriculture, Community and Economic Development, Conservation and Natural Resources, Education, Environmental Protection, Health, and Transportation, the Physician General, and four Legislative members.



Governor

Fiscal Note: GOV 97-14. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-1612. Filed for public inspection October 10, 1997, 9:00 a.m.]

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 3]

Amendment of Rule 301(b); No. 187; Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 24th day of September, 1997, Rule 301(b) of the Pennsylvania Rules of Judicial Administration is amended to read as follows.

To the extent that notice of proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of Rule 301(b) is hereby found to be required in the interest of justice and efficient administration.

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

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 3. JUDICIAL COUNCIL OF PENNSYLVANIA

JUDICIAL COUNCIL OF PENNSYLVANIA

Rule 301. Judicial Council of Pennsylvania.

* * * * *

(b) *Composition.* The Judicial Council shall consist of [25] 27 members as follows:

* * * * *

(17) One member of the Senate of Pennsylvania, appointed by the Minority Leader of the Senate.

(18) One member of the House of Representatives, appointed by the Minority Leader of the House of Representatives.

* * * * *

[Pa.B. Doc. No. 97-1613. Filed for public inspection October 10, 1997, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL
[231 PA. CODE CH. 200]

Amendment of the Rules Governing Post-Trial Practice; No. 287; Doc. No. 5

Order

Per Curiam:

And Now, this 24th day of September, 1997, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rule 238(c) is amended to read as follows.
2. The Note to Rule 227.4(1)(b) is amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 1998.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 227.4. Entry of Judgment upon Praecept of a Party.

* * * * *

Official Note: If a motion for delay damages has been filed [**and is opposed**], judgment may not be entered until that motion is decided **or otherwise resolved**. See Rule 238(c)(3)(i).

* * * * *

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

* * * * *

(c) Not later than ten days after the verdict or notice of the decision, the plaintiff may file a written motion requesting damages for delay and setting forth the computation. **The motion shall begin with the following notice:**

NOTICE

You are hereby notified to file a written answer to the attached motion for delay damages within twenty days from the filing of the motion or the delay damages sought in the motion may be added to the verdict or decision against you.

(1) Within [**ten**] **twenty** days after the motion is filed, the defendant may answer specifying the grounds for opposing the plaintiff's motion. The averments of the answer shall be deemed denied. If an issue of fact is raised, the court may, in its discretion, hold a hearing before entering an appropriate order.

Official Note: An order of the court on the motion for delay damages shall not be subject to a motion for post-trial relief.

(2) If the defendant does not **file an answer and** oppose the motion, the [**court**] **prothonotary upon praecipe** shall add the damages for delay to the verdict or decision **in the amount set forth in the motion.**

(3)(i) If a motion for post-trial relief has been filed under Rule 227.1 and a motion for delay damages is [**opposed**] **pending**, a judgment may not be entered until **disposition has been made of** all motions filed under Rule 227.1 and this rule [**have been decided**].

(ii) If no motion for post-trial relief is filed within the ten-day period under Rule 227.1 but the defendant opposes the motion for delay damages, the plaintiff may enter judgment on the verdict or decision. Thereafter, upon deciding the motion for damages for delay, the court shall enter judgment for the amount of the delay damages, if any.

* * * * *

Explanatory Comment

A party may enter judgment upon a verdict or decision under Rule 227.4(1)(b) when a motion for post-trial relief is not decided within a 120-day period. One court of common pleas has ruled that the entry of judgment under Rule 227.4 prior to the disposition of an unopposed motion for delay damages under Rule 238 precludes the award of such damages. This is a result that was not intended.

The following amendments remedy this problem. First, Rule 238(c) is revised by prescribing a form of notice to begin the motion for delay damages, advising the defendant to file an answer within twenty days or the damages for delay may be added to the verdict or decision. Second, Rule 238(c)(1) is amended to enlarge from ten days to twenty days the time in which to answer a motion for delay damages. Third, Rule 238(c)(2) provides that if the motion is not opposed by filing an answer, the prothonotary upon praecipe will add the delay damages as set forth in the motion. Finally, Rule 238(c)(3)(i) prohibits the entry of judgment until there has been disposition of a pending motion for delay damages by order of court, by praecipe pursuant to Rule 238(c)(2) or by other resolution.

The note to Rule 227.4(1)(b) is revised to conform to amended Rule 238(c)(3)(i).

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 97-1614. Filed for public inspection October 10, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Steven M. Kramer having been suspended from the practice of law in the State of New Jersey for a period of six months, the Supreme Court of Pennsylvania issued an Order dated September

23, 1997, suspending Steven M. Kramer from the Bar of this Commonwealth for a period of six months.

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

[Pa.B. Doc. No. 97-1615. Filed for public inspection October 10, 1997, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Steven Spiegelman having been suspended from the practice of law in the District of Columbia for a period of one year, the Supreme Court of Pennsylvania issued an Order dated September 23, 1997, suspending Steven Spiegelman from the Bar of this Commonwealth for a period of one year.

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

[Pa.B. Doc. No. 97-1616. Filed for public inspection October 10, 1997, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that on September 23, 1997, pursuant to Rule 214(d)(l) of the Pa.R.D.E., John W. Morris has been placed on temporary suspension by the Supreme Court of Pennsylvania until further Order of the Court.

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

[Pa.B. Doc. No. 97-1617. Filed for public inspection October 10, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Water Quality Standards

The Environmental Quality Board (Board) by this order amends §§ 93.9e, 93.9f, 93.9k, 93.9l, 93.9o, 93.9q and 93.9z to read as set forth in Annex A.

This order was adopted by the Board at its meeting of July 15, 1997.

A. *Effective Date*

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

B. *Contact Persons*

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

C. *Statutory Authority*

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

D. *Background of the Amendment*

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

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

waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission and by the general public through a rulemaking petition to the Board.

The Department evaluated the following streams in response to requests or petitions from the following:

Little Fishing Creek, Lick Run, Finley Run, and Shirley Run: Fish and Boat Commission

Letort Spring Run: Department's Southcentral Regional Office

Tinicum Creek: Tinicum Creek Watershed Association

Lofty Creek: Eugene J. Dougherty

Unami Creek: Marlborough Township Board of Supervisors

Pine Creek: Pine Creek Headwaters Protection Group and Tiadaghton Audubon Society

Sideling Hill Creek: Fulton County Conservation District

The physical, chemical and biological characteristics and other information on these waterbodies were evaluated in order to determine the appropriateness of the current designations. Aquatic surveys of these streams were conducted by the Department's Bureau of Water Quality Management and others. Based upon the data collected in these surveys and information gathered from Department records and other sources, the Board made changes to the proposed designations as described in Section F of this Preamble.

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

In reviewing whether waterbodies are subject to the Special Protection Waters Program, and meet the definitions of "High Quality Waters" or "Exceptional Value Waters" in § 93.3 (relating to protected water uses), and applicable Federal regulations, the Department is utilizing guidance titled "Special Protection Waters Selection Criteria." This guidance appears in the Department's "Special Protection Waters Implementation Handbook."

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

The proposed regulations were approved by the Board at its June 20, 1995, meeting, and notice of the proposed rulemaking was published at 25 Pa.B. 3111 (August 5, 1995). The proposal included provisions for a 60-day public comment period and a public hearing to receive additional written and oral testimony on the Unami Creek proposal, which was held on September 27, 1995, at the Tylersport Fire Company. The public comment period concluded on October 4, 1995. However, requests for a public hearing or meeting on the Letort Spring Run redesignation were received at the end of the regular public comment period. As a result, the Department agreed to hold a public meeting to discuss the Special Protection Waters designation program, and to respond to public concerns and receive additional information on the Letort Spring Run proposal. This meeting was held on December 4, 1995, at the South Middleton Township Municipal Office. Although the Board's public comment period had already closed on October 4, 1995, the Depart-

ment accepted additional comments, suggestions and objections on the Letort Spring Run proposal until December 15, 1995.

The public comments and the Department's responses are summarized as follows:

The Board received comments from a total of 59 commentators during the public comment period. The Pennsylvania Farm Bureau provided comments on the entire proposed rulemaking package by generally opposing all EV redesignations. Two commentators provided comments on the Lofty Creek recommendation for no change (one supporting and one opposing). Thirty-eight commentators commented or testified on the Unami Creek EV proposal; twenty-two of these were witnesses at the Unami Creek public hearing. Eight commentators and 14 witnesses supported the EV designation, one was a neutral witness, and nine commentators and seven witnesses opposed the Unami Creek proposal. Seventeen commentators (four supporting, 11 opposing, one neutral, and one with an indeterminate position) provided comments on Letort Spring Run during the regular public comment permit. Two commentators supported the Sideling Hill Creek redesignation as EV.

The Independent Regulatory Review Commission (IRRC) provided comments on Letort Spring Run, Pine Creek and Unami Creek, which address issues that relate to clarity and reasonableness of the rulemaking. The Standing Committees did not provide any written comments on the proposed Tinicum Creek, et al rulemaking package.

Thirty commentators provided additional comments on Letort Spring Run during the December 4, 1995, public meeting and extended comment period (1 supporting and 29 opposing). The Department did not maintain a verbatim transcript of this public meeting. The Department conducted additional field survey work and stream evaluations on Pine Creek and Letort Spring Run in response to public comments and to provide additional information to further support or verify the proposed recommendations. The additional work on Pine Creek was performed by a staff biologist in the Department of Conservation and Natural Resources (DCNR), to verify the current status of the historic reference to broad-leafed water plantain being last documented in the basin during 1980. The biologist was able to confirm that this "Pennsylvania Endangered" species is still found near the same locations in the Pine Creek basin as reported in 1980, following several visits in August and September 1996. The Department also conducted additional water quality sampling on Letort Spring Run to verify the current condition of the water quality that had been questioned during the public comment period, at the public meeting and by IRRC. The additional sampling shows that the Letort Spring Run water quality is better than applicable water quality criteria, and supports excellent macroinvertebrate communities typical of limestone streams.

The Department believes that these redesignations are necessary to maintain the existing high quality of the streams. The Department does not propose any new regulatory restrictions on the existing dischargers or operations within these basins because of the HQ or EV Waters redesignations. The existing operations are currently required to obtain and maintain applicable Department permits, use best management practices where applicable, and must comply with the policies and regulations contained in The Clean Streams Law, and various chapters of the *Pennsylvania Code*. However, new or expanded discharge facilities or operations will be re-

quired to demonstrate that any proposed expansion or new operation will not have an adverse impact on the basin's water quality.

Several commentators and IRRC questioned the fiscal and economic impacts from these regulatory amendments, especially the EV redesignations. One commentator and witness at the Unami Creek public hearing chronicled the increased costs and bureaucratic effects of an EV designation on building and development in EV basins. This local developer estimated that it may cost him an additional \$10,000 per lot for additional permitting fees/costs, engineering costs, construction modification and additional ground required for the silt basins necessary in an EV watershed. He also described his belief that a developer would be prohibited from doing even the simplest road or bridge repair or encroachment on a wetland because it will require additional permits, planning, engineering and regulatory restrictions.

The Department is unable to predict future costs or impacts, if any, that will be incurred by a new or expanding discharger as the result of an HQ or EV Waters redesignation. While the Department acknowledges that development in an HQ or EV watershed must be consistent with the designation, such designations do not prohibit development. The Department recommends that new or expanding dischargers pursue alternatives such as protective buffer zones, or multi-functional or strategic placement of facilities and physical features, and encourages creative planning and discharge alternatives; the Department will work with facility operators and developers in order to develop options that will help them comply with the regulatory requirements. These efforts to reduce pollution at the source, and thereby protect our important resources, are supported by the Department's Office of Pollution Prevention and Compliance Assistance.

F. *Summary of Changes to the Proposed Rulemaking*

Based upon questions raised during the public comment period and the development of this final rulemaking, relating to the appropriateness of the proposed Exceptional Value Waters (EV) designation for Unami Creek, the Department reexamined the factors that supported the EV recommendation. The high level of interest that was demonstrated by the affected public during the comment period has caused the Department to again reassess its original recommendation to the Board.

The proposal for EV Waters for portions of the Unami Creek basin was based on applicable regulatory criteria and EV Criteria IV.2—Outstanding Ecological Attributes and III.1—Regional/local Resource with Protective Mechanisms. As pointed out by a stakeholder in the basin, the reference streams to which Unami Creek was compared are not designated as EV Waters in Chapter 93, but are High Quality Waters. Determination of EV Waters under this circumstance makes it necessary to evaluate how much better than the reference station a candidate stream must be, rather than whether it compares equivalently to the reference stream. Scores for the sampling stations ranged from 59% to 112% of the reference station scores. The Department believes that these scores are sufficient to characterize Unami Creek as deserving the same designation (HQ) as the references, but not a higher (EV) designation.

Because of this reexamination of the factors supporting the redesignation of Unami Creek, the Department revises its previous recommendation to the Board, and supports redesignation of the Unami Creek basin as High Quality Waters.

Also, the Letort Spring Run evaluation was revised to incorporate the results of additional evaluations which were conducted by the Department. These revisions include revising the scope of EV protection on Letort Spring Run from the Route 34 bridge crossing to the abandoned railroad bridge at Letort Park. The proposed rule had recommended EV protection from the source to the southern boundary of Carlisle Borough. These changes are consistent with the Scenic River District established by South Middleton Township. Letort Spring Run from the source to the Route 34 bridge crossing will continue to be protected as HQ-CWF.

G. *Benefits, Costs and Compliance*

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

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended designations because they will provide, in some cases, an added degree of protection for important public natural resources and, in all cases, the most appropriate degree of protection for each stream in question.

2. *Compliance Costs*—Generally, these changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. Except as noted, no costs will be imposed directly upon local government by this recommendation.

However, indirect costs may result from revisions to Act 537 Sewage Facilities Plans due to consultant and other administrative fees. Political subdivisions which add a new sewage treatment plant or expand an existing plant in the basin may experience changes in cost as noted in the discussion of impacts on the private sector.

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

3. *Compliance Assistance Plan*—The rulemaking has been developed as part of an established program that has been implemented by the Department since the early 1980's. Additional central office or regional staff are not expected to be needed in order to implement the proposal. The redesignations are consistent with current policies and, therefore, no policy changes are anticipated. The final rulemaking extends additional protection to selected waterbodies that exhibit exceptional water quality and environmental features, and is consistent with antidegradation requirements established by the Federal Clean Water Act and Pennsylvania Clean Streams Law.

All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards which prevent pollution and protect existing water uses.

The final regulations will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining the allowable stream discharge effluent limitations. These permit conditions are established to assure the water quality criteria are achieved and the designated uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with the proposed revised designated water uses.

The Department has developed technical guidance to assist the potentially affected and regulated community in understanding the impacts and requirements of the Special Protection Stream Designation Process. The Special Protection Waters Implementation Handbook, (1992), provides guidance on the regulatory designation process, protection of candidate streams, and most importantly, general considerations for proposed new or expanded discharges to Special Protection Waters. This handbook also contains appendices which present management practices and technologies relevant for point and nonpoint source dischargers to Special Protection Waters. The Department has conducted various workshops, seminars and public meetings on the Special Protection Waters program. Public meetings have been held for specific stream redesignation concerns. Permitted point source discharges are regularly evaluated through discharger self-monitoring reports (DMRs) and DEP inspections, to assure they are complying with permit conditions. The Handbook sets forth recommended Best Management Practices (BMPs) for nonpoint sources.

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

H. *Pollution Prevention*

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

I. *Sunset Date*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department

to determine whether the regulations effectively fulfill the goals for which they were intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking on July 25, 1995, to IRRC and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. The notice was published at 25 Pa.B. 3111 (August 5, 1995). In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Standing Committees with copies of all comments received, as well as other documentation.

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

This final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on August 25, 1997. IRRC met on September 4, 1997, and deemed approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

K. Findings of the Board

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 25 Pa.B. 3111 (August 5, 1995).

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

L. Order of the Board

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

(1) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9e, 93.9f, 93.9k, 93.9l, 93.9o, 93.9q and 93.9z to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(5) This order shall take effect immediately.

JAMES M. SEIF,
Chairperson

(Editor's Note: A proposal to amend §§ 93.9f, 93.9k, 93.9l, 93.9o and 93.9q, amended in this document, remains outstanding at 27 Pa.B. 1449 (March 22, 1997).) A proposal to amend §§ 93.9e, 93.9f, 93.9k, 93.9l, 93.9o, 93.9q and 93.9z, amended in this document, remains outstanding at 27 Pa.B. 1459 (March 22, 1997).) For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4879 (September 20, 1997).

Fiscal Note: Fiscal Note 7-290 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS**

§ 93.9e. Drainage List E.

**Delaware River Basin in Pennsylvania
*Delaware River***

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * *		
2—Gallows Run	Basin	Bucks	CWF	None
2—Tinicum Creek	Basin	Bucks	EV	None
		* * *		

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania
Schuylkill River

Stream	Zone	County		Water Uses Protected	Exceptions To Specific Criteria
		*	*		
4—Deep Creek	Basin	*	*	TSF	None
4—Unami Creek	Basin	*	*	HQ-TSF	None
4—Swamp Creek	Basin	*	*	TSF	None

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County		Water Uses Protected	Exceptions To Specific Criteria
		*	*		
3—Little Fishing Creek	Basin, Source to Lick Run	*	*	EV	None
4—Lick Run	Basin	*	*	CWF	None
3—Little Fishing Creek	Basin, Lick Run to Mouth	*	*	CWF	None
3—Hemlock Creek	Basin	*	*	CWF	None
2—Roaring Creek	Basin, Source to Lick Run	*	*	HQ-CWF	None
2—Roaring Creek	Main Stem, Lick Run to Mouth	*	*	TSF	None
3—Unnamed Tributaries to Roaring Creek	Basins, Lick Run to Mouth	*	*	CWF	None
3—Lick Run	Basin	*	*	HQ-CWF	None

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River

Stream	Zone	County		Water Uses Protected	Exceptions To Specific Criteria
		*	*		
5—Square Timber Run	Basin	*	*	HQ-CWF	None
5—Sterling Run	Basin, Source to Unnamed Tributary at RM 1.7	*	*	HQ-CWF	None
6—Finley Run	Basin, Unnamed Tributary at RM 1.7 to Confluence with Portable Run	*	*	CWF	None
6—Portable Run	Basin, Source to Confluence with Finley Run	*	*	CWF	None
5—Sterling Run	Basin, Confluence of Portable Run and Finley Run to Mouth	*	*	CWF	None
3—Pine Creek	Main Stem, South Branch Pine Creek to Marsh Creek	*	*	EV	None

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * *	* *		
3—Letort Spring Run	Basin, Source to PA 34 Bridge	Cumberland	HQ-CWF	None
3—Letort Spring Run	Basin, PA 34 Bridge to Railroad Bridge at Letort Park	Cumberland	EV	None
3—Letort Spring Run	Basin, Railroad Bridge at Letort Park to Mouth	Cumberland	CWF	None
	* * *	* *		

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania
Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * *	* *		
4—Thompson Creek	Basin, Source to Shirley Run	Crawford	CWF	Add TON
5—Shirley Run	Basin	Crawford	HQ-CWF	Add TON
4—Thompson Creek	Basin, Shirley Run to Mouth	Crawford	CWF	Add TON
	* * *	* *		

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania
Potomac River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * *	* *		
2—Fifteen Mile Creek	Basin (all sections in PA)	Bedford	WWF	None
2—Sideling Hill Creek				
3—West Branch Sideling Hill Creek	Basin, Source to Confluence with East Branch	Bedford	EV	None
3—East Branch Sideling Hill Creek	Basin, Source to Confluence with West Branch	Bedford	EV	None
2—Sideling Hill Creek	Basin, Confluence of West and East Branches to PA-MD State Border	Fulton	EV	None
3—Crooked Run	Basin (all sections in PA)	Fulton	EV	None
2—Sideling Hill Creek (MD)				
3—Unnamed Tributaries to Sideling Hill Creek	Basins (all sections in PA), PA-MD State Border to Mouth	Fulton	EV	None
3—Bear Creek	Basin (all sections in PA)	Fulton	EV	None
	* * *	* *		

[Pa.B. Doc. No. 97-1618. Filed for public inspection October 10, 1997, 9:00 a.m.]

Title 37—LAW

STATE POLICE

[37 PA. CODE CH. 55]

Megan's Law—Neighbor Notification

The State Police, by this order, adopts Chapter 55 (relating to Megan's Law—neighbor notification) as derived specifically from 42 Pa.C.S. § 9799.1(3) (relating to duties of Pennsylvania State Police), to read as set forth in Annex A. Notice of proposed rulemaking was published at 26 Pa.B. 2907 (June 22, 1996), with an invitation to submit written comments within 30 days of publication. The State Police received four comments.

Comments Received

The State Police received comments from the Independent Regulatory Review Commission (IRRC), the City of Bethlehem's Department of Police, the Palmer Township Police Department and the Cumberland County Probation and Parole Office. The following is a summary of the comments received and the State Police's response:

(1) The Bethlehem Police Department and IRRC questioned the appropriateness of using the originally proposed 1,000-foot radius (relating to the notification area of the residence of a sexually violent predator); specifically, a 200-foot radius was suggested. The State Police agreed to a 250-foot radius after extensive consultations with various criminal justice agencies in this Commonwealth. This standard is supported by the General Assembly's intention that notifications are public information. If individuals or places of employment outside the notification area have the desire to know the locations of sexually violent predators, they may go to their local law enforcement agency and receive a copy of the written notification.

The Bethlehem Police Department and IRRC also questioned the validity of the proposed regulations not imposing costs on State and local government. The State Police agrees and has revised the Regulatory Analysis Form accordingly. Local law enforcement agencies and the State Police have a great responsibility to see that the intent of this act is carried through. As a result, both face potentially significant time, manpower and documenting costs associated with full compliance. These will only continue to multiply as more and more offenders are released from incarceration and into society. No monetary reimbursements have been made a part of the act. Potentially, as the number of released "sexually violent predators" multiplies, the costs to local law enforcement agencies, and hence their local governments, could be very significant. Time and manpower efforts alone could potentially be crippling at times to these agencies, especially the smaller departments. Compliance with the act and regulation comes at the expense of other patrol and crime fighting duties and functions. Every effort has been made by the State Police to minimize these costs and efforts where possible and within the requirements of the act. The State Police will continuously monitor these costs and efforts to search for more efficient and cost-effective ways to comply with our legislative mandate.

The Bethlehem Police Department and IRRC raised an issue which was of much debate within the State Police; namely, the need to document notification efforts. The State Police agrees and § 55.6 (relating to documentation of notification) has been added to provide general parameters and requirements for documenting notifications.

(2) The Palmer Township Police Department questioned whether law enforcement would be responsible for notification of parents of children attending day care facilities within a sexually violent predator notification zone. The act mandates appropriate municipal police departments provide written notices to the directors of licensed day care centers and licensed preschool programs, directors of county children and youth services, superintendents of each school district and presidents of colleges and universities. Chapter 56 (relating to guidelines for administration of Megan's law—statement of policy) details this process; specifically, § 56.4 (relating to guidelines for schools and children and youth services) is intended to assist these individuals in the dissemination of information concerning sexually violent predators.

(3) The Cumberland County Probation and Parole Office questioned the omission of county juvenile and adult probation and parole departments. The intended purpose of the immunity for good faith conduct found in 42 Pa.C.S. § 9799 (relating to immunity for good faith conduct) and in § 55.3 (relating to immunity for good faith conduct) is that for those agencies or individuals so immunized there exists the possibility that they may be required to disseminate some portion of the sexually violent predator information to the public. The county probation and parole departments, correctional facilities, juvenile agencies, and the like, are not responsible for disseminating any of the Megan's Law information to the public, and thus require no immunity.

Effect

The regulations will affect all Commonwealth law enforcement agencies. As a requirement of 42 Pa.C.S., Chapter 97, Subchapter H (relating to registration of sexual offenders) (act), these regulations are necessary for the general administration of the act (relating to Megan's Law). The effective date of the act was April 21, 1996. As set forth, these regulations primarily define what a neighbor will be for the purposes of community notification when sexually violent predators are released from incarceration or change residences. Training for municipal police departments concerning the requirements of the act are continuous and ongoing. The State Police regularly conducts training and informational forums for various agencies and groups. The full resources of the State Police are available at all times to any agency at any level.

Fiscal Impact

The regulations will not impose costs on State and local government. Local law enforcement agencies and the State Police have a great responsibility to see that the intent of this act is carried through. As a result, both face potentially significant time, manpower and documenting costs associated with full compliance. These costs will continue to multiply as more and more offenders are released from incarceration and into society. No monetary reimbursements have been made a part of the act. Potentially, as the number of released sexually violent predators multiplies, the costs to local law enforcement agencies, and hence their local governments, could be very significant. Time and manpower efforts alone could potentially be crippling at times to these agencies, especially the smaller departments. Every effort has been made by the State Police to minimize these costs and efforts where possible and within the requirements of Act 24 of 1995. The State Police will continuously monitor these costs and efforts to search for more efficient and cost-effective ways to comply with the Legislative mandate. A potential reduction of civil law suits against the

Commonwealth and local municipalities is the primary benefit and savings since notifications will take place in a clearly defined manner.

Paperwork Requirements

The regulations will require the completion of additional forms, reports or other paperwork. Sexually violent predator notices provided by the State Police will need to be reproduced at the local level in volumes sufficient to complete community notification. Additionally, chief law enforcement officers, or the State Police where no municipal police jurisdiction exists, are required to establish written procedures and records documenting community notification of sexually violent predators.

Review

Due to the sensitivity and emotion that crimes like these evoke in people and communities, every facet of the regulations, and the program in general, will be continuously reviewed for effectiveness, clarity and whether they are serving the greater interests of the citizens of this Commonwealth. The State Police is committed to its success and has taken a proactive approach to soliciting comments from the regulated community and the public. This will be furthered by regularly scheduled training and regional meetings to which various elements of the criminal justice community and various private entities are invited.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the State Police submitted a copy of these regulations to IRRC and the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee for review and comment on June 29, 1997. In compliance with section 5(b.1) of the Regulatory Review Act, the State Police also provided IRRC and the Committees with copies of the comments received, as well as with a detailed copy of the Regulatory Analysis Form prepared by the State Police in compliance with Executive Order 1996-1. A copy of the material is also available to the public upon request.

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

These final-form regulations were deemed approved by the House Judiciary Committee and the Senate Law and Justice Committee on August 19, 1997. IRRC met on August 22, 1997, and approved these final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

Contact Person

The contact person is Trooper R.M. Van Buskirk, State Police, Bureau of Research and Development, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-4898.

Findings

The State Police finds that:

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

(2) The adoption of the regulations of the State Police in the manner provided in this order is necessary and appropriate. A public comment period was provided as required by law and the comments received were considered.

(3) The modifications that were made to these regulations in response to comments received do not enlarge the purpose or scope of the proposed regulations published at 26 Pa.B. 2907.

(4) The adoption of the regulations in the manner provided is necessary and appropriate for the administration of the authorizing statute.

Order

The State Police, acting under the authorizing statutes, orders that:

(a) The regulations of the State Police, 37 Pa. Code, are amended by adding §§ 55.1—55.6 to read as set forth in Annex A.

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

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

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

COLONEL PAUL J. EVANKO,
Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4596 (September 6, 1997).)

(Editor's Note: The addition of § 55.6 (relating to documentation of notification) was not included in the proposal at 26 Pa.B. 2907.)

Fiscal Note: Fiscal Note 17-57 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 37. LAW

PART I. STATE POLICE

Subpart H. ADMINISTRATION OF MEGAN'S LAW

CHAPTER 55. MEGAN'S LAW—NEIGHBOR NOTIFICATION

Sec.	
55.1.	Policy.
55.2.	Legislative finding.
55.3.	Immunity for good faith conduct.
55.4.	Definitions.
55.5.	Notification.
55.6.	Documentation of notification.

§ 55.1. Policy.

(a) The General Assembly has declared its intention to protect the safety and general welfare of the people of this Commonwealth by providing for registration and community notification regarding sexually violent predators who are about to be released from custody and will live in or near their neighborhood.

(b) The General Assembly further declared it to be the policy of the Commonwealth to require the exchange of relevant information about sexually violent predators among public agencies and officials and to authorize the release of necessary and relevant information about sexually violent predators to members of the general public as a means of assuring public protection and that the same is not to be construed as punitive.

(c) The General Assembly has determined and declared as a matter of Legislative finding that the release of information about sexually violent predators to public

agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information is rationally related to the furtherance of those goals.

(d) Information gathered under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), will not be disclosed outside the established criminal justice system, except as allowed by law.

§ 55.2. Legislative finding.

(a) The General Assembly has determined and declared that if the public is provided adequate notice and information about sexually violent predators and certain other offenders, the communities can develop constructive plans to prepare themselves and their children for the offender's release. This allows communities to meet with law enforcement agencies to prepare and obtain information about the rights and responsibilities of the communities and to provide education and counseling to their children.

(b) Persons found to have committed sexually violent offenses have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

(c) Release of information about sexually violent predators to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

§ 55.3. Immunity for good faith conduct.

The General Assembly has also declared that the following entities shall be immune from liability for good faith conduct under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders):

- (1) The State Police and local law enforcement agencies and employes of law enforcement agencies.
- (2) District attorneys and their agents and employes.
- (3) Superintendents, administrators, teachers, employes and volunteers engaged in the supervision of children of any public, private or parochial school.
- (4) Directors and employes of county children and youth agencies.
- (5) Presidents or similar officers of universities and colleges, including community colleges.
- (6) The Board of Probation and Parole and its agents and employes.
- (7) Directors of licensed day care centers.
- (8) Directors of licensed preschool programs.

§ 55.4. Definitions.

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

Neighbor—For the purposes of 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), those persons occupying both residences and places of employment located within a 250-foot radius of a sexually violent predator's residence, or the 25 most immediate residences and places of employment in proximity to the sexually violent predator's residence, whichever is greater.

Sexually violent predator—A person who has been convicted of a sexually violent offense as set forth in 42

Pa.C.S. § 9793(b) (relating to registration of certain offenders for ten years) and who is determined to be a sexually violent predator under 42 Pa.C.S. § 9794(e) (relating to designation of sexually violent predators) due to a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

§ 55.5. Notification.

Chief law enforcement officers, or the State Police where no municipal police jurisdiction exists, shall provide written notices of the current address of sexually violent predators to neighbors within 72 hours of receipt. Notwithstanding other provisions, verbal notification may be used if written notification would delay meeting this time requirement. See Chapter 56 (relating to guidelines for administration of Megan's Law—statement of policy).

§ 55.6. Documentation of notification.

Chief law enforcement officers, or the State Police where no municipal police jurisdiction exists, shall establish written procedures and policies concerning community notification of sexually violent predators. The policy and procedures should include general parameters and basic requirements for documenting notifications. For example, records shall reflect the date and times, geographic areas, methods employed, whether verbal notification was necessary, and whether all notifications were provided to the identified area. The record shall also reflect if follow-up notification attempts were necessary. The record will not reflect great detail or the names and addresses of all individuals to whom notification was provided.

[Pa.B. Doc. No. 97-1619. Filed for public inspection October 10, 1997, 9:00 a.m.]

Title 64—SECURITIES

PART I. SECURITIES COMMISSION

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

Registration of Securities, Broker-Dealers, Agents, Investment Advisers and Administration

Statutory Authority

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), 2-202(h) and (i), 2-203(r), 2-204(a), 2-207(h), (i) and (k), 2-209(a), 6-606(a) and 6-609(a)), has amended regulations concerning the subject matter of the act to read as set forth in Annex A.

Public Comments

No public comments were filed with the Commission concerning the proposed rulemaking published at 27 Pa.B. 2739 (May 31, 1997) during the 30-day public comment period.

Comments of the Independent Regulatory Review Commission (IRRC)

By letter dated July 30, 1997, IRRC provided two comments, both of which related to typographical errors appearing in §§ 207.091 and 606.011 (relating to sub-

scription contracts; and financial reports to security holders). These corrections have been included in the final-form rulemaking.

Changes from Proposed Rulemaking adopted by Commission

In addition to adopting changes to the proposed rulemaking published at 27 Pa.B. 2739 which were suggested by IRRRC, the Commission adopted two nonsubstantive changes to §§ 203.189 and 209.010 (relating to isolated exemption; and required records; report on sales of securities and use of proceeds). With respect to § 203.189(b), the Commission reordered the criteria to be met for the waivers granted by that subsection in order to provide greater clarity. With respect to § 209.010, the Commission deleted the reference to Form AM in item 5 of the general instructions to Form 209 since the Commission, in the proposed rulemaking, indicated its intention to amend § 609.011 to delete Form AM in its entirety.

Summary and Purpose of Amendments

- § 102.111 Offers and sales of securities to institutional investors are exempt from the securities registration provisions of the act. Section 102.111 (relating to institutional investor) is 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 (17 CFR 230.144A (relating to private resales of securities to institution)). The Commission amends § 102.111 as published at 27 Pa.B. 2641.
- § 202.080 The amendment to this regulation 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 regulation originally was promulgated, the Commission has adopted several self-executing exemptions which may be available for the same transaction. The Commission deletes § 202.080 (relating to securities issued by broker-dealers) as published at 27 Pa.B. 2641.
- § 202.094 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 Securities and Exchange Commission (SEC). Section 202.094 designates 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 adopts § 202.094 (relating to world class issuer exemption) as published at 27 Pa.B. 2642.
- § 203.189 The amendment to this regulation increases the number of sales permitted under this exemption and would waive the general solicitation prohibition and Pennsylvania domicile requirement for certain sales. The amended regulation provides an exemption from the securities registration requirements where there will be only isolated offers and sales made in this Commonwealth of a de minimis nature. The Commission amends § 203.189 (relating to isolated transaction exemption) as published at 27 Pa.B. 2642, except that it further adopts nonsubstantive amendments to § 203.189(b) to provide additional clarity.
- § 203.190 Section 203.190 (relating to certain Internet offers exempt) codifies the Commission's existing order granting an exemption for offers of securities made on the Internet that are not intended to be sold to Commonwealth residents. The Commission adopts § 203.190 as published at 27 Pa.B. 2642.
- § 204.012 Section 204.012 (relating to waivers for offerings where sales are made only to accredited investors) waives the offer and sale numerical limitations in sections 203(d) and (e) of the act and the general solicitation prohibitions for offerings of securities where sales only will be made to accredited investors. The Commission adopts § 204.012 as published at 27 Pa.B. 2643.
- § 207.081 The amendment to this regulation eliminates 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 Trust Indenture Act of 1939 (15 U.S.C.A. §§ 77aaa—77bbbb) or similar State requirements. The Commission deletes § 207.081 (relating to trust indenture requirements) as published at 27 Pa.B. 2644.
- § 207.091 The amendment to this regulation reduces the types of offerings which must file a copy of the subscription contract with the Commission. This 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 amendment deletes recordkeeping requirements for subscription contracts that duplicate requirements in § 209.010(a)(6). The Commission amends § 207.091 (relating to subscription contracts) as published at 27 Pa.B. 2644.
- § 207.110 The amendment to this regulation eliminates the requirement that issuers selling securities registered under section 206 of the act but not registered under the Federal Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa), file reports with the Commission on a quarterly basis. The Commission deletes § 207.110 (relating to quarterly reports of the progress of a registered offering) as published at 27 Pa.B. 2645.
- § 209.010 First, § 209.010 (relating to required records; report on sales of securities) is amended to repeal 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. Second, § 209.010 is amended to conform with the National Securities Markets Improvement Act of 1996 (NSMIA) (Pub.L. No. 104-290) 110 Stat 3416 by deleting all references to registration or exemption of securities offerings by investment companies under section 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 NSMIA). The Commission amends § 209.010 to conform with the requirements of NSMIA and eliminate use of terms which may cause confusion within the regulated community.

On October 11, 1996, section 102 of 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. NSMIA, in section 18(c)(1) of the 1933 Act, 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 section 205, 206 or 203(i) of the act. This amendment will eliminate all 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. The Commission amends § 209.010 as published at 27 Pa.B. 2745 with a further amendment to Item 5 of the General Instructions to Form 209 to delete the reference to Form AM which the Commission, by adopting amendments to § 609.011 (relating to amendments to filings with Commission), is deleting in its entirety.

§ 302.065 This new regulation 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 adopts § 302.065 (relating to Canadian broker-dealer exempt) as published at 27 Pa. B. 2648.

§ 606.011 Section 606.011 (relating to financial reports to security holders) would 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 where 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 780(d)), if they have made a filing within the past 120 days, also would be excluded from the financial statement delivery requirement. The Commission amends § 606.011 as published at 27 Pa.B. 2649, except that this section was amended to correct a typographical error in a legal citation.

§ 609.011 The amendment to this regulation deletes Commission Form AM and the requirement that amendments to Commission filings be made on Commission Form AM and adopts a general procedural requirement to amend notices, registration statements and other matters previously filed with the Commission. The Commission amends § 609.011 (relating to amendments to filings with Commission) as published at 27 Pa.B. 2749.

Persons Affected by these Amendments

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

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

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

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

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

With respect to the adoption of § 302.065, persons affected are licensed Canadian brokers and agents effecting transaction in this Commonwealth with a preexisting

client who temporarily is present in this Commonwealth at the time of the transactions.

With respect to amendments 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 sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78mm), if a filing has been made within the past 120 days.

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

Fiscal Impact

The 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 amendment 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 amendments, adoptions and deletions do not have a fiscal impact on the Commonwealth.

Paperwork

Sections 202.080, 207.081, 207.110 and 209.010 will eliminate paperwork as the regulatory actions delete 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.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the notice of proposed rulemaking published at 27 Pa.B. 2639 (May 31, 1997) on April 24, 1997 to 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 compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of all comments received as well as other documentation.

In preparing its final-form rulemaking, the Commission has considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House Committee on Commerce and Economic Development and by the Senate Committee on Banking and Insurance on August 27, 1997. IRRC met on September 4, 1997, and approved the final-form rulemaking on that date.

Availability in Alternative Formats

This final-form rulemaking may be made available in alternative formats upon request. 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

The contact person is G. Philip Rutledge, Deputy Chief Counsel, Pennsylvania Securities Commission, Eastgate

Building, 1010 N. Seventh Street, 2nd Floor, Harrisburg, PA 17102-1410, (717) 783-5130.

Order

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 64 Pa. Code Chapters 102, 202, 203, 207, 209, 302, 606 and 609 are amended by amending §§ 102.111, 203.190 and 609.011, by deleting §§ 202.080, 207.081 and 207.110; and by adding §§ 202.094, 204.012 and 302.065 to read as set forth at 27 Pa.B. 2739; and by amending §§ 203.189, 207.091, 209.010 and 606.011 to read as set forth in Annex A with ellipses referring to the existing text of the regulations.

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

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

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

M. JOANNA CUMMINGS,
Secretary

Fiscal Note: Fiscal Note 50-110 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 64. SECURITIES

PART I. PENNSYLVANIA SECURITIES COMMISSION

Subpart A. REGISTRATION OF SECURITIES

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 12 consecutive months. Only sales described in subsection (c) will 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 12 consecutive months. Only offers described in subsection (c) will be counted as offers for purposes of the numerical limitations contained in this paragraph.

(3) The issuer either is organized under the laws of the Commonwealth or has its principal place of business in this Commonwealth.

(4) Neither the issuer nor a promoter, officer or director of the issuer is subject to the disqualifications in § 204.010(b) (relating to increasing the number of purchasers and offerees).

(5) No public media advertisement is used or mass mailing is made in connection with offers and sales made under this section.

(6) Cash or securities are not given or paid, directly or indirectly, to a person as compensation in connection with a sale under this section unless the compensation is given or paid in connection with a sale made by a broker-dealer who either is registered under section 301 of the act (70 P. S. § 1-301) or exempt from registration under section 302(a) of the act (70 P. S. § 1-302(a)) and a person receiving compensation is either the broker-dealer or an agent of the broker-dealer who either is registered under section 301 of the act or exempt from registration under section 302(b) of the act.

(b) *Waivers.*

(1) Subsection (a)(3) and (5) does not apply if the following criteria are met:

(i) The securities to be sold in reliance on this section are registered with the United States Securities and Exchange Commission under section 5 of the Securities Act of 1933 (1933 Act) (15 U.S.C.A. § 77e) or exempt from registration under Regulation A adopted under section 3(b) of the 1933 Act (15 U.S.C.A. § 77c(b)).

(ii) The issuer has complied with section 203(h) of the act (70 P. S. § 1-203(h)).

(2) Subsection (a)(3) does not apply if the following criteria are met:

(i) The offers and sales of securities made in reliance on this section would qualify for an exemption from registration under section 5 of the 1933 Act under Rule 505 or Rule 506 of Regulation D (17 CFR 230.505 and 230.506 (relating to exemption for limited offers and sales of securities not exceeding \$5 million; and exemption for limited offers and sales without regard to dollar amount of offering)) promulgated under sections 3(b) and 4(2) of the 1933 Act.

(ii) The offers made in this Commonwealth in reliance on this section are made only to accredited investors as that term is defined in § 204.010 (relating to increasing the number of purchasers and offerees).

(iii) The sales made in this Commonwealth in reliance on this section are made only to accredited investors as that term is defined in § 204.010.

(c) *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 or this section shall be counted against the numerical limitations in subsection (a)(1) and (2).

(d) *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.

CHAPTER 207. GENERAL REGISTRATION PROVISIONS

§ 207.091. Subscription contracts.

(a) With respect to securities proposed to be sold under 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 pursuant to 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.

CHAPTER 209. BOOKS, RECORDS AND ACCOUNTS

§ 209.010. Required records; report on sales of securities.

* * * * *

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

(1) 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 (15 U.S.C.A. §§ 80a-1—80a-64), 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.

(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, 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 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.

(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:

**PENNSYLVANIA SECURITIES COMMISSION
REPORT ON SALES OF SECURITIES
General Instructions**

FORM 209

WHO MUST FILE: Issuers which have sold securities in Pennsylvania 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)).

WHEN TO FILE: File Form 209 within 420 days after the effective date of the registration statement in Pennsylvania.

FORM 209

1. For a further explanation of terms used in the Form, refer to Section 102 of the Pennsylvania Securities Act of 1972 ("Act").
2. One manually signed copy of the Form with all attachments shall be filed with the Commission. If mailed, it is advisable to send it by registered or certified mail, postage prepaid, return receipt requested.
3. Typewrite or print all answers in the space provided. Answer each item completely. An answer of "not applicable" is inappropriate. If the space is insufficient, attach a schedule to the Form and make reference to each item included in the schedule.
4. The Form filed with the Commission must be manually signed by the issuer. If the issuer is a corporation, it should be signed in the name of the corporation by an executive officer duly authorized; if a partnership, it should be signed in the name of the partnership by a general partner; and if an unincorporated association or other organization not a partnership; this Form should be signed in the name of such organization by a person responsible for the direction or management of its affairs.
5. In the event that, at any time after the filing of the Form, the issuer becomes aware that any information provided on the Form becomes inaccurate in any material respect, the issuer shall file an amendment with the Commission within 5 business days from the date the issuer became aware that the information previously submitted was inaccurate at the time it was filed.
6. In lieu of answering any specific question in the Form, the issuer may incorporate by reference information contained in any document attached thereto or previously on file with the Commission. Any such reference should be to the page and paragraph number or other specified portion of the document where the information is located.
7. Please remove instruction sheet before filing this Form.

FILE NO.: _____

FORM 209

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA SECURITIES COMMISSION**

PART I Issuer Information

1. Exact Name of Issuer: _____
2. Address of Principal Office of Issuer: _____
Number and Street

City	State	Zip Code	Telephone No.
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3. Name and address of person to whom correspondence regarding this filing should be sent:

Name	Title	Number and Street	
City	State	Zip Code	Telephone No.

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

4. Date of effectiveness of registration statement under Section 206 _____
5. (A) Offering in Pennsylvania:
 - (i) Total number of shares or other units: _____
 - (ii) Per share or unit price: _____

- (iii) Maximum aggregate offering price: _____
- (B) Sales in Pennsylvania or other units: _____
 - (i) Number of shares or other units: _____
 - (ii) Aggregate offering price: _____

Each of the persons executing 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 on (insert date)

(Name of Issuer)

By: _____

(Title)

Subpart F. ADMINISTRATION

CHAPTER 606. MISCELLANEOUS POWERS OF COMMISSION

§ 606.011. Financial reports to security holders.

(a) In the case of securities issued under section 203(d) of the act (70 P. S. § 1-203(d)), or registered under sections 205 or 206 of the act (70 P. S. §§ 1-205 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.

(b) The financial statements shall comply with section 609(c) of the act (70 P. S. § 1-609(c)) and the rules and regulations adopted thereunder, except that, if the securi-

ties 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 sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 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.

[Pa.B. Doc. No. 97-1620. Filed for public inspection October 10, 1997, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 57]

[L-970120]

Electric Service Reliability Standards

The Pennsylvania Public Utility Commission (Commission) on June 12, 1997, adopted a proposed rulemaking to establish standards and procedures for continuing and ensuring the safety and reliability of electric service in this Commonwealth. The standards provide a uniform method of assessing the reasonableness of electric service reliability. The contact person is Blaine J. Loper, Bureau of Conservation, Economics and Energy Planning, (717) 787-3810 (technical) and Susan T. Povilaitis, Assistant Counsel, Law Bureau (717) 787-2871 (legal).

Executive Summary

On December 3, 1996, Governor Tom Ridge signed into law Act 138 of 1996, 66 Pa.C.S. Chapter 28 (relating to the Electric Generation Customer Choice and Competition Act) (act), by adding Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system.

In response to this Legislative mandate, the Commission, on January 24, 1997, instituted a rulemaking proceeding to develop regulations to ensure the safety, adequacy and reliability of the generation, transmission and distribution of electricity in this Commonwealth. An advance notice of proposed rulemaking was published in the *Pennsylvania Bulletin* on February 15, 1997 at 27 Pa. B. 809, with a 30-day comment period.

The Commission adopted a proposed rulemaking adding Subchapter N, to establish standards and procedures for assessing the reasonableness of electric service reliability.

With regard to transmission system reliability, the proposed amendments require electric utilities to conform to industry standards and to the requirements of the North American Electric Reliability Council (NERC) and the appropriate regional reliability council. The proposed amendments also adopt industry accepted performance indicators, such as System Average Interruption Frequency Index and Customer Average Interruption Duration Index, for monitoring the performance and reliability of the transmission and distribution systems, and require annual filings of utility performance results.

The proposed amendments require electric generation suppliers to be members of the appropriate regional reliability council and comply with NERC and regional operating policies, criteria, requirements and standards, including the maintenance of adequate generating reserve capacity.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Commission submitted a copy of these proposed amendments on September 30, 1997, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer

Protection and Professional Licensure. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the Legislative committees have objection to any portion of the proposed amendments, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of any objections raised.

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson, Concurring in result; John Hanger, statement follows; David W. Rolka; Nora Mead Brownell

Public meeting held
June 12, 1997

Proposed Rulemaking Order

By the Commission:

Introduction

On December 3, 1996, Governor Tom Ridge signed into law Act 138 of 1996, the Electricity Generation Customer Choice and Competition Act (act), which amends Title 66 of the *Pennsylvania Consolidated Statutes* (Public Utility Code or Code) by adding Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system.

Section 2802(12) of the Code states the following with regard to electric service reliability:

Reliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission and distribution system.

66 Pa.C.S. § 2802(12).

Section 2803 defines "reliability" as follows:

[Reliability] includes adequacy and security. As used in this definition, "adequacy" means the provision of sufficient generation, transmission and distribution capacity so as to supply the aggregate electric power and energy requirements of consumers, taking into account scheduled and unscheduled outages of system facilities; and "security" means designing, maintaining and operating a system so that it can handle emergencies safely while continuing to operate.

66 Pa.C.S. § 2803.

In response to this Legislative mandate, on January 24, 1997, the Commission instituted a rulemaking proceeding to develop regulations to ensure the safety, adequacy and

reliability of the generation, transmission and distribution of electricity in this Commonwealth.

An advance notice of proposed rulemaking was published in the *Pennsylvania Bulletin* on February 15, 1997 (27 Pa. B. 809), with a 30-day comment period. Comments were received from: John G. Alford, Commission Secretary (Secretary Alford); the Delaware Valley Citizens' Council for Clean Air, Pennsylvania Energy Project, the Nonprofits Energy Savings Investment Program, the Sierra Club, the Pennsylvania Energy Efficiency Council and the Pennsylvania Solar Energy Association (collectively, environmentalists); the East Central Area Reliability Council (ECAR); Enron Corp. (Enron); the Industrial Energy Consumers of Pennsylvania (IECPA); the International Brotherhood of Electrical Workers' Pennsylvania Utility Caucus (IBEW); Metropolitan Edison Company and Pennsylvania Electric Company (collectively, GPU Energy); the Office of Consumer Advocate (OCA); the Pennsylvania Builders Association (PBA); the Pennsylvania Electric Association (PEA); Pennsylvania Power & Light Company (PP&L); and the Pennsylvania Rural Electric Association (PREA). A Reliability Working Group, made up of interested participants, was formed by the Commission and met on two separate occasions to discuss the pertinent issues.

This order discusses the comments received and sets forth, in Annex A, proposed amendments governing the safety and reliability of electric service in this Commonwealth.

Discussion

Transmission and Distribution Facilities

Several provisions of the Code address the safety and reliability of electric transmission and distribution facilities. Section 2802(20) states:

Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the commission shall set, through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

66 Pa.C.S. § 2802(20).

Section 2804(1) addresses standards for Commission assessment and approval of utility restructuring plans:

(1) The commission shall ensure continuation of safe and reliable electric service to all consumers in the Commonwealth, including: . . . (II) the installation and maintenance of transmission and distribution facilities in conformity with established industry standards and practices, including the standards set forth in the National Electric [sic] Safety Code.

66 Pa.C.S. § 2804(1).

Section 2805(b)(1)(iii) addresses electric cooperative corporations as follows:

The reliability of the transmission service provided to electric cooperative corporations must be comparable to the reliability which the transmission supplier provides at the wholesale level.

66 Pa.C.S. § 2805(b)(1)(iii).

Finally, § 2807 sets forth the duties of electric distribution companies:

(a) General rule. Each electric distribution company shall maintain the integrity of the distribution sys-

tem at least in conformity with the National Electric [sic] Safety Code and such other standards practiced by the industry in a manner sufficient to provide safe and reliable service to all customers connected to the system consistent with this title and the commission's regulations.

66 Pa.C.S. § 2807(a).

With regard to transmission system reliability, most commentors believe that transmission line reliability performance standards should remain under the jurisdiction of the North American Electric Reliability Council (NERC), an organization of regional reliability councils established to promote the reliability of the electricity supply for North America. The regional reliability councils represented in this Commonwealth are ECAR, the Mid-Atlantic Area Council (MAAC) and the Northeast Power Coordinating Council (NPCC).

We believe NERC and its member regional reliability councils have been instrumental in establishing and ensuring the current level of reliability enjoyed by electric service customers. Additionally, NERC is in the process of establishing mandatory reliability performance policies, standards, principles and guidelines for all regional reliability councils. We propose to require utilities to conform to industry standards and the requirements of NERC and the appropriate regional council, or successor organizations.

Concerning the inspection and maintenance of distribution facilities, the comments fall in three distinct categories. Enron, GPU Energy, IECPA, PEA and PP&L believe that no additional prescriptive standards are necessary, since electric utilities have their own guidelines for operating and upgrading their systems to meet the current and future needs of their customers. GPU Energy and OCA suggest that the Commission's primary concern should be the performance of the delivery system, with the adoption of service reliability indicators, such as the frequency and duration of service interruptions, which directly impact customer satisfaction. Finally, IBEW and PREA recommend that the Commission set forth comprehensive regulations, including specific maintenance and inspection intervals, tree trimming requirements and service outage reporting.

We decline, at this time, to require specific inspection and maintenance standards, since electric utilities are continually developing new methods and technologies to improve the inspection and testing process. Until such time as prescriptive standards are deemed necessary, we propose to adopt the industry accepted indicators, such as System Average Interruption Frequency Index (SAIFI) and Customer Average Interruption Duration Index (CAIDI), to monitor the performance and reliability of the transmission and distribution systems. We also propose to require annual filings of utility performance results and, based on benchmarks established by the Commission, may direct the utility to take corrective action if performance is found to be unacceptable.

The substance of §§ 57.17, 57.18 and 57.26 (relating to service interruptions; inspection of facilities; and construction and maintenance of facilities) of our regulations have been incorporated herein.

Maintenance of Adequate Reserve Margins

The Code requires the maintenance of adequate generation capacity reserve margins. Section 2804(1) states:

(1) The commission shall ensure the continuation of safe and reliable electric service to all consumers in the Commonwealth, including:

(i) The maintenance of adequate reserve margins by electric suppliers in conformity with the standards required by the North American Electric Reliability Council (NERC) and the regional reliability council appropriate to each supplier, or any successors to those reliability entities, and in conformity with established industry standards and practices.

66 Pa.C.S. § 2804(1).

Also, with regard to requirements for electric generation suppliers, section 2809(e) provides the following:

In regulating the service of electric generation suppliers, the commission shall impose requirements necessary to ensure that the present quality of service provided by electric utilities does not deteriorate, including assuring that adequate reserve margins of electric supply are maintained

66 Pa.C.S. § 2809(e).

ECAR, GPU Energy, PEA and PP&L believe that, as long as all electricity suppliers agree to comply with the reliability criteria set forth by NERC and the regional reliability councils, additional State government regulation is not required. These commentators aver that Commission-established reliability criteria and protocols could introduce conflict and complexity into control area operations and may actually serve to reduce reliability. Furthermore, more stringent standards may disadvantage electric generation suppliers and discourage them from entering the Pennsylvania market.

ECAR, GPU Energy, IBEW, PEA, PP&L and PREA suggest that, as a condition for approval of all tariffs, licenses or contractual agreements, all electricity suppliers should be required to maintain membership in an appropriate regional reliability council at a level of membership which assures each supplier's full compliance with applicable reliability criteria and protocols. With regard to penalties or sanctions for noncompliance, ECAR, GPU Energy, PEA and PP&L suggest that the Commission defer to NERC and regional reliability council processes now under development.

IBEW avers it is not sufficient, at this time, to rely on NERC and the regional reliability councils to regulate the reliability of electric generation supply in this Commonwealth. OCA recommends that the Commission monitor NERC performance and either supplement or supplant NERC efforts if they do not achieve the strict requirements of the act.

We propose to require electric generation suppliers to fully comply with the operating policies, criteria, requirements and standards of NERC and the appropriate regional reliability council. We also propose to revoke the license of an electric generation supplier if an investigation shows that the supplier is in noncompliance and no corrective action has been taken.

Although we propose to rely on NERC and the regional reliability councils for maintaining electric system reliability, we are not abdicating our responsibility or authority in this area of regulation. We will continue to monitor the activities of NERC and the regional reliability councils to provide for adequate assurances that these entities will be able to maintain the current levels of reliability under the new industry structure. Absent such assurances, we will not hesitate to implement further appropriate measures to ensure reliability.

The Commission reserves the right to waive any or all requirements of these proposed amendments upon peti-

tion by an affected party under § 5.43 (relating to petitions for issuance, amendment, waiver or repeal of regulations).

In order to ensure the continued safety and reliability of electric service in this Commonwealth, we propose to amend Chapter 57 of our regulations by adding Subchapter N, as set forth in Annex A hereto, which establishes standards and procedures for assessing the reasonableness of electric service reliability. Accordingly, under the Public Utility Code (66 Pa. C. S. §§ 501, 524, 1102, 1103, 1501, 1504, 1505, 2802, 2804, 2807 and 2809) and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we shall issue for comment proposed amendments to Chapter 57; *Therefore,*

It Is Ordered That:

1. The proposed amendments to 52 Pa. Code Chapter 57, as set forth in Annex A hereto, are issued for comment.

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

3. Interested persons may submit an original and 15 copies of written comments to the Office of Prothonotary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA, 17105-3265, within 60 days from the date this order is published in the *Pennsylvania Bulletin*. A copy of written comments shall also be served upon the Commission's Bureau of Conservation, Economics and Energy Planning.

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

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

6. The Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

7. A copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all jurisdictional electric utilities, all parties of record and all Electric Competition Stakeholders.

JAMES J. MCNULTY,
Acting Secretary

Statement of Commissioner John Hanger

Chapter 28 requires that the Commission ensure that reliability is maintained at least at current levels as we move into the era of competitive generation. The Commission appreciates the excellent comments filed in response to the Reliability NOPR, which is the Commission's first regulatory response to the statutory mandate.

Distribution System Reliability

Interested parties should recognize that the Proposed Rules significantly improve the Commission's ability to ensure that distribution system reliability is at least maintained at current levels. As OCA points out in its comments, approximately 80% of all service interruptions occur due to failures in the distribution system. Distribution systems will remain completely regulated as generation is opened to competition. This proposed rulemaking

is an important step forward in the Commission's ability to ensure the maintenance of reliability levels. It requires safe and reliable operation in accordance with the National Electrical Safety Code, periodic inspections of facilities, programs for improvements of the worst performing circuits, and comprehensive annual reports of service interruptions. Of perhaps greatest importance, the proposed rules include benchmarks to insure that performance is in fact acceptable and require plans to correct unacceptable performance. Thus, compared to today, the Proposed Rules will significantly improve the Commission's ability to monitor distribution system reliability and require operational or system improvements when performance does not meet designated benchmarks.

I encourage parties to submit comments on these important protections. In particular, are there other benchmarks of performance besides those suggested that should be used? Are frequency and duration of outages sufficient criteria or should other measures, such as voltage reductions, be used as well? How should the Commission determine the level of performance expected under a benchmark? Should Pennsylvania expect superior performance or accept above average performance? Should Pennsylvania also adopt specific requirements for activities to achieve the required reliability levels? Should specific requirements be adopted but applied only if a utility fails to perform adequately?

Generation and Transmission

Generation and transmission reliability have historically been subject to industry reliability standards through the North American Electric Reliability Council (NERC) and regional councils such as the Mid-Atlantic Area Council (MAAC) and the East Central Area Reliability Council (ECAR). While the Commission has monitored the activities of these Councils in the past, Pennsylvania has enjoyed a high level of reliability and intervention by the Commission has not been an issue. For example, this Commission has no reserve requirement standard of its own.

The reliability of the regional generation and transmission markets should improve as a result of competition because the system will be more coordinated. Larger areas with more diverse load and supply can achieve the same level of reliability more efficiently, provided that the system is properly managed.

The change to competitive generation does, however, inherently require changes in the standards and agreements of the Reliability Councils. For example, when the industry included a small number of owners of substantial generation and transmission facilities, it was appropriate to make all players, for example, utilities, subject to the same rules. Many comments wrongly assume that it is competitively neutral or fair to continue to apply the exact same rules to all suppliers. Nothing could be further from the truth. Spinning reserves can be supplied by the system and the costs fully recovered through system charges without requiring every supplier to provide spinning reserves. There is no reason why a small independent solar generator should be required to hold back the sale of a portion of its on-peak output in order to meet a planning reserve requirements. There is no reason to require a supplier who has one Pennsylvania customer supplied through a FERC tariff to be a member of a regional reliability council, although certainly compliance with the requirements of the Council is appropriate.

The fundamental issue, therefore, is whether the Commission should change its historic deference to the indus-

try and the Councils at this time. The proposed rule-making issued today substantially accepts the comments of most parties that, at this point in time, it would be inappropriate for the Commission to provide the Reliability Councils or the generation and transmission owners with specific rules for ensuring the maintenance of continued reliability. This position is appropriate because of the regional and multi-jurisdictional nature of the generation and transmission industry.

The interested parties and the Councils should have the opportunity to develop appropriate institutions, standards and protocols. While some nonutilities have been participating in discussions, all potential interested parties must have a full and fair opportunity to participate in designing the rules of the road. The results must maintain reliability while also promoting robust competition.

At this point in time, the Commission should continue to work with other states, utilities, power pools, suppliers, consumers and FERC to ensure that the regional generation and transmission system develops in a way that assures both reliability and efficiency in a truly competitive market.

Is there a point in time or a sequence of events following which the Commission should intervene more aggressively to ensure the development of reliable transmission and generation? No answer to that question is necessary today, but comments on this question are welcome.

An effective Independent System Operator will be the single most important element of a reliable transmission and generation industry. The industry may not be moving fast enough to establish effective ISOs. With both Pennsylvania and New Jersey committed to implementations of retail competition in the not-too-distant future, it appears that PJM, despite its efforts, is having difficulty achieving organization as a truly independent system operator.

Though the journey to an ISO has been bumpy and is not now ended, the PJM utilities should be commended for the progress that has been made. Within the next few months, it is imperative that the PFM ISO debate be brought to a conclusion.

While the PJM utilities progress towards an ISO has been difficult, Pennsylvania's non-PJM utilities have not informed me or this Commission about what their plans are concerning Independent System Operators. Given that the pilots will commence in 1997 and full competition will be phased in within 19 months, I yet again repeat my concerns about the apparent lack of movement by non-PJM utilities toward securing the reliability and efficiency benefits provided by an ISO.

Fiscal Note: 57-185. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 57. ELECTRIC SERVICE

Subchapter B. SERVICE AND FACILITIES

§ 57.17. [Service interruptions] (Reserved).

[(a) As used in this section, the term "service interruption" means the interval of time exceeding

1 minute during which the voltage of service rendered falls below 50% of the standard nominal service voltage.

(b) A public utility shall keep a record, including data showing the time, duration and cause of each interruption of electric service affecting the entire system or a major division of the system.]

§ 57.18. [Inspection of facilities] (Reserved).

[(a) *Periodic inspections.* A public utility shall make periodic inspections of its equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission.

(b) *Inspection reports and records.* A public utility shall file with the Commission a statement of the condition of its equipment and facilities and such reports of inspections, when and in such form as the Commission may require.

(c) *Special inspections.* If equipment or facilities which have for any reason become dangerous, or may cause injury to persons or damage to property, are removed from service because of any defect which may involve a hazard to life, such equipment or facilities shall be thoroughly inspected and tested before being again placed in service.]

§ 57.26. [Construction and maintenance of facilities] (Reserved).

[Overhead and underground transmission and distribution facilities and crossings of the wires or cables of every public utility over or under the facilities of other public utilities, cooperative associations or communication utilities, including parallel or random installation of underground electric supply and communications conductors or cable, shall be constructed and maintained in accordance with safe and reasonable standards, as set forth in the most recent National Electrical Safety Code.]

(Editor's Note: The following subchapter is new. It has been printed in regular type to enhance readability.)

Subchapter N. ELECTRIC RELIABILITY STANDARDS

§ 57.191. Purpose.

Reliable electric service is essential to the health, safety and welfare of the citizens of this Commonwealth. This subchapter establishes standards and procedures for continuing and ensuring the safety and reliability of the electric system in this Commonwealth. The standards have been developed to provide a uniform method of assessing the reasonableness of electric service reliability.

§ 57.192. Definitions.

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

Adequacy—The ability of the electric system to supply the aggregate electrical demand and energy requirements of the customers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements.

Control area—An electric system, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other control areas and contributing to frequency regulation of the interconnected systems.

Electric distribution company—A public utility providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners/operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

Electric generation supplier or electricity supplier—A person or corporation, including municipal corporations which choose to provide service outside their municipal limits except to the extent provided prior to December 3, 1996, brokers, marketers, aggregators or other entities, that sell to end-use customers electricity or related services utilizing the jurisdictional transmission or distribution facilities of an electric distribution company or that purchases, brokers, arranges or markets electricity or related services for sale to end-use customers utilizing the jurisdictional transmission and distribution facilities of an electric distribution company. The term excludes building or facility owner/operators that manage the internal distribution system serving the building or facility and that supply electric power and other related power services to occupants of the building or facility. The term excludes electric cooperative corporations except as provided in 15 Pa. C.S. §§ 7401-7410 (relating to generation choice for customers of electric cooperatives).

Interruption duration—A period of time measured to the nearest 1-minute increment which starts when an electric distribution company is notified or becomes aware of an interruption, unless an electric distribution company can determine a more precise estimate of the actual starting time of an interruption, and ends when service is restored.

Major event—Either of the following:

(i) An interruption of electric service caused by adverse weather, such as thunderstorms, tornadoes or hurricanes, or by unusual equipment failures which affects at least 10% of the customers in an operating area for a duration of 5 minutes or greater.

(ii) An interruption of electric service resulting from an action taken by an electric distribution company to maintain the security of the electrical system which affects at least one customer, as described in § 57.52 (relating to emergency load control and energy conservation by electric utilities).

Momentary customer interruption—The loss of electric service by one or more customers for a period of between 30 seconds and 5 minutes in duration. Instantaneous interruptions of less than 30 seconds in duration are excluded.

NERC—North American Electric Reliability Council—An organization of regional reliability councils established to promote the reliability of the electricity supply for North America.

Operating area—A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.

Regional reliability council—An organization established to augment the reliability of its members' bulk electric supply systems through coordinated planning and operation of generation and transmission facilities. The following regional reliability councils impact the bulk electric supply systems within this Commonwealth:

(i) The East Central Area Reliability Coordination Agreement (ECAR).

- (ii) The Mid-Atlantic Area Council (MAAC).
- (iii) The Northeast Power Coordinating Council (NPCC)

Reliability—The degree of performance of the elements of an electric system that results in electricity being delivered to customers within accepted standards and in the desired amount, measured by the frequency, duration and magnitude of adverse effects on the electric supply and by considering two basic and functional aspects of the electric system: adequacy and security.

Reliability indices—Service performance indicators which measure the frequency and duration of sustained customer interruptions, excluding major events, as follows:

(i) *Customer Average Interruption Duration Index (CAIDI)*— The average interruption duration of sustained interruptions for those customers who experience interruptions during the analysis period. CAIDI represents the average time required to restore service to the average customer per sustained interruption. It is determined by dividing the sum of all sustained customer interruption durations, in minutes, by the total number of interrupted customers. This determination is made by using the following equation:

$$CAIDI = \frac{\sum r_i N_i}{\sum N_i} = \frac{SAIDI}{SAIFI}$$

where:

- i = an interruption event;
- r_i = restoration time for each interruption event;
- and N_i = number of customers who have experienced a sustained interruption during the reporting period.

(ii) *System Average Interruption Duration Index (SAIDI)*— The average duration of sustained customer interruptions per customer occurring during the analysis period. It is the average time customers were without power. It is determined by dividing the sum of all sustained customer interruption durations, in minutes, by the total number of customers served. This determination is made by using the following equation:

$$SAIDI = \frac{\sum r_i N_i}{N_T}$$

where:

N_T = total number of customers served for the area being indexed.

(iii) *System Average Interruption Frequency Index (SAIFI)*— The average frequency of sustained interruptions per customer occurring during the analysis period. It is calculated by dividing the total number of sustained customer interruptions by the total number of customers served. This determination is made by using the following equation:

$$SAIFI = \frac{\sum N_i}{N_T}$$

(iv) *Momentary Average Interruption Frequency Index (MAIFI)*—The average frequency of momentary interruptions per customer occurring during the analysis period. It is calculated by dividing the total number of momen-

tary customer interruptions by the total number of customers served. This determination is made by using the following equation:

$$MAIFI = \frac{\sum M_i}{N_T}$$

where:

M_i = number of customers who have experienced a momentary interruption during the reporting period.

Security—The ability of the electric system to withstand sudden disturbances such as electric short circuits or unanticipated loss of system elements.

Sustained customer interruption—The loss of electric service by one or more customers for longer than 5 minutes in duration. This term does not include interruptions intentionally initiated by an electric distribution company, such as scheduled maintenance.

Worst-performing circuits—Those circuits which, for each reliability index, are among the 5% of circuits in an operating area with the highest achieved values (lowest performance levels) for the reliability index.

§ 57.193. Transmission system reliability.

(a) An electric distribution company shall install, maintain and operate its transmission facilities in a safe and reliable manner in conformity with established industry standards and practices, including the operating policies, criteria, requirements and standards of NERC and the appropriate regional reliability council, or successor organizations, and as set forth in the most recent National Electrical Safety Code.

(b) The reliability of an electric distribution company's transmission service provided to wholesale customers, such as electric cooperative corporations and municipal corporations, shall be comparable to the reliability which the transmission supplier provides at the wholesale level, taking into account the nature of each service area in which electricity is delivered to the customer, the delivery voltage and the configuration and length of the circuit from which electricity is delivered.

§ 57.194. Distribution system reliability.

(a) An electric distribution company shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make necessary repairs, changes, alterations, substitutions, extensions and improvements in or to its service and facilities. Electric service shall be reasonably continuous and without unreasonable interruption or delay.

(b) An electric distribution company shall install, maintain and operate its distribution system in accordance with safe and reasonable standards, as set forth in the most recent National Electrical Safety Code.

(c) An electric distribution company shall make periodic inspections of its equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission.

(d) An electric distribution company shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. If service must be interrupted for maintenance purposes, an electric distribution company should, when reasonable and practicable, attempt to perform the work

at a time which will cause minimal inconvenience to customers and provide notice to customers in advance of the interruption.

(e) An electric distribution company shall maintain procedures to meet the reliability performance standards in subsection (h). The procedures shall be designed to sustain, at a minimum, the historical level of reliability and to improve service reliability when necessary.

(f) An electric distribution company shall develop and maintain a program for analyzing its worst-performing circuits during the course of each year.

(g) An electric distribution company shall maintain a 5-year historical record of all sustained customer interruptions, including the time, duration and cause of each interruption.

(h) An electric distribution company shall take measures necessary to meet the reliability performance standard in this subsection.

(1) The reliability performance standard is the minimum level of acceptable electric service reliability below which further review, analysis and corrective action may be necessary. This standard is reached when the actual CAIDI and SAIFI values of each operating area are both equal to or less than the CAIDI and SAIFI values established by the Commission.

(2) Performance shall be considered unacceptable when either the CAIDI or the SAIFI value of an operating area is greater than the standard CAIDI or SAIFI value established by the Commission.

(3) The Commission will, from time to time, issue numerical values for the CAIDI and SAIFI indices for the reliability performance standard for each operating area. An electric distribution company or any other interested party may, at any time, petition the Commission for modification of these standards.

§ 57.195. Reporting requirements.

(a) An electric distribution company shall submit to the Commission, on or before March 31, 1999, and March 31 of each succeeding year, a reliability report which includes, at a minimum, the information prescribed in this section. An original and 5 copies of the report shall be filed with the Commission's Office of Prothonotary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate. The name and telephone number of the persons having knowledge of the matters, and to whom inquiries should be addressed, shall be included.

(b) The report shall include an assessment of electric service reliability in the electric distribution company's service territory, by operating area and system-wide. The assessment shall include a discussion of the electric distribution company's programs and procedures for providing reliable electric service. The assessment shall include a discussion of major events occurring during the preceding calendar year.

(c) The report shall include a table showing the actual values of each of the reliability indices for each operating area and for the electric distribution company as a whole for the preceding 5 calendar years.

(d) When an electric distribution company's reliability performance within an operating area is found to be unacceptable, as defined in § 57.194(h)(3) (relating to distribution system reliability), the report shall include the following:

(1) An analysis of the service interruption patterns and trends.

(2) An analysis of the operational and maintenance history of the affected operating area.

(3) A description of the causes of the unacceptable performance.

(4) A description of the corrective measures the electric distribution company is taking and target dates for completion.

(e) The report shall include a list showing the worst-performing circuits that fail to meet the CAIDI or SAIFI standard for each operating area, a description of the electric distribution company's program for analyzing and improving worst performing circuits and a summary of actions taken and the results of the program for the preceding calendar year.

§ 57.196. Generation reliability.

(a) An electric generation supplier shall operate and maintain its generating facilities in conformity with established industry standards and practices and in full compliance with the operating policies, criteria, requirements and standards of NERC and the appropriate regional reliability council, or successor organizations.

(b) An electric generation supplier shall maintain appropriate generating reserve capacity in compliance with any applicable reserve requirement standards set forth by the appropriate regional reliability council, or successor organizations.

(c) An electric generation supplier shall abide by applicable Commission regulations, procedures and orders, including emergency orders.

§ 57.197. Reliability investigations.

(a) Upon complaint, an investigation may be initiated to determine whether an electric distribution company is providing service in accordance with §§ 57.193 and 57.194 (relating to transmission system reliability; and distribution system reliability).

(1) Based upon the record developed in such an investigation, the Commission may enter an order directing the electric distribution company to take the corrective action the Commission deems necessary to improve the reliability of electric service.

(2) If the Commission directs an electric distribution company to make expenditures to repair or upgrade its transmission or distribution system, the electric distribution company may seek an exception to the limitations in 66 Pa. C.S. § 2804(4) (relating to electric utility rate caps).

(b) Upon complaint, an investigation may be initiated to determine whether an electric generation supplier is providing service in accordance with § 57.196 (relating to generation reliability).

(1) Based upon the record developed in such an investigation, the Commission may enter an order directing the electric generation supplier to take the corrective action the Commission deems necessary to improve the reliability of service.

(2) If the corrective action is not taken within the period of time designated by the Commission in an order entered under paragraph (1), the Commission may elect to revoke, either temporarily or permanently, the license of the electric generation supplier, obtained under 66 Pa.

C.S. § 2809(a) (relating to requirements for electric generation suppliers).

[Pa.B. Doc. No. 97-1621. Filed for public inspection October 10, 1997, 9:00 a.m.]

[52 PA. CODE CH. 63]

[L-970123]

Electronic Transaction Auditing of Telephone Customer Proprietary Information

The Pennsylvania Public Utility Commission (Commission) adopted an order to promulgate a proposed amendment regarding confidentiality of telephone customer information. The purpose is to require telephone companies to maintain an electronic audit trail of all accesses to private customer information by the telephone company security department, outside persons and governmental agencies. A permanent electronic record of the information must be maintained. The contact person is John A. Levin, Assistant Counsel, Law Bureau, (717) 787-5978.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Commission submitted a copy of these proposed amendments on September 30, 1997, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the Legislative committees have objection to any portion of the proposed amendments, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of any objections raised.

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; John Hanger; David W. Rolka; Nora Mead Brownell

Public Meeting held
July 10, 1997

Proposed Rulemaking Order

By the Commission:

As a result of several incidents involving disclosure or improper use of private or proprietary telephone customer information, the Commission herewith initiates this proposed rulemaking to require the maintenance of electronic transaction auditing records with respect to data processing records and the maintenance of detailed records in any instance in which customer information is disclosed to persons outside the telephone company, any government entity or the telephone company security department.

The Commission is generally aware that data processing and information transaction technology has been improving with respect to availability of adequate data security, transaction auditing and safeguards. The Commission believes that it is now practicable from the standpoint of both operations and cost to require telephone utilities to implement electronic auditing safeguards and maintain permanent electronic records of the auditing in order to protect the public interest. The Commission also believes that it is desirable and cost effective to require that any disclosure of customer information to outside persons, telephone security officers or governmental agencies be permanently recorded in the event of a later allegation of improper access or disclosure by or to those persons.

In order to enable the Commission to carry out its responsibilities under the Public Utility Code to ensure that telephone service is rendered in accordance with the provisions of the Public Utility Code's requirements that service be rendered in a safe, adequate and reliable fashion, the Commission is considering the amendment of its regulation as described above, to read as set forth in Annex A.

Accordingly, under 66 Pa.C.S. §§ 1501—1505, and the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1208), and the regulations promulgated thereunder at 1 Pa.Code §§ 7.1—7.4, we are considering amending the regulations at 52 Pa. Code § 63.135, as noted above and in the manner set forth in Annex A; *Therefore,*

It Is Ordered That:

1. A rulemaking proceeding shall be initiated to consider the proposed amendment as set forth in Annex A hereto.

2. This order shall be published in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies, to Prothonotary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, and shall have 45 days from the date the order is published in the *Pennsylvania Bulletin* to submit the comments. Commentators are strongly encouraged, if suggesting changes or additions to the proposed amendment, to supply alternative regulatory language. Commentators suggesting changes or nonadoption of the proposed draft amendment on the basis of allegations of financial or technical hardship are directed to disclose in detail the basis of the allegations, including all cost studies or technical analyses upon which the allegations are based.

3. A copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all telephone utilities and the Pennsylvania Telephone Association.

4. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality, and to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by the Independent Regulatory Review Commission.

6. The contact person is John Levin, Assistant Counsel, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, (717) 787-5978.

JAMES J. MCNULTY,
Acting Secretary

Fiscal Note: 57-186. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter J. CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION

§ 63.135. Customer information

This section describes procedures for determining employe access to customer information and the purposes for which this information may be used by employes responding to requests for customer information from persons outside the telephone company and the recording of use and disclosure of customer information.

* * * * *

(5) *Safeguarding customer information.* A telephone company is responsible for implementing appropriate procedures to safeguard customer information and prevent access to it by unauthorized persons. Tangible customer records such as paper or microfiche records and electromagnetic media shall be stored in secure buildings, rooms and cabinets, as appropriate, to protect them from unauthorized access. Data processing and other electronic systems shall contain safeguards, such as codes and passwords, preventing access to customer information by unauthorized persons and shall be accompanied by electronic transaction auditing which shall create audit data sufficient to establish a permanent record of each instance in which customer data is accessed, copied, printed, changed, deleted or added. Electronic transaction audit data shall be retained indefinitely, and shall be kept in a manner which permits access and retrieval of audit information by time of access, date of access, accessing individual, accessing individual's position, accessing individual's affiliation, the customer's name, the customer's account number, the portion of customer information accessed and the reason for access. Storage of the audit data may be made in any media format determined to be appropriate by the utility, but shall be promptly and properly maintained and transferred to a more current media format if the original or any successor medium becomes technologically obsolete or is in danger of becoming technologically obsolete.

* * * * *

(6) [*Recording use and disclosure*] *Disclosure of customer information.* [Because of the frequency with which customer information is used and disclosed in the ordinary course of business, it is neither practical nor desirable to record each instance in which customer information is used or disclosed by an employe. However, the importance of some forms of customer information and the circumstances under which the information may be used or disclosed dictate that a record is required of the use or disclosure of customer information, as follows:

(i) Each instance in which customer information is used or disclosed for purposes other than to furnish service to the customer, to collect charges

due from the customer or to accomplish other ordinary and legitimate business purposes.

(ii) Each instance in which information is disclosed to persons outside of the telephone company, subject to subparagraph (i).

(iii) Each instance in which customer information is disclosed to a government entity or the telephone company security department.

(iv) Each instance in which a record is required by other telephone company practices or procedures.]

The utility shall maintain a permanent record of each instance in which customer information in any form is disclosed to the telephone security department or security personnel, any governmental agency or any other person outside of the telephone company for purposes other than to furnish service to the customer or to collect charges due from the customer. The record shall be maintained in electronic database format and shall list the time of access, the date of access, the accessing individual, the accessing individual's position, the accessing individual's affiliation, the name, address, telephone number and affiliation of the person to whom the information was disclosed, the customer's name, the customer's account number, the portion of customer information accessed and the reason for access. Storage of the data may be made in any media format determined to be appropriate by the utility, but shall be promptly and properly maintained and transferred to a more current media format if the original or any successor medium becomes technologically obsolete or is in danger of becoming technologically obsolete.

* * * * *

[Pa.B. Doc. No. 97-1622. Filed for public inspection October 10, 1997, 9:00 a.m.]

[52 PA. CODE CH. 57]

[L-970121]

Standards for Changing Customer's Electric Supplier

The Pennsylvania Public Utility Commission (Commission) on April 24, 1997, adopted an order to promulgate proposed regulations to implement and codify 66 Pa.C.S. § 2807(d)(1) (relating to duties of electric distribution companies) which requires the establishment of regulations ensuring that an electric distribution company does not change a customer's electric supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier. The contact persons are Terrence J. Buda, Assistant Counsel, Law Bureau, (717) 787-5755 and Joseph Farley, Bureau of Consumer Services, (717) 787-4963.

Executive Summary

On December 3, 1996, Governor Tom Ridge signed into law, 66 Pa.C.S. Chapter 28 (relating to Electricity Generation Customer Choice and Competition Act) (act). The act revised the Public Utility Code, 66 Pa.C.S. §§ 101, et seq., by inter alia, adding Chapter 28, relating to restructuring of the electric utility industry. The purpose of the

law is to permit customers to buy electric generation from their choice of electricity generation suppliers.

Section 2807(d)(1) of the act requires the establishment of regulations ensuring that an electric distribution company does not change a customer's electricity supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier. The purpose of the regulations is to implement and codify this provision of the act.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of this proposed regulations on September 30, 1997, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed regulations, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the legislative committees have objection to any portion of the proposed regulations, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed regulations, it will notify the Commission within 10 days after the expiration of committee review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by IRRC, the General Assembly and the Governor of objections raised.

Commissioners Present: John M. Quain, Chairperson; John Hanger, statement follows; David W. Rolka; Robert K. Bloom

Public meeting held
April 24, 1997

Proposed Rulemaking Order

By the Commission:

By order entered February 6, 1997, we issued an Advanced Notice of Proposed Rulemaking (ANPR) to establish regulations to ensure that customer consent is obtained prior to the change of a customer's electric distribution supplier. The ANPR was published in the *Pennsylvania Bulletin* on February 22, 1997, at 27 Pa.B. 934, and a 30-day comment period set.

We received comments from the Pennsylvania Electric Association (PEA) on behalf of its member companies, from the Office of the Consumer Advocate (OCA), from New Energy Ventures - Mid Atlantic (NEV) and from the Enron Corporation (Enron). After consideration of all the comments we are ready to set forth the proposed regulations establishing requirements that must be met prior to changing a customer's electric generation supplier.

In our ANPR we invited comments on four specific areas of interest involving customers changing electric suppliers. These included the procedures necessary to ensure that customers do not have their suppliers switched without their consent, the customer's responsibility for payment of bills when an unauthorized change is alleged, record maintenance/reporting requirements

and potential penalties that the Commission could impose for unauthorized changes of suppliers. We received comments on all these areas.

Procedures for Changing a Customer's Electricity Supplier

The Electric Generation Customer Choice and Competition Act (act) requires that the Commission promulgate regulations to ensure that customer consent is obtained prior to a change of electric suppliers. The act allows an authorized change to be initiated once an electric distribution company has received direct oral confirmation from the customer or written evidence of the customer's request.

The proposed regulations permit customers to contact the electric distribution company directly and supply certain customer specific information to initiate the change of service. The PEA commented that the Electric Distribution Company (EDC) should be able to require that the customer provide certain information prior to initiating the change including the customer's name, address, Social Security number, present supplier, proposed supplier and electric distribution customer account number. We agree that the customer must provide certain information to prove that they possess the authority to initiate the switch. Our proposed regulations include that requirement.

Electric suppliers will receive and initiate attempts to secure oral authorization from customers to change suppliers. NEV commented that the EDC can validate the request through direct oral confirmation. In Enron's view, there need be no direct communication between the customer and the EDC if the electric supplier has verified the request using an appropriately qualified independent third party. The OCA endorses the option of a customer contacting a supplier directly to initiate a change providing a record is kept of the contact.

We agree that it is important to make changing a carrier as easy and convenient as possible for customers. We also note that the act requires that certain things occur before a change takes place. In this instance, the act requires that the EDC receive direct oral confirmation from the customer of record. Therefore our proposed regulations require that a contact occur. In the interests of making this easy for a customer, our proposed regulations permit the supplier to immediately transfer the call to the EDC so the change can be initiated. In addition, the electric supplier is permitted to announce the transfer and to stay on the line to render assistance if it is needed. In those instances when transfers are not possible, the supplier is permitted to supply the customer with a phone number to the EDC so that the customer can initiate the change. Alternately, the supplier may acquire written authorization from the customer and supply that to the EDC to initiate the change.

The proposed regulations offer similar options to agents and marketers involved in the direct marketing of a supplier's services. The lone exception being that on supplier initiated contacts, immediate transfers to the EDC are prohibited. We believe this consumer protection is necessary to avoid the unauthorized change of service problems that have occurred in the telephone industry. Under our proposed regulations, the customer would have to make direct contact with the EDC to initiate the change. The supplier retains the option of securing written authorization on these contacts. We seek comments as to whether this is an appropriate balance between consumer protections and marketing.

NEV commented that the Commission should recognize that the reference to customer of record in the act include

designated agents of the customer of record. We agree that some customers may consent to having another person act on their behalf. Therefore, our regulations allow for customers to produce a signed document identifying the persons permitted to act on their behalf. In this regard, the PEA comments included a requirement that the EDC have the option of requesting written confirmation of the customer's previous oral communication. In those instances where the customer cannot verbally provide the required information, the EDC shall require that the customer either call back with complete information or produce written authorization. In addition, the proposed regulations allow the EDC to make a request when evidence exists that the request is not being made by or with the approval of the customer.

We agree with the OCA that written authorization should not include canceled checks or forms used to enter contests. Our proposed regulations limit valid written authorization to a document signed by the customer whose sole purpose is to initiate the change of electric suppliers.

Customer's Responsibility for Payment of Bills

As noted in our ANPR, customer allegations of unauthorized changes of carriers in the telephone industry have often been accompanied by disputes over bills rendered by the carrier accused of making the switch. Therefore we invited comments on this issue. NEV commented that suppliers should be paid for services provided. The comment stresses that when a supplier change is upheld customers should be required to pay outstanding bills including interest and other outstanding charges. The OCA takes the position that customers should not be required to pay suppliers who have "wrongfully slammed them." We agree with both commentators. Therefore our proposed regulations require that an allegation of an unauthorized change of supplier be considered a dispute and be processed consistent with our Chapter 56 regulations. In addition, if the customer files the dispute within the first three billing periods since the change and an unauthorized switch is discovered, the customer is not responsible for electric supplier bills rendered during that period. We believe that not requiring the customer to pay for the unauthorized service will be a significant incentive in limiting unauthorized changes of electricity supplier. We welcome comments on the merits of this proposal.

In addition, we agree with the OCA that customers should not be responsible for charges involving switchbacks when unauthorized switches have occurred. Our proposed regulations reflect that position.

Record Maintenance/Reporting Requirements

The OCA commented that both suppliers and distribution companies should track unauthorized change of supplier complaints and report to the Commission on an annual basis. NEV takes the position that every supplier should maintain complaint records and provide them at the request of the Commission but there should be no routine reporting requirement. In our view, especially as customers begin making choices about their electric supplier, this information is very important. Therefore our proposed regulations require reporting on an annual basis. We fully realize that the future may lessen or eliminate the need for the requirement. Therefore it is our intention to revisit these regulations within the next 5 years to make appropriate revisions.

Potential Penalties for Unauthorized Change of Supplier

We agree that the Commission already possesses the tools to penalize distributors and suppliers for violations

of these regulations. The tools include fines as well as the revocation of licenses. As a result, there is no need to propose additional penalties at this time.

In proposing these regulations we believe we have met the intent of the act. We have made it as easy as possible for customers who wish to change electric suppliers to do so. In addition, we have established the necessary protections to assure that customers do not have their electricity supplier changed without their consent.

Accordingly, under 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501, and the act of July 31, 1968 (P. L. 769 No. 240) (45 P. S. §§ 1201—1208), and the regulations promulgated thereunder at 1 Pa.Code §§ 7.1—7.4, the Commission proposes adoption of the proposed rulemaking to establish regulations to ensure that customer consent is obtained prior to a change of electric suppliers as noted and set forth in Annex A, *Therefore*,

It Is Ordered That:

1. The Commission's regulations are hereby proposed to be amended by adding §§ 57.171—57.177.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
4. The Secretary shall submit this order and Annex A for informal review by the designated standing committees of both houses of the General Assembly, and for informal review and approval by the Independent Regulatory Review Commission.
5. Interested parties may submit written comments, an original and 15 copies, within 30 days from the date the notice is published in the *Pennsylvania Bulletin*, to the Office of Prothonotary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A copy of written comments shall also be served upon the Commission's Bureau of Consumer Services and Law Bureau.
6. A copy of this order shall be served upon all persons who have previously submitted comments in this rulemaking proceeding.
7. The contact persons for this matter are Joe Farley, Bureau of Consumer Services (717) 787-4963 and Terry Buda, Law Bureau (717) 787-5755.

JAMES J. MCNULTY,
Acting Secretary

State of Commissioner John Hanger

In the long-distance telephone industry, consumers have repeatedly complained that their long-distance service was switched to another company, or "slammed," without their consent. There is no reason to tolerate such incidents, and the Proposed Regulations issued today are an attempt to prevent such abuses without creating any unnecessary barriers to customer choice.

In particular, the Proposed Regulations relieve the consumer of payment for services rendered for up to three months after the customer reasonably should have known of an unauthorized change of suppliers. This remedy should provide a significant disincentive to slamming while not permitting customers to benefit from delaying complaints of unauthorized switching.

In addition, I note that this Commission has full authority to impose fines and rescind licenses for slamming. I have every intention of using these remedies mercilessly.

The Proposed Regulations require a customer to contact the local distribution utility directly or in writing to authorize all changes in supplier resulting from supplier initiated contact. When a customer or an authorized representative initiates the supplier contact resulting in a change of supplier, the supplier may immediately transfer contact to the local distribution utility to implement the change. Upon such contact, written authorization is required if basic customer information has not been provided.

Are these restrictions necessary to prevent slamming? In particular, is it necessary for the consumer to have direct contact with the local distribution utility in order to process a change of supplier or would written authorization be adequate? Is it useful to distinguish between changes when the customer or the supplier initiated the contact?

I encourage comments on this important consumer and supplier issue.

Fiscal Note: 57-184. No fiscal impact; (8) recommends adoption. Any increased regulatory costs to the Commission will be paid from available resources.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 57. ELECTRIC SERVICE

Subchapter M. STANDARDS FOR CHANGING A CUSTOMER'S ELECTRIC SUPPLIER

- Sec. 57.171. Customer initiated contacts.
- 57.172. Persons authorized to act on behalf of a customer.
- 57.173. Electric generation supplier initiated contacts.
- 57.174. Valid written authorization.
- 57.175. Customer responsibility to pay bills.
- 57.176. Record maintenance.

§ 57.171. Customer initiated contacts.

(a) When a customer or a person authorized to act on the customer's behalf contacts the electric distribution company to verbally request a change of electric suppliers the distribution company shall change the supplier when the following requirements are satisfied:

- (1) The customer or authorized party provides the electric distribution company with:
 - (i) The customer's name and address.
 - (ii) The customer's account number.
 - (iii) The customer's Social Security number.
 - (iv) The name of the present supplier.
 - (v) The name of the proposed supplier.

(2) The customer is sent a confirmation package by the electric distribution company noting the proposed change. Included in this package shall be notification of a 10 day waiting period in which the order may be canceled before the change of suppliers is made. This notice shall include the date service with the new supplier will begin unless the customer contacts the electric distribution company to cancel the change.

(b) When a customer or authorized party is unable to provide the required information to process a change of

supplier or the electric distribution company has evidence that the request is not being made by or with the approval of the customer of record the distribution company shall require that the customer supply signed written authorization before the change of suppliers takes place. The electric distribution company shall offer to supply the customer with a form to submit to initiate the change of suppliers. Upon receipt of the written authorization, the electric distribution company shall send the customer a confirmation package that includes the date service with the new supplier will begin unless the customer cancels the change.

(c) When a customer or a person authorized to act on the customer's behalf contacts the electric generation supplier to verbally request a change of electric supplier, the supplier shall offer the customer a choice of the following options:

(1) The customer or authorized party shall be offered an immediate contact including transfer of the telephone call to the electric distribution company to initiate the change. If the customer chooses this option the supplier may initiate the transfer, make the electric distribution company aware of the reason for the transfer and remain on the line to render assistance necessary to process the customer's request.

(2) When it is not practically possible for the supplier to initiate the contact or transfer the call to the electric distribution company, the supplier should provide the customer with:

- (i) The distribution company contact number
- (ii) An explanation of the information the distribution company requires
- (iii) An explanation that the customer must contact the distribution company to initiate the request.

(3) The electric generation supplier may offer to send the customer a written authorization form to be completed and returned to the electric distribution company or to the electric generation supplier. If the written authorization is returned to the supplier, it is the supplier's responsibility to furnish the electric distribution company with a copy of the document authorizing the change.

(d) When a customer or authorized party has verbally provided the electric distribution company with the required information or produced written authorization to change electricity suppliers, the electric distribution company shall make the change in the first new billing period following the 10-day waiting period.

§ 57.172. Persons authorized to act on behalf of a customer

A customer may identify persons authorized to make changes to the customer's account. To accomplish this, the customer shall provide the electric distribution company with a signed document identifying by name those persons who have the authority to initiate changes to the account.

§ 57.173. Electric generation supplier initiated contacts.

When the electric generation supplier or an entity representing an electric generation supplier initiates a contact with a customer that results in a customer request for a change of electric supplier, the customer shall be offered the following options to initiate the change:

- (1) The supplier shall provide the customer with:

- (i) The distribution company contact number.
- (ii) An explanation of the information the distribution company requires.
- (iii) An explanation that the customer must contact the distribution company to initiate the request.

(2) The electric generation supplier may offer to send the customer a written authorization form to be completed and returned to the electric distribution company or to the electric generation supplier. When the written authorization is returned to the electric supplier, it is the supplier's responsibility to furnish the electric distribution company with a copy of the document authorizing the change.

§ 57.174. Valid written authorization.

A document signed by the customer of record whose sole purpose is to obtain the customer's consent to change electric generation suppliers shall be accepted as valid and result in the initiation of the customer's request. Documents not considered as valid include cancelled checks, signed entries into contests and documents used to claim prizes won in contests.

§ 57.175. Customer responsibility to pay bills.

(a) When a customer contacts a electric distribution company or an electric generation supplier and alleges that an electric supplier has been changed without consent, the company contacted shall:

- (1) Consider the matter a customer registered dispute.
- (2) Investigate and respond to the dispute consistent with §§ 56.151 and 56.152 (relating to utility company dispute procedures).

(b) When the customer's dispute has been filed within the first three billing periods since the since the customer should reasonably have known of a change of suppliers and the dispute investigation establishes that the change occurred without the customer's consent, the customer is not responsible for electric supplier bills rendered during

that period. If the customer has made payments during this period, the company responsible for initiating the change of supplier shall issue a complete refund within 30 days of the close of the dispute.

(c) A customer who has had electric suppliers changed without having consented to that change shall be switched to the prior supplier for no additional fee. Charges involved in the switch back to the prior supplier are the responsibility of the company that initiated the change without the customer's consent.

(d) If a customer files an informal complaint with the Commission alleging that an electric supplier was changed without consent, the Bureau of Consumer Services will issue a decision that includes a determination of customer liability for any electric supplier bills rendered since the change of supplier.

§ 57.176. Record maintenance.

Each electric distribution company and each electric generation supplier shall preserve all records relating to unauthorized change of electric supplier disputes for 4 years from the date the customers filed the dispute. These records shall be made available to the Commission or its staff upon request.

§ 57.177. Reporting requirements.

Within 90 days after the end of each calendar year, each electric distribution company and each electric generation supplier shall file with the Commission a report containing the following information regarding change of electric supplier disputes for the previous calendar year:

- (1) The number of disputes filed by customers.
- (2) The number of instances when the dispute investigation established that the customer's electric supplier had been switched without consent.

[Pa.B. Doc. No. 97-1623. Filed for public inspection October 10, 1997, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Labor and Industry

The Executive Board approved a reorganization of the Department of Labor and Industry effective September 23, 1997.

The organization chart at 27 Pa.B. 5276 (October 11, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

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

[Pa.B. Doc. No. 97-1624. Filed for public inspection October 10, 1997, 9:00 a.m.]

[4 PA. CODE CH. 9]

Reorganization of the Department of Transportation

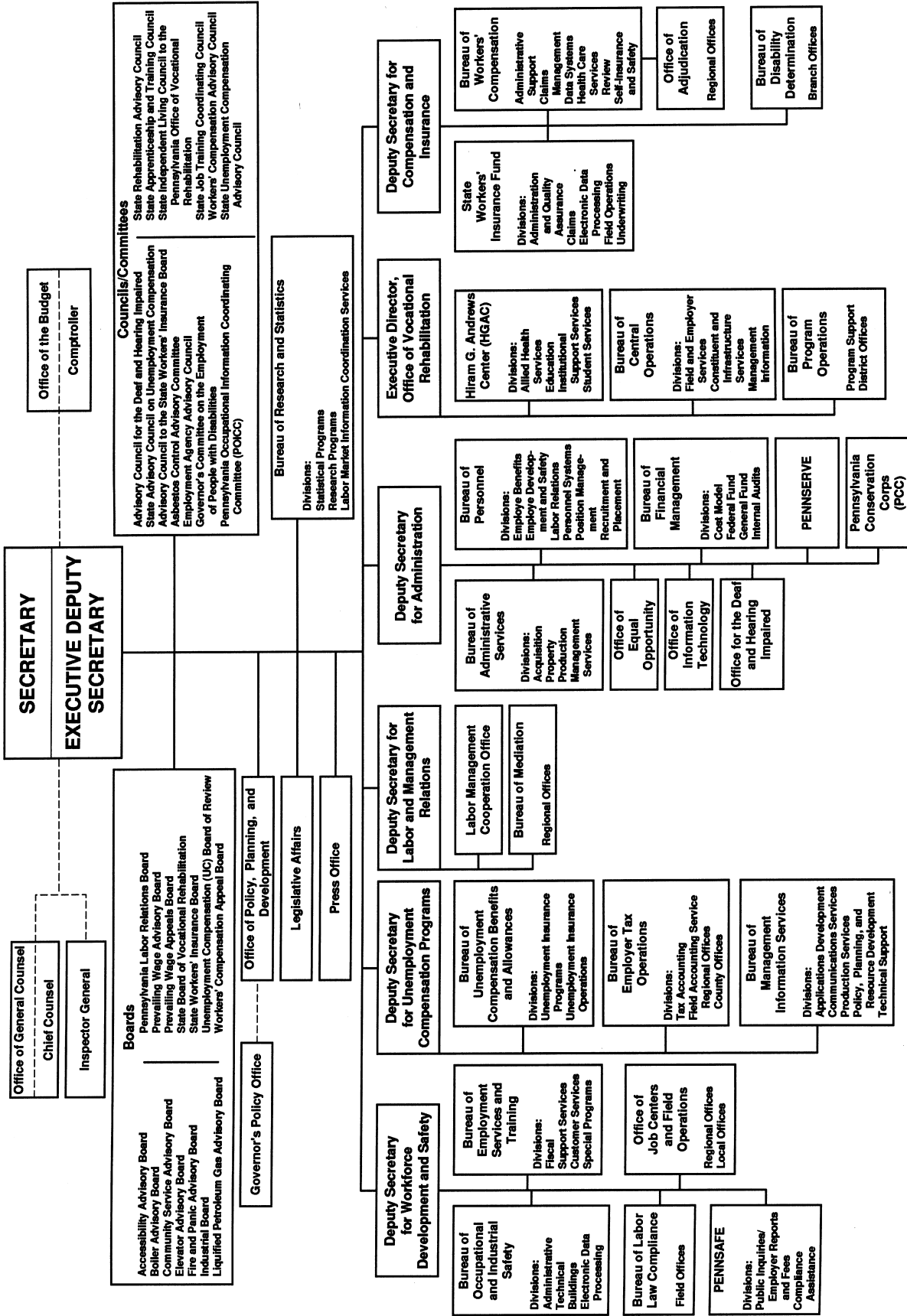
The Executive Board approved a reorganization of the Department of Transportation effective September 23, 1997.

The organization chart at 27 Pa.B. 5277 (October 11, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

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

[Pa.B. Doc. No. 97-1625. Filed for public inspection October 10, 1997, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY



NOTICES

DEPARTMENT OF BANKING

Action on Applications

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

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-26-97	Reliable Savings and Loan Association of Bridgeville, PA, Bridgeville Allegheny County <i>To:</i> Reliable Savings Bank Bridgeville Allegheny County	Bridgeville	Effective
Represents conversion from a State-chartered stock savings association to a State-chartered stock savings bank.			

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-24-97	Johnstown Bank and Trust Company, Johnstown; Laurel Bank, Ebensburg; and Fayette Bank, Uniontown Surviving Institution— Johnstown Bank and Trust Company, Johnstown, With a Change in Corporate Title To "Laurel Bank"	Johnstown	Approved
9-26-97	First Commonwealth Bank, Indiana, and Reliable Savings Bank, Bridgeville Surviving Institution— First Commonwealth Bank, Indiana <i>Branches Acquired via Merger:</i> 428 Station Street Bridgeville Allegheny County 3400 South Park Road Bethel Park Allegheny County	Indiana 311 West Barr Street McDonald Allegheny County	Effective
9-26-97	Chambersburg Trust Company, Chambersburg, and First National Bank and Trust Company, Waynesboro Surviving Institution— Chambersburg Trust Company, Chambersburg <i>Branches Acquired via Merger:</i> 13 West Main Street Waynesboro Franklin County	Chambersburg 5006 Buchanan Trail East Waynesboro Franklin County	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-26-97	1501 East Main Street Waynesboro Franklin County Chambersburg Trust Company Chambersburg Franklin County	13102 Monterey Lane Blue Ridge Summit Franklin County Chambersburg	Effective
Purchase of Assets/Assumption of Liabilities of Financial Trust Company, Carlisle			

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-22-97	Chambersburg Trust Company Chambersburg Franklin County	Mobile Branch to be Operated at Various Locations Throughout Franklin County	Opened
9-22-97	Financial Trust Company Carlisle Cumberland County	Mobile Branch to be Operated at Various Locations Throughout Franklin, Adams, York Cumberland, Perry, Lancaster and Dauphin Cos.	Opened
9-24-97	Fulton Bank Lancaster Lancaster County	Oregon Dairy Farm Market 2900 Oregon Pike Manheim Township Lancaster County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-25-97	Three Rivers Bank and Trust Company Jefferson Borough Allegheny County	<i>To:</i> 269 Clairton Blvd. Pittsburgh West Mifflin Twp. Allegheny County <i>From:</i> 5253 Brownsville Road Pittsburgh Baldwin Township Allegheny County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-29-97	United Savings Bank Philadelphia Philadelphia County	320 MacDade Boulevard Folsom Delaware County	Filed
9-30-97	Patriot Bank Pottstown Montgomery County	30 West Franklin St. Topton Berks County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
9-26-97	Financial Trust Company Carlisle Cumberland County	To provide for a change in corporate title to "FTC Liquidating Bank."	Approved and Effective
9-26-97	Chambersburg Trust Company Chambersburg Franklin County	To provide for a change in corporate title to "Financial Trust Company."	Approved and Effective

SAVINGS ASSOCIATIONS

No activity.

**CREDIT UNIONS
Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
9-30-97	Belco Community Credit Union Harrisburg Dauphin County	Corner of South Mountain Road and Allentown Boulevard Harrisburg Dauphin County	Approved

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 97-1626. Filed for public inspection October 10, 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 (Department) on Monday, October 20, 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.

RANDY COOLEY,
Chairperson

[Pa.B. Doc. No. 97-1627. Filed for public inspection October 10, 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 (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived his 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 Field Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Field 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 Field Office considers the public response significant.

Following the 30-day comment period, the Water Management Program Managers will make a final determination regarding the proposed permit. 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 Field 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 proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

PA 0028614. Sewage, **Borough of Spring City**, 6 Church Street, Spring City, PA 19475.

This application is for renewal of an NPDES permit to discharge treated sewage from Spring City Wastewater Treatment Plant in Borough of Spring City, **Chester County**. This is an existing discharge to Schuylkill River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.345 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)	20	30	40
Total Residual Chlorine (issuance through year 2)	0.8		2.0
(year 3 through expiration)	0.5		1.2
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	monitor/report		
pH	within limits of 6.0—9.0 standard units at all times		

Other Conditions:

The EPA waiver is in effect.

Conditions for future permit modification.

Effective disinfection.

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

PA 0032972. Sewerage, **Four Diamonds, Inc.**, c/o William Malleon, General Manager, 1040 North Park Road, Reading, PA 19610.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Black Creek in Kidder Township, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Northampton Borough Water Authority on the Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.100 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	50.0
Total Suspended Solids	30.0	60.0
NH ₃ -N (5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Dissolved Oxygen	a minimum of 6.0 mg/l at all times	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine (Months 1 through 24)	monitor and report	
(Months 25 through 60)	1.0	2.0

The EPA waiver is in effect.

PA 0063711. Sewerage, **Central Carbon Municipal Authority**, P. O. Box 29, Lehighon, PA 18235.

This proposed action is for issuance of an NPDES permit to discharge treated sewage into Lehigh River in Mahoning Township, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Northampton Municipal Authority on Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of 1.6 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Dissolved Oxygen	a minimum of 5 mg/l at all times		
Fecal Coliform	200/100 ml as a geometric mean		
(5-1 to 9-30)	2,000/100 ml as a geometric mean		
(10-1 to 4-30)	6.0—9.0 standard units at all times		
pH			
Total Residual Chlorine	0.5		1.0
Total Copper		monitor and report	
Total Lead		monitor and report	
Total Zinc		monitor and report	

The EPA waiver is not in effect.

PA 0061662. Sewerage, **Arrowhead Sewer Company**, Nicholas J. Mazzarella, HC 88, Box 305, Pocono Lake, PA 18347.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into the Lehigh River in Coolbaugh Township, **Monroe County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is the Hazleton Water Authority's intake on the Lehigh River at White Haven Borough.

The proposed effluent limits for Outfall 001 based on a design flow of 0.525 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	20.0	40.0
(11-1 to 4-30)	25.0	50.0
Total Suspended Solids	30.0	60.0
NH ₃ -N		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorous (as P)	1.0	2.0
Dissolved Oxygen	a minimum of 5.0 mg/l at all times	
Fecal Coliform	200/100 ml as a geometric mean	
(5-1 to 9-30)	2,000/100 ml as a geometric mean	
(10-1 to 4-30)	6.0—9.0 standard units at all times	
pH		
Total Residual Chlorine		
(Months 1 through 24)	monitor and report	
(Months 25 through 60)	1.0	2.0

The EPA waiver is in effect.

PA 0061697. Industrial waste, SIC: 4911, **Gilberton Power Company**, P. O. Box 7, 299 Morea Road, Frackville, PA 17931.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater to Mahanoy Creek in Mahanoy Township, **Schuylkill County**.

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

The proposed effluent limits for Outfall 001, based on a design flow of 0.364 mgd, are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs/day)</i>	
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>
Free Available Chlorine		0.2	0.5		
Total Chromium	0.2	1.0			
Total Zinc	1.0	1.0			
Oil and Grease	15		30		
Total Iron	report	report			
Total Manganese	report	report			
pH	6.0—9.0 at all times				

There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid. The EPA waiver is in effect.

PA 0009601. Treated groundwater, SIC: 3728, **Allied Signal, Inc.**, Route 46, Teterboro, NJ 07608.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated groundwater and stormwater to an unnamed tributary of Meshoppen Creek in South Montrose, PA, Bridgewater Township, **Susquehanna County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the PA Power & Light intake located on the North Branch Susquehanna River in Salem Township, Luzerne County.

The proposed effluent limits for Outfall 001, based on a design flow of 0.06 mgd, are:

<i>Parameter</i>	<i>Concentrations (ug/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum²</i>
pH (std units)	within the range 6.0—9.0		
Carbon Tetrachloride	0.3	0.6	0.750
Tetrachloroethylene	0.7	1.4	1.75
Trichloroethylene	3	6	7.5

Other Conditions: none.

The EPA waiver is in effect.

PA 0061654. Sewerage, **Wallenpaupack Area School District**, Newfoundland Elementary School, Thomas Peifer, Superintendent, HC 6, Box 6075, Hawley, PA 18428-9045.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Wallenpaupack Creek in Dreher Township, **Wayne County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.100 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	20.0	40.0
(11-1 to 4-30)	25.0	50.0
Total Suspended Solids	30.0	60.0
NH ₃ -N		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorus (as P)	1.0	2.0
Dissolved Oxygen	a minimum of 5.0 mg/l at all times	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine (months 1 through 24) (months 25 through 60)	monitor and report 1.0	2.0

The EPA waiver is in effect.

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

PA 0087548. Sewage, SIC: 7033, **Artillery Ridge Camping Resort**, 610 Taneytown Road, Gettysburg, PA 17352.

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

The receiving stream is classified for warm water fish, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements, the existing downstream potable water supply intake considered during the evaluation was City of Frederick, MD on the Monocacy River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0058 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N		
(5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Dissolved Oxygen	minimum of 5.0 at all times	
pH	from 6.0—9.0 inclusive	
Fecal Coliforms		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,500/100 ml as a geometric average	

The EPA waiver is in effect.

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

PA 0024759. Sewerage, SIC: 4952, **Curwensville Municipal Authority**, 900 Susquehanna Avenue, Curwensville, PA 16833.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to West Branch Susquehanna River in Curwensville Borough, **Clearfield County**.

The receiving stream is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Shawville Steam Electric Plant located at Shawville.

The proposed effluent limits for Outfall 001, based on a design flow of 0.75 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	27	41	54
TSS	30	45	60
Total Lead	report		
Total Mercury	report		
Total Cl ₂ Residual	0.5		1.6
Fecal Coliforms			
(5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0—9.0 at all times		

The EPA waiver is not in effect.

PA 0024091. SIC: 4952, **Millville Municipal Authority**, P. O. Box 30, Millville, PA 17846.

This proposed action is for reissuance of an NPDES permit for an existing discharge of treated sewage to Little Fishing Creek in Millville Borough, **Columbia County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Bloomsburg Water Company located at Bloomsburg, PA.

The proposed effluent limits for Outfall 001, based on a design flow of 0.14 mgd, are:

Discharge Parameter	Concentrations (mg/l)		
	Average Monthly	Average Weekly	Instantaneous Maximum
pH (std units)	within the range 6.0—9.0		
Total Cl ₂ Residual*	0.5		1.6
CBOD ₅	25	40	50
TSS	30	45	60
NH ₃ -N			
(7-1 to 10-31)	10	15	20
(11-1 to 6-30)	20	30	60
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		

*limit effective 3 years after permit effective date, until then monitor and report results.

Other Conditions: none

The EPA waiver is in effect.

PA 0032816. Sewerage, SIC: 4952, **Commonwealth of Pennsylvania, Department of Transportation**, Safety Rest Area Site No. 33, I-80, 555 Walnut Street, Harrisburg, PA 17101-1900.

This proposed action is for reissuance of an NPDES permit for an existing discharge of treated sewage to Fishing Creek in Green Township, **Clinton County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is Lock Haven City Authority located approximately 30 river miles downstream.

The proposed effluent limits for Outfall 001, based on a design flow of 0.032 mgd, are:

Parameter	Average	Instantaneous
	Monthly (mg/l)	Maximum (mg/l)
CBOD ₅	10	20
TSS	10	20
Ammonia Nitrogen		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	6.0—9.0 at all times	

Total Residual Chlorine—Provide effective dechlorination within 2 years of permit effective date, until then monitor and report

Other Conditions:

- (1) Municipal Connection Requirement
- (2) Collected Screenings
- (3) Provide effective dechlorination

The EPA waiver is in effect.

PA 0009202. SIC: 3351 and 3362, **Cerro Metal Products Company**, P. O. Box 388, Bellefonte, PA 16823.

This proposed action is for renewal of an NPDES permit for an existing discharge of process water, cooling and noncontact cooling water to Logan Branch of Spring Creek in Spring Township, **Centre County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is City of Lock Haven located on Bald Eagle Creek.

Outfall 001:

The proposed effluent limits, based on a design flow of 0.216 mgd, are:

<i>Discharge Parameter</i>	<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum²</i>
Oil and Grease	15	30	30
pH (std units)	within the range 6.0—9.0		
Total Chromium	0.38	0.97	1.21
Total Copper	1.03	2.06	2.58
Total Lead	0.21	0.28	0.35
Total Nickel	2.37	3.63	4.50
Total Zinc	1.14	2.66	3.33
Total Molybdenum	monitor		

Outfall 101:

The proposed effluent limits, based on a design flow of 0.0009 mgd, are:

<i>Discharge Parameter</i>	<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum²</i>
pH (std units)	within the range 6.0—9.0		
PCB-1248	nondetectable using EPA Method 608		

Other Conditions:

- (1) Chemical Additives
- (2) Whole Effluent Toxicity Testing

The EPA waiver is not in effect.

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

PAS 226107. Industrial waste, SIC: 2491, **Schroth Industries, Inc.**, P. O. Box 699, Indiana, PA 15701.

This application is for issuance of an NPDES permit to discharge stormwater from wood preservation operations in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Whites Run, classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is PA American Water Company, located at Two Lick Creek, 9.24 miles below the discharge point.

Outfall 001: new discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅				monitor/report	
COD				monitor/report	
TSS				monitor/report	
Arsenic				monitor/report	
Chromium				monitor/report	
Copper				monitor/report	
Dissolved Iron				monitor/report	
Nitrate + Nitrite Nitrogen				monitor/report	
Oil and Grease				monitor/report	
pH				monitor/report	

The EPA waiver is in effect.

PA 0217719. Sewage, **Michele R. Williams**, R. D. 3, Box 239B, Smithfield, PA 15478.

This application is for issuance of an NPDES permit to discharge treated sewage from the Riviera Mobile Home Park STP in Dunkard Township, **Greene County**.

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

Outfall 001: new discharge, design flow of 0.01 mgd.

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

Other conditions:

The EPA waiver is in effect.

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

PA 0033936. Sewage, **Denny Ridge MHP**, 14842 Nickelson Drive, Meadville, PA 16335.

This application is for renewal of an NPDES permit to discharge treated sewage to the Unnamed Tributary to Cussewago Creek in Hayfield Township, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Franklin City General Authority on French Creek located at Franklin, Crawford County which is approximately 30 miles below point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.01335 mgd, are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	50
Total Suspended Solids	30	60
Fecal Coliform		
(10-1 to 4-30)	200/100 ml as a geometric average	
(5-1 to 9-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.5	3.5
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewaters into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management and total residual chlorine control (TRC). Any major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

The EPA, Region III, Regional Administrator has waived the right to review or object to these proposed permit actions under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permits are invited to submit a statement to the Field Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

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

The permit renewal application and related documents, proposed effluent limitations and special conditions, comments received and other information are on the Department's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA-0028908	PA Dept. of Agriculture P. O. Box C Rt. 92 South Tunkhannock, PA 18657-0318	Wyoming Tunkhannock Township	North Branch of Susquehanna River	TRC
PA-0063088	Charles III and Carla Sobotka 2020 Raubsville Road Hellertown, PA 18055-9766	Northampton	Unnamed Tributary to the East Branch of Saucon Creek	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

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

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

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

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

A. 4097401. Sewerage. **Wyoming Area School District**, 20 Memorial Street, Exeter, PA 18643-2698. Application to construct and operate a sewage treatment facility to serve the Sarah J. Dymond Elementary School, located in Exeter Township, **Luzerne County**. Application received in the Regional Office September 12, 1997.

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

WQM Permit No. 3797401. Sewerage. **Carriage Inn, Mark A. Summers**, 3050 Ellwood Road, New Castle, PA 16101. This project is for the construction of a sewage treatment plant to serve a proposed restaurant and bed and breakfast inn in Shenango Township, **Lawrence County**.

WQM Permit No. 3397405. Sewerage. **Clearfield-Jefferson Counties Regional Airport Authority**, P. O. Box 299, Falls Creek, PA 15840. This project is for the construction of an extended aeration package treatment plant and sanitary sewer lines to serve the Dubois-Jefferson County Regional Airport in Washington Township, **Jefferson County**.

WQM Permit No. 6397201. Industrial waste. **National Forge Company**, 1 Front Street, Irvine, PA 16329. This project is for the upgrade of an onsite lagoon facility to treat potential bypass situations in Brokenstraw Township, **Warren County**.

INDIVIDUAL PERMITS

(PAS)

NPDES Individual

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the 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 re-

garding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

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

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

Northcentral Regional Office, Regional Water Management Program Manager, 208 Third Street, Williamsport, PA 17701, (717) 327-3669.

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

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

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711, (717) 826-2553.

Allegheny County Conservation District, District Manager, Lexington Technology Park, 400 N. Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.

NPDES Permit PAS10A106. Stormwater. **Maraden Inc.**, 894 Beaver Grade Road, Ste. 203, Coraopolis, PA 15108 has applied to discharge stormwater from a construction activity located in North Fayette Township, **Allegheny County**, to Robinson Run.

NPDES Permit PAS10A107. Stormwater. **Gateway School District**, 2609 Mossie Boulevard, Monroeville, PA 15146 has applied to discharge stormwater from a construction activity located in Monroeville, **Allegheny County**, to Turtle Creek.

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

NPDES Permit PAS10F062-1. Stormwater. **Richard Kalin**, Calibre Boalsburg Associates, LP, 100 North Patterson Street, State College, PA 16801 and **Glenn and Alan Hawbaker**, 325 W. Aaron Drive, State College, PA 16803 have applied to discharge stormwater from a construction activity located in Harris Township, **Centre County**, to Spring Creek.

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

NPDES Permit PAS10G283. Stormwater. **East Pikeland Township**, Rapps Dam Road, P. O. Box 58, Kimberton, PA 19442 has applied to discharge stormwater from a construction activity located in East Pikeland Township, **Chester County**, to French Creek.

Cumberland County Conservation District, District Manager, 43 Brookwood Avenue, Carlisle, PA 17013, (717) 240-7812.

NPDES Permit PAS10H075. Stormwater. **Donald A. Group**, 217 Pine Road, Mount Holly Springs, PA 17065 has applied to discharge stormwater from a construction activity located in South Middleton Township, **Cumberland County**, to Yellow Breeches.

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

NPDES Permit PAS10Q145. Stormwater. **Upper Macungie Township**, 8330 Schantz Road, Breinigsville, PA 18031 has applied to discharge stormwater from a construction activity located in Upper Macungie Township, **Lehigh County**, to Little Lehigh Creek.

Montgomery County Conservation District, District Manager, 1015 Bridge Road, Collegeville, PA 19426, (610) 489-4506.

NPDES Permit PAS10T029. Stormwater. **Toll Brothers Inc.**, 3103 Philmont Avenue, Huntingdon Valley, PA 19006 has applied to discharge stormwater from a construction activity located in Whitpain Township, **Montgomery County**, to Farm Pond, and the west branch of Stoney Creek.

Schuylkill County Conservation District, District Manager, 1206 Ag. Center Drive, Pottsville, PA 17901, (717) 622-3742.

NPDES Permit PAS105715. Stormwater. **PA DEP**, Bureau of Abandoned Mine Reclamation, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711 has applied to discharge stormwater from a construction activity located in Frailey Township, **Schuylkill County**, to Martins Run.

Stormwater Individual

The following parties have applied for NPDES permits to allow the discharge of stormwater from an industrial site into surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to issue these permits and proposes to issue them subject to effluent limitations, and monitoring and reporting requirements.

The EPA, Region III, Regional Administrator has waived the right to review or object to these proposed permit actions under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permits are invited to submit a statement to the Field Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit action. Notice of this

determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents, proposed effluent limitations and special conditions, comments received and other information are on Depart-

ment's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit</i>
PAS202202	Spirax Sarco Inc. 1951 Glenwood St. SW Allentown, PA 18105	Lehigh Allentown	Little Lehigh	
PAS112203	Master Builders Inc. 23700 Chagrin Blvd. Cleveland, OH	Lehigh L. Macungie Twp.	Little Lehigh	
PAS232202	Lehigh Cultured Marble 111 Lehigh St. Macungie, PA 18062	Lehigh Macungie	Little Lehigh	
PAS212202	Berks Products Corp. P. O. Box 421 Reading, PA 19603	Lehigh S. Whitehall Twp.	Little Lehigh	
PAS222201	Universal Forest Prd. 2801 E. Beltlinge Grand Rapids, MI 49505	Northampton Stockertown	Mill Race	
PAS902201	Lehigh County Pretreatment 7676 Industrial Blvd. Allentown, PA 18106	Lehigh Upper Macungie Twp.	Unnamed tributary to Iron Run	
PAS802201	Mack Trucks Inc. 2402 Lehigh Parkway Allentown, PA 18105	Lehigh Allentown	Little Lehigh	

Stormwater Individual

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 and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon

which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

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

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

NPDES Permit PAS106402. Stormwater. **Chester Grover**, R. D. 2, Box 231, New Milford, PA 18834 has applied to discharge stormwater from a construction activity located in Great Bend Township, **Susquehanna County**, to Salt Lick Creek.

SAFE DRINKING WATER

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

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

A. 9996217: Great Spring Waters of America, Inc., P. O. Box 499, Poland Spring, ME 04274; Kristin Gregory, Quality Control Manager. Applicant requests Department approval for a major permit amendment to replace their current borehole with a new production borehole. The permit will approve the sale of the following bottled water products in Pennsylvania: Poland Spring Natural Spring Water, Deer Park Spring Water, Deer Park Distilled Water, Ice Mountain Spring Water, Great Bear Natural Spring Water and Poland Spring Distilled Water.

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

A. 1597507. Public water supply. **C. P. Yeatman and Sons, Inc.,** Mr. Yeatman, 600 N. Baker Station Road, West Grove, PA 19390. This proposal involves the permitting of C. P. Yeatman and Sons existing water supply system. The system consists of two wells and a distribution system in London Grove Township, **Chester County**.

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

4897502. Public water supply. **Lower Saucon Elementary School,** Saucon Valley School District, 1050 Main Street, Hellertown, PA 18055. This proposal involves the addition of chemical feed equipment to adjust pH and add an orthophosphate chemical to inhibit corrosion.

Engineer: Frederick W. Brill, P. E.

5497505. Public water supply. **Silver Creek Water Filtration Plant,** Blythe Township Municipal Authority, 375 Valley Street, New Philadelphia, PA 17959. This proposal involves the addition of a poly-orthophosphate blend for corrosion control (but not resulting from Subchapter K Lead & Copper Rule).

Engineer: Karen C. Pollock, P. E.

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

A. 1797501. The Department has received a major amendment from **Union Township Municipal Authority,** Box 4, Rockton, PA 15856 (Union Township, **Clearfield County**) for construction of corrosion control with zinc-orthophosphate and soda ash addition to the clear well (post filtration).

HAZARDOUS SITES CLEAN-UP

Under the Act of October 18, 1988

Prompt Interim Response

C. G. Wood Site

Jamestown Borough, Mercer 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 initiated a prompt response at the C. G. Wood Site (site). The site is located at the end of Chestnut Street in the Borough of Jamestown, Mercer County, PA. The site consists of a 29-acre property (property), currently owned by Jamestown Holding Corporation, and the groundwater, surface water and sediments on adjacent properties that are contaminated with hazardous substances that were released from the Property. The site contains a vacant and abandoned 7,800 square foot industrial building (building). Four unlined waste lagoons are located south of the building. The property was first used for industrial activities in 1951, and was operated by a succession of manufacturing entities until 1979. Industrial activities conducted at the site primarily involved the manufacture of children's metal outdoor gym and swing sets. Industrial operations reportedly included plating with zinc (using cyanide solutions), electrostatic spray painting, and metal degreasing. Liquid plating wastes were neutralized and then discharged to a nearby pond (possibly one of the lagoons located on the site).

The Department investigated the site buildings, groundwater, surface water, soils and wastes in 1996 and 1997. The study identified two underground storage tanks (USTs) located south of the building. Both tanks were empty; however, soil samples collected in the area of the USTs contain eight volatile organic compounds (VOCs), including trichloroethene (TCE), toluene, xylenes and ethylbenzene. Arsenic was also detected at high levels. A vat located adjacent to the building was also discovered during the study. Materials within the vat include lead and polychlorinated biphenyls (PCBs).

Soil samples collected from lagoons 1, 2, 3 and 4 contain inorganic and organic constituents, including PCBs, chromium, cadmium, arsenic, lead, cyanide, cis-1,2-dichloroethene, TCE, 1,1-dichloroethene, tetrachloroethene (PCE), vinyl chloride and benzene.

The building investigation revealed that the building was dangerously deteriorated. Asbestos was discovered in some piping insulation, roofing materials and some floor tile. Dust and debris samples collected at various locations throughout the building contain lead, arsenic, polycyclic aromatic hydrocarbons and VOCs.

Groundwater at the site contains numerous VOCs, including TCE, 1,1-dichloroethene, cis-1,2-dichloroethene, PCE, vinyl chloride and benzene. Contaminated groundwater flows into a small tributary to the Shenango River. That tributary contains VOCs from the site, as well. The lagoons, outside vat, building vats and USTs serve as sources of that groundwater and surface water contamination.

Direct contact by ingestion and dermal absorption of soils and wastes contained in the lagoons, UST area, outside vat area and building dust/debris, and inhalation of asbestos-containing materials within the building are the pathways of exposure considered to be of greatest concern for trespassers. Additionally, the soils and wastes contained in the lagoons, UST area, outside vat and building vats continue to release hazardous substances into the environment by groundwater and surface water.

The main objectives for the prompt interim response at the site are: 1) to protect the public and environmental receptors from direct contact and inhalation risks associated with site-related hazardous substances, and 2) to mitigate the ongoing release and threat of release of hazardous substances into the environment from site soils and wastes containing hazardous substances.

The Department considered four alternatives for the prompt interim response at the site:

Alternative 1

A "No Action" alternative provides a baseline for comparison to other alternatives. Because no action would be implemented, any present or future risks to human health, safety or the environment would remain unchanged.

Alternative 2

This Alternative involves the excavation and offsite disposal of contaminated soils and wastes contained in lagoons 1, 2, 3 and 4. It also includes the excavation and offsite disposal of two USTs and the outside vat, with all associated contaminated soils and wastes. Contaminated building dust and debris, and asbestos-containing materials would remain, however.

Alternative 3

This Alternative includes all the actions in Alternative 2, plus the removal and offsite disposal of contaminated dust and debris, and asbestos-containing materials within the building. However, the further, needed investigation of buried waste vats beneath the building would not be able to be undertaken, because of the remaining, unsafe building structure.

Alternative 4

This Alternative includes all the actions in Alternative 3, plus the demolition of the building.

The Department chose to implement Alternative 4 as the prompt interim response at the C. G. Wood site. Alternative 4 was selected because it would, in the most cost effective manner, protect the public and environmental receptors from direct contact and inhalation risks associated with site-related hazardous substances; reduce the ongoing release and threat of release of hazardous substances into the environment from contaminated soils and wastes; and allow for the safe investigation of additional contamination source areas beneath the building.

This notice is being provided under section 506(b) of HSCA. The administrative record, which contains the information that forms the basis for, and documents the selection of this response action, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, and is available for review Monday through Friday from 8 a.m. until 4 p.m.

The administrative record will be open for comment from October 11, 1997 until January 9, 1998. Persons may submit written comments into the record during this time only, by sending them to the site Project Manager, Anita Stainbrook, at the Department's Northwest Regional Office, or by delivering them to that office in person.

In addition, persons may submit oral comments, for inclusion in the administrative record, at a public hearing. The Department will schedule such a hearing between November 10 and December 10, 1997, if requested by one or more members of the public. Persons wishing to present comments at such a hearing must register with the Department's Community Relations Coordinator, Steve Curcio before November 10, 1997 by telephone at (814) 332-6945 or in writing at the Northwest Regional Office. If no person requests to present oral comments, by the date specified above, a hearing will not be held. Persons interested in finding out if anyone has registered,

and if a hearing will be held, should contact Steve Curcio at the telephone number noted above.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Steve Curcio at the telephone number noted above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

**LAND RECYCLING AND ENVIRONMENTAL
REMEDIATION**

Under Act 2, 1995

Preamble 1

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

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

Distribution Pole 26870S36596, Lower Paxton Township, Dauphin County. Pennsylvania Power and Light Company, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the Harrisburg *Patriot News* on September 26, 1997.

Distribution Pole 26870S36596, Lower Paxton Township, Dauphin County. Pennsylvania Power and

Light Company, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the Harrisburg *Patriot News* on September 26, 1997.

Distribution Pole 25009S34460, Penbrook Borough, Dauphin County. Pennsylvania Power and Light Company, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the Harrisburg *Patriot News* on June 17, 1997.

Distribution Pole 38452S31833, Penn Township, Lancaster County. Pennsylvania Power and Light Company, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the Lancaster *Intelligencer* on September 26, 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.

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

A. 400692. Bio-Oxidation, Inc. (17 North Washington Street, P. O. Box 8A, Greencastle, PA 17225). Application for municipal waste process facility for infectious or chemotherapeutic waste for a site in the City of Harrisburg, **Dauphin County**. Application determined to be administratively complete in the Regional Office September 22, 1997.

Permit No. 300624. National Forge Company, Inc., Once Front Street, Irvine, PA 16329, located in Brokenstraw Township, **Warren County**. A closure plan to close the captive metallurgical process residual monofill at the National Forge Company, Irvine Plant was accepted by the Regional Office on September 19, 1997.

Permit No. 300858. Genco, Inc., 1001 Broad St., Johnstown, PA 15907, located in Conewango Township, **Warren County**. A closure plan to close the South Ash Disposal Site at the Warren Generating Station was approved in the Regional Office on September 24, 1997.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (35 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Permit No. 101602. Seneca Landfill Transfer Station, P. O. Box 1080, Mars, PA 16046, located in Jackson

Township, **Butler County**. An application to eliminate the average daily volume restriction at the transfer station, and operate at maximum capacity was accepted in the Regional Office on September 16, 1997.

Permit No. 101592. Tri-County Transfer Station, 156 Landfill Road, Grove City, PA 16127, located in Pine Township, **Mercer County**. An application to eliminate the average daily volume restriction, and operate at maximum capacity of 1,000 tons per day was accepted by the Regional Office on September 24, 1997.

Permit No. 100403. Seneca Landfill, Inc., P. O. Box 1080, Mars, PA 16046, located in Jackson and Lancaster Townships, **Butler County**. An application to eliminate the average daily volume restriction at the landfill, and operate at maximum capacity was determined to be administratively complete in the Regional Office on September 16, 1997.

AIR POLLUTION

OPERATING PERMITS

Construct, modify or activate air contaminant sources

25 Pa. Code § 129.1

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

46-301-252A: T-Thermal Co. (900 Brook Road, Conshohocken, PA 19428) for two incinerators in Plymouth Township, **Montgomery County**.

15-302-084: Nycomed R & D, Inc. (466 Devon Park Drive, Wayne, PA 19087) for two gas boilers and a diesel generator in Tredyffrin Township, **Chester County**.

46-318-038: Moyco Technologies, Inc. (200 Commerce Drive, Montgomeryville, PA 18936) for a surface coating facility in Montgomery Township, **Montgomery County**.

09-320-042: Scanforms, Inc. (181 Rittenhouse Circle, Bristol, PA 19007) for one heatset web lithographic press in Bristol Township, **Bucks County**.

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

39-309-052: Lafarge Corporation (5160 Main Street, Whitehall, PA 18052) for the operation of the #1 pack house with air pollution control by two baghouses in Whitehall Township, **Lehigh County**.

39-309-054: Lafarge Corporation (5160 Main Street, Whitehall, PA 18052) for the operation of the Group "S" cement silos with air pollution control by a baghouse in Whitehall Township, **Lehigh County**.

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

19-304-008B: Benton Foundry, Inc. (R. R. 2, Box 110, Benton, PA 17814) for the operation of two iron induction furnaces; a scrap dryer and associated fabric collector; and a ductile iron treatment operation in Sugarloaf Township, **Columbia County**.

49-313-035K: Merck & Company, Inc. (P. O. Box 600, Danville, PA 17821) for the operation of vessels TA-1645, PF-1648, and PF-1649 in the Primaxin process in Riverside Borough, **Northumberland County**.

8-313-009A: OSRAM Sylvania Products, Inc. (Hawes Street, Towanda, PA 18848) for the operation of a x-ray phosphors furnace in Department 024, Building 10, in North Towanda Township, **Bradford County**.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

Copies of the Title V application, proposed permit and other relevant information are available for public inspection and additional information may be obtained by contacting the regional office noted below.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the person submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of any objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Safko, (717) 826-2531.

54-00015: Sun Company Inc. (1801 Market Street, 26/10 PC, Philadelphia, PA 19103-1699) for Tamaqua Terminal located in Rush Township, **Schuylkill County**. The facility's major source of emissions include storage tanks and truck loading racks, which primarily emit Volatile Organic Compounds (VOCs).

Public Notices

Philadelphia Air Management Services Notices of Intent to Approve Construction and Operation of Baum Printing Company's Lithographic Printing Press

Applicant: Baum Printing Co.

Plant Location: 9985 Gantry Road, Philadelphia, PA 19115.

Source Description: Nonheat-set, sheetfed lithographic printing press.

Baum Printing Co. has requested an Air Management Services (AMS) Permit to construct and operate a nonheat-set, sheetfed lithographic printing press. AMS is intending to approve, with conditions, the construction and operation of this press. Process allowable air emissions are included in facility wide limitations of less than 25 tons per 12 month rolling period for volatile organic compounds and less than 10 tons per 12 month rolling period for hazardous air pollutants (HAPs).

Copies of all documents and information concerning this permit are available for review in the offices of AMS, Room 218, 321 University Ave., Philadelphia, PA 19104-4543, during normal business hours. Persons wishing to review these documents or to submit written comments should contact Brenda Bonner (215) 685-7572 at the above address. Comments received by facsimile will not be considered.

Philadelphia Air Management Services Notice of Intent to Approve Construction and Operation of Perfectseal Inc.'s Flexographic Printing Press

Applicant: Perfectseal Inc.

Plant Location: 9800 Bustleton Avenue, Philadelphia, PA 19115.

Source Description: Flexographic printing press.

Perfectseal Co. has requested an Air Management Services (AMS) Permit to construct and operate a flexographic printing press. AMS is intending to approve, with conditions, the construction and operation of this press. Process allowable air emissions are included in facility wide limitations of less than 25 tons per 12 month rolling period for volatile organic compounds and less than 10 tons per 12 month rolling period for hazardous air pollutants (HAPs).

Copies of all documents and information concerning this permit are available for review in the offices of AMS, Room 218, 321 University Ave., Philadelphia, PA 19104-4543, during normal business hours. Persons wishing to review these documents or to submit written comments should contact Brenda Bonner (215) 685-7572 at the above address. Written comments must be received by October 28, 1997. Comments received by facsimile will not be considered.

PLAN APPROVALS

Plan Approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

PA-46-0035A: SmithKline Beecham Pharmaceuticals (709 Swedeland Road, P.O. Box 1539, King of Prussia, PA 19406) for the construction of an Emergency Electric Generator in Upper Merion Township, **Montgomery County**.

PA-46-0128: Bell Atlantic (1717 Arch Street, Philadelphia, PA 19103) for the construction of an Emergency Diesel Generator in Abington Township, **Montgomery County**.

PA-46-0127: Bell Atlantic (1717 Arch Street, Philadelphia, PA 19103) for the construction of an Emergency Diesel Generator in Upper Dublin Borough, **Montgomery County**.

PA-46-0005D: Merck & Co., Inc. (P. O. Box 4, WP20-208, West Point, PA 19486) to amend previous application for three laser drills in Upper Gwynedd Township, **Montgomery County**.

23-313-024D: Degussa Corporation (1200 West Front Street, Chester, PA 19013) for the installation of a fabric collector in City of Chester, **Delaware County**.

15-302-087GP: Quebecor Printing Atglen, Inc. (P. O. Box 465, Atglen, PA 19310) for the installation of a boiler in West Sadsbury Township, **Chester County**.

15-312-032GP: Sun Pipe Line Company (1801 Market Street, Philadelphia, PA 19103) for the construction of Storage Tank No. 4 in West Brandywine Township, **Chester County**.

PA-09-0040: Piccari Press, Inc. (315A West Street Road, Warminster, PA 18974) for the construction of a lithographic printing press in Warminster Township, **Bucks County**.

23-302-135GP: Westinghouse Electric Corporation (11 Stanwix Street, Room 1559, Pittsburgh, PA 15222) for the construction of two boilers in Tinicum Township, **Delaware County**.

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

40-309-035A: Certech Inc. (550 Stewart Road, Wilkes-Barre, PA 18706) for the construction of a ceramic extrusion process controlled by an afterburner in Hanover Township, **Luzerne County**.

40-309-038: Certainteed Corp. (1220 Oakhill Road, Mountaintop, PA 18707) for the installation of an electrostatic predipitator to control the atmospheric emissions of the M2 Forming Line at the Mountaintop facility in Wright Township, **Luzerne County**.

54-399-025: Greater Pottsville Sewer Authority (Main Plant, Route 61 South, Pottsville, PA 17901) for the installation of a scrubber to control odors in Pottsville, **Schuylkill County**.

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

PA-20-194B: Lord Corp., Chemical Products Division (P. O. Box 556, South Street, Saegertown, PA 16433) for construction of a latex reactor, DCD/methylene chloride still, DCD distillation kiln, two bromine storage tanks and controls for each source as part of a latex plant expansion at the Saegertown Plant in Saegertown Borough, **Crawford County**.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

Operating Permit applications received 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.

Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

OP-46-0052: Pottstown Memorial Medical Center (1600 East High Street, Pottstown, PA 19464) for a synthetic minor NOx emitting facility in Pottstown Township, **Montgomery County**.

MINING

**APPLICATIONS TO CONDUCT COAL AND
NONCOAL ACTIVITIES**

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine

Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed 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 Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

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

Coal Applications Received:

32970110. Mears Enterprises, Inc. (P. O. Box 157, Clymer, PA 15728), commencement, operation and restoration of bituminous-auger strip mine in Rayne Township, **Indiana County**, affecting 143.0 acres, receiving stream Rayne Run to Crooked Creek to Allegheny River, application received September 18, 1997.

56960106. Transfer from Dunamis Resources, Inc. to Senate Coal Mines, Inc. (One Energy Place, Suite 5100, Latrobe, PA 15650), commencement, operation and restoration of bituminous strip-auger mine in Lincoln Township, **Somerset County**, affecting 351.6 acres, receiving stream North Branch of Quemahoning Creek and Horner Run and their tributaries, application received September 19, 1997.

32970111. Dutch Run Coal, Inc. (R. D. 2, Shelocta, PA 15774), commencement, operation and restoration of bituminous strip mine in Conemaugh Township, **Indiana County**, affecting 48.2 acres, receiving stream unnamed tributary to Sulfur Run; Sulfur Run; Kiskiminetas River, application received September 18, 1997.

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

26970106. T. L. Hill Coal Company (R. D. 3, Box 690-A, Uniontown, PA 15401). Application received for commencement, operation and reclamation of a bituminous surface mine located in Georges Township, **Fayette County**, proposed to affect 252.2 acres. Receiving streams unnamed tributaries to York Run, York Run, Georges Creek, Monongahela River. Application received September 25, 1997.

ABANDONED MINE RECLAMATION

Availability of Draft OSM Title IV Program Reclamation Plan Amendment No. 2

The Department of Environmental Protection (DEP), Bureau of Abandoned Mine Reclamation, is proposing to amend Pennsylvania's Abandoned Mine Reclamation Plan, under the provisions of the Federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, as amended. Amendment No. 2 updates the Reclamation Plan originally approved in 1982, Amendment No. 1 to that Plan approved October 30, 1992, and incorporates the following new Title IV Abandoned Mine Lands initiatives. The purpose of this Plan Amendment is to allow the Commonwealth more flexibility to achieve reclamation of AML lands through contracts with private individuals, construction contractors, coal companies and municipalities. Presently where coal is removed as part of a Government financed reclamation contract, at least 50% of the cost of the project must be from Government sources. The proposed amendment would allow projects to be undertaken without regard to the 50% requirement. In addition, this amendment is to allow the Commonwealth to enter into agreements with coal mine operators to direct the placement of excess spoil off permit to achieve reclamation of adjacent AML lands that otherwise may go unreclaimed.

The draft Abandoned Mine Reclamation Plan Amendment No. 2 is available for public review and comment. To be considered, comments must be submitted to and received by the Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, P. O. Box 8476, Harrisburg, PA 17105-8476 within 30 days of the date of this *Bulletin*. A copy of the Abandoned Mine Reclamation Plan Amendment may be obtained by contacting the following DEP offices:

Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105-8476, (717) 783-2156.

Wilkes-Barre District Office, Bureau of Abandoned Mine Reclamation, Two Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2371.

Ebensburg District Office, Bureau of Abandoned Mine Reclamation, 122 South Center Street, Ebensburg, PA 15931-0149, (814) 472-1800.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

The following permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection.

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

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

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

E15-553. Encroachment. University of Pennsylvania, New Bolton Center, 382 West Street Rd., Kennett Square, PA 19348-1692. To modify and maintain an existing 1.3 acre reservoir along an unnamed tributary of South Brook (TSF) to provide stormwater management for the New Bolton Center of the University of Pennsylvania, to relocate approximately 150 linear feet of stream channel by constructing 225 linear feet of relocated channel and to construct and maintain approximately 205 linear feet of temporary diversion channel to convey a separate unnamed tributary of South Brook during modification of the reservoir. This application is also a request for an Environmental Assessment authorization to construct a dam upstream of the existing reservoir to serve as a sediment forbay. The site is located approximately 1,700 feet east of the intersection of Street Road (SR 0926) and Byrd Road (West Grove, PA USGS Quadrangle N: 21.6 inches; W: 0.25 inch) in East Marlborough Township, **Chester County**.

E51-161. Encroachment. City of Philadelphia, Department of Streets, Municipal Services Bldg., 1401 John F. Kennedy Blvd., Philadelphia, PA 19102-1676. To reconstruct, maintain and widen the South Street Bridge over the Schuylkill River and Floodplain of the Schuylkill

River. The project boundary extends from 27th Street on the east to approximately 300 feet west of Convention Avenue for a distance of about 0.5 mile (Philadelphia, PA Quadrangle N: 13.1 inches; W: 8.7 inches) in the City of Philadelphia, **Philadelphia County**.

E15-554. Encroachment. **Nutra-Soils, Inc.**, 324 E. Baltimore Pike, Avondale, PA 19311. To construct and maintain an 18-inch diameter culvert used to convey stormwater runoff from mushroom substrate composting pads to an existing lagoon to facilitate disposal through spray irrigation. This aerial crossing spans an unnamed tributary to White Clay Creek (CWF) located near the intersection of Baltimore Pike (US Rte. 1) and Dingee Road (abandoned road) (West Grove, PA-DE Quadrangle N: 13.7 inches; W: 9.2 inches) in London Grove Township, **Chester County**.

E51-139. Encroachment. **Delaware Ave. Enterprises, Inc.**, P. O. Box 8100, Philadelphia, PA 19101. To amend permit E51-139 for the construction of a multi-purpose marine terminal facility in and along the Delaware River by performing the following activities:

1. To install a bulkhead along the pier head line waterward of the property. This includes approximately 1,040 linear feet along the western edge of the channel, 470 linear feet along the northern edge of pier 103 and 500 linear feet along the southern edge of pier 108;

2. To place fill in approximately 2.0 acres of deep water habitat in addition to the previously approved 2.3 acres of fill placement;

3. Dredge approximately 27,000 cubic yards of material from 2.97 acres of waters of the Commonwealth riverward of the existing pier head line. Dredging is greatly reduced from the previously approved 199,760 cubic yards of material from 5.7 acres of the Delaware River channel. This facility is located immediately upstream of the Walt Whitman Bridge and encompasses piers 103 through 108 (Philadelphia, PA-NJ Quadrangle N: 5.9 inches; W: 1.5 inches) in the **City and County of Philadelphia**.

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

E40-478. Encroachment. **Bear Creek Association**, P. O. Box 155, Bear Creek Village Borough, PA 18602. To modify and maintain an existing beach area in Bear Creek Lake (HQ-CWF), with work consisting of the following: regrading and placement of sand within approximately a 0.1-acre area to achieve a uniform slope, an extension of existing groin structures, utilizing R-6 rock, to extend approximately 30 feet from the shoreline. The purpose of the project is to restore and protect the beach area. The project is located along the eastern shoreline of Bear Creek Lake, approximately 0.4 mile northeast of the intersection of S. R. 0115 and S. R. 2041 (Wilkes-Barre East, PA Quadrangle N: 10.7 inches; W: 0.2 inch), in Bear Creek Village Borough, **Luzerne County** (Philadelphia District, U. S. Army Corps of Engineers).

E58-223. Encroachment. **Borough of Hop Bottom**, Forrest Street, Box 175, Hop Bottom, PA 18824. To remove, construct and maintain facilities in the flood plain of Martins Creek, for the purpose of reconstructing the existing Mary Karhnak Memorial Park. Site alterations will include the removal of old playground equipment, installation of new playground equipment, and placement of minor amounts of fill for the construction of basketball and volleyball courts. The park is located on the east side of S. R. 2002 (Greenwood Street), approximately 0.25 mile south of the intersection of S. R. 2002

and S. R. 0167 (Hop Bottom, PA Quadrangle N: 14.0 inches; W: 2.3 inches), in the Borough of Hop Bottom, **Susquehanna County** (Baltimore District, U. S. Army Corps of Engineers).

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

E08-329. Encroachment. **Robert J. Ehoff**, R. R. 2, Box 227B, Towanda, PA 18848. To maintain two 17 foot long 7.5 foot diameter steel culverts in an unnamed tributary to the Susquehanna River located approximately 1,600 feet northbound on Brook St. from SR 0187 (Wylusing, PA Quadrangle N: 17.6 inches; W: 14.3 inches) in Asylum Township, **Bradford County**. Estimated stream disturbance is 25 linear feet of stream; stream classification is Warm Water Fishery.

E12-103. Encroachment. **Pa. Dept. of Transportation**, Engineering District 3-0, 715 Jordan Ave., Montoursville, PA 17754. To remove an existing structure and to construct and maintain a prestressed concrete I-beam bridge with four normal clear spans of 94.16 feet, 91.44 feet, 91.44 feet and 94.16 feet respectively with a minimum underclearance of 17 feet across Bennetts Branch located approximately 1,300 feet north on T-343 from SR 0555 (Driftwood, PA Quadrangle N: 15.25 inches; W: 1.50 inches) in Gibson Township, **Cameron County**. Estimated stream disturbance is approximately 125 linear feet; stream classification is Warm Water Fishery.

E49-212. Encroachment. **Pa. Dept. of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To remove the existing structure and to construct and maintain a single span, composite prestressed concrete box beam bridge on a 50 degree right skew with a normal span of 67.4 feet, a minimum underclearance of 5.7 feet, and a minimum waterway opening of 386 square feet. The project is located on SR 1007 across Warrior Run approximately 700 feet north of the intersection of SR 1007 with Rt. 44 (Milton, PA Quadrangle N: 14.1 inches; W: 9.4 inches) in Delaware Township, **Northumberland County**. Estimated stream disturbance is 100 feet of waterway with no wetland impact; stream classification is Warm Water Fishery.

E53-304. Encroachment. **Harrison Township Supervisors**, 205 E. Main St., Harrison Valley, PA 16927. To maintain an existing steel beam, steel deck bridge with a clear span of 34 feet, concrete wingwalls and an underclearance of approximately 8 feet on T-495 over the White Branch of the North Fork of the Cowanesque River approximately 0.1 mile west of the intersection of T-495 with SR 1016 (Potter Brook, PA Quadrangle N: 17.0 inches; W: 16.2 inches) in Harrison Township, **Potter County**. Estimated stream disturbance is 50 feet of waterway with no wetland impact; stream classification is Warm Water Fishery.

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

E25-558. Encroachment. **Pa. Department of Transportation**, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323. To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge with a normal single span of 37.63 feet, an average underclearance of 7.6 feet, on a 75 degree skew on Crane Road (S. R. 2003) across Shenango Creek (WWF). This project will also include a de minimis wetland impact (<0.05 acre) associated with placing the

wider bridge and widening the bridge approaches. The project is located on Crane Road (S. R. 3008) across Shenango Creek approximately 2,200 feet east of the intersection of Crane Road (S. R. 3008) and Fry Road (Edinboro North, PA Quadrangle N: 5.0 inches; W: 4.3 inches) located in Washington Township, **Erie County**.

ENVIRONMENTAL ASSESSMENT

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.

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

EA10-010NW. Environment Assessment. **Cherry Township Supervisors**, Dixie L. Christy, Secretary/Treasurer, 192 Pipestem Road, Slippery Rock, PA 16057. To remove the superstructure of the bridge across South Branch Slippery Rock Creek on Pleasant Valley Road (T-537) approximately 600 feet downstream of S. R. 308 in the Village of Moniteau (West Sunbury, PA Quadrangle N: 11.9 inches; W: 3.4 inches) located in Cherry Township, **Butler 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, 400 Market Street, Second Floor, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audio tape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

NPDES Permit No. PA0011622. Industrial waste, **PECO Energy Company**, Delaware Generating Station, Philadelphia, PA 19101.

The following notice reflects changes to the notice published in the August 23, 1997, *Pennsylvania Bulletin*:

Based on the effluent concentration levels for Iron, Copper, Lead and Phenols the pollutant lead is deleted from Outfalls 002, 004 and 009. Iron is deleted from Outfalls 004 and 005. Phenols is deleted from Outfall 002. Iron and Copper limits for Outfall 002 are revised to monitor only.

2397408. Sewerage. **Concord Township Sewer Authority**, P. O. Box 171, Concordville, PA 19331. Construction and operation of a sewage pump station, force main collection and conveyance system to serve a Concord Chase development in Concord Township, **Delaware County**.

4697415. Sewerage. **Alice Cardy-Konoza**, 1359 Hendricks Road, Pennsburg, PA 18073. Construction and operation of the single residence STP to handle 400 gpd as an average monthly flow. The STP will serve single family home in Upper Hanover Township, **Montgomery County**. Discharge will be to Macoby Creek.

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

Permit No. 3997406. Sewerage. **Hornstein Enterprises, Inc.**, 1150 S. Cedar Crest Boulevard, Allentown, PA 18103-7909. Permit to construct and operate a sewer extension to serve Penn's West, located in Lower Macungie Township, **Lehigh County**.

NPDES Permit No. PA-0034118. Sewerage. **Blue Ridge Real Estate**, P. O. Box 707, Blakeslee, PA 18610 is authorized to discharge from a facility (Jack Frost Ski Area) located in Kidder Township, **Carbon County** to Porter Run.

NPDES Permit No. PA-0051799. Sewerage. **Lehigh County Community College**, 4525 Education Park Drive, Schnecksville, PA 18078 is authorized to discharge from a facility located in North Whitehall Township, **Lehigh County** to an Unnamed Tributary to Jordan Creek.

NPDES Permit No. PA-0032131. Sewerage. **Commonwealth of Pennsylvania, Bureau of State Parks**, P. O. Box 1467, Harrisburg, PA 17120 is authorized to discharge from a facility (Locust Lake State Park) located in Ryan Township, **Schuylkill County** to Locust Creek.

NPDES Permit No. PA-0060623. Sewerage. **Silver Lake Township Municipal Authority**, P. O. Box 1975, Brackney, PA 18812 is authorized to discharge from a facility (Quaker Lake STP) located in Silver Lake Township, **Susquehanna County** to Little Rhiney Creek.

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

NPDES Permit No. PAG043572. Sewerage. **John A. Romanchock**, 2810 NE 276th Avenue, Camas, Washington 98607 is authorized to discharge from a facility

located in Upper Frankford, **Cumberland County** to the receiving waters of an unnamed tributary to Locust Creek.

NPDES Permit No. PAG043581. Sewerage. **Gregory N. Miller**, Hickory Grove Park, Box 14, Alum Bank, PA 15521 is authorized to discharge from a facility located in West St. Clair Township, **Bedford County** to the unnamed tributary to Dunnings Creek.

NPDES Permit No. PA0081825. Sewerage. **Betty P. Nelson**, 16 Betty Nelson Court, Carlisle, PA 17013 is authorized to discharge from a facility located in Lower Frankford Township, **Cumberland County** to the receiving waters named Conodoguinet Creek.

NPDES Permit No. PA0021890. Sewerage. **New Holland Borough**, 436 East Main Street, New Holland, PA 17557 is authorized to discharge from a facility located in Earl Township, **Lancaster County** to the receiving waters named Mill Creek.

NPDES Permit No. PA0020222. Sewerage. **Terre Hill Borough**, P. O. Box 250, Terre Hill, PA 17581 is authorized to discharge from a facility located in Terre Hill Borough, **Lancaster County** to the receiving waters named Black Creek.

NPDES Permit No. PA0031992. Sewerage. **DCNR, Bureau of State Parks**, R. R. 2, Box 142C, Schellsburg, PA 15559 is authorized to discharge from a facility located in Jackson Township, **Huntingdon County** to the receiving waters named East Branch Standing Stone Creek.

NPDES Permit No. PA0007765. Amendment No. 1. Sewerage. **Harley Davidson Motor Company**, 1425 Eden Road, York, PA 17402 is authorized to discharge from a facility located in Springettsbury Township, **York County** to the receiving waters of an unnamed tributary to Codorus Creek via swale.

NPDES Permit No. PA0043486. Industrial waste. **Lancaster County Solid Waste Management Authority**, 1299 Harrisburg Pike, P. O. Box 4425, **Lancaster County**, PA 17604-4425 is authorized to discharge from a facility located in Manor Township, **Lancaster County** to the receiving waters named Manns Run.

NPDES Permit No. PA0081957. Industrial waste. **Westinghouse Electric Corporation**, 11 Stanwix Street, Pittsburgh, PA 15222-1384 is authorized to discharge from a facility located in Cumberland Township, **Adams County** to the receiving waters of an unnamed tributary of Rock Creek.

NPDES Permit No. PA0085120. Industrial waste. **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16002 is authorized to discharge from a facility located in Juniata Township, **Blair County** to the receiving waters named Blair Gap Run.

Permit No. 2197406. Sewage. **John A. Romanchock**, 2810 NE 276th Avenue, Camas, WA 98607, to construct sewage facilities in Upper Frankford Township, **Cumberland County**.

Permit No. 0597405. Sewage. **Gregory N. Miller**, Hickory Grove Park, Box 14, Alum Bank, PA 15521 to construct sewage treatment facilities in West St. Clair Township, **Bedford County**.

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

Permit No. WQM 5791402-A2. Sewerage. **Eagles Mere Borough Authority**, P. O. Box 393, Eagles Mere,

PA 17731. Amendment permit reflects revision of two projects for treatment system for Eagles Mere Borough, **Sullivan County**.

Permit No. 6091403-T1. Sewerage. **Gregg Township Municipal Authority**, P. O. Box 192, Allenwood, PA 17810. Letter requesting approval to install modifications in SBR's to include selector and secondary zone was granted to facility located at Gregg Township, **Union County**.

Permit No. 1795408-A22. Sewerage. **Bradford Township/Hertlein**, P. O. Box 79, Woodland, PA 16881. Amendment application for Bradford Twp./Hertlein has been approved for a single residence treatment system. The location is Bradford Township, **Clearfield County**.

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

Permit No. 6574416-T2. Sewerage, **Thomas Guiher**, R. D. 6, Box 530, New Castle, PA 16101. Construction of a Sewage Treatment Plant located in the Township of Donegal, **Westmoreland County** to serve the Little Village STP.

NPDES Permit No. PA0095176 Amendment No. 1. Industrial waste, **Elliott Turbomachinery Company, Inc.**, North Fourth Street, Jeannette, PA 15644-0800 is authorized to discharge from a facility located at Jeannette Facility, Jeannette, **Westmoreland County**.

NPDES Permit No. PA0093475 Amendment No. 1. Sewage, **Findlay Township**, P. O. Box W, Cinton, PA 15026 is authorized to discharge from a facility located at Maronda Farms STP, Findlay Township, **Allegheny County** to Potato Garden Run.

NPDES Permit No. PA0217662. Sewage, **Angelo and Nancy B. Poli**, 93 Belmeade Terrace, Uniontown, PA 15401 is authorized to discharge from a facility located at Bennington Place Subdivision Sewage Treatment Plant, North Union Township, **Fayette County** to Bennington Spring Run.

NPDES Permit No. PA0217671. Sewage, **Canterbury Coal Company**, R. D. 1, Box 119, Avonmore, PA 15618 is authorized to discharge from a facility located at DiAnne Deep Mine Shaft STP, Kiskiminetas Township, **Armstrong County** to Unnamed Tributary of Carnahan Run.

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

WQM Permit No. 4397410. Sewage. **Willow Bend Mobile Home Park**, 1309-100 Bend Road, Mercer, PA 16137. This project is for the construction and operation of a wastewater treatment plant to serve the Willow Bend Mobile Home Park in Lackawannock Township, **Mercer County**.

WQM Permit No. 4297201. Industrial waste. **McKean County Solid Waste Authority**, P. O. Box 448, Mount Jewett, PA 16710. This project is for the construction and operation of a municipal landfill leachate treatment system in Sergeant Township, **McKean County**.

WQM Permit No. 6197201. Sewage. **Venango County Humane Society**, Box 193A, Deep Hollow Road, Franklin, PA 16323. This project is for the construction and operation of a sewage treatment plant to treat domestic sewage and animal shelter waste in Cranberry Township, **Venango County**.

WQM Permit No. 2597416. Sewage. **Millcreek Township Sewer Authority**, 3608 West 26th Street, P. O. Box 8158, Erie, PA 16505-0158. This project is for the installation of gravity sewer, submersible pump station and force main at Zuck and Kimmerly Roads in Millcreek Township, **Erie County**.

WQM Permit No. 1682401 Amendment No. 1. Sewage. **Municipal Authority of Strattanville Borough**, P. O. Box 139, Strattanville, PA 16258. This project is for the installation of four surface aerators in Strattanville Borough, **Clarion County**.

WQM Permit No. 6297406. Sewerage, **Donald E. Shinn, SRSTP**, 736 Cobham Park Rd., Warren, PA 16365. Construction of Donald E. Shinn SRSTP located in Glade Township, **Warren County**.

NPDES Permit No. PA0101028. Sewage. **DRALTS Corporation, Super 8 Motel**, 11021 Sidehill Road, North East, PA 16428 is authorized to discharge from a facility located in North East Township, **Erie County** to an unnamed tributary to Sixteen Mile Creek.

NPDES Permit No. PA0222321. Sewage. **Venango County Humane Society**, Box 193A, Deep Hollow Road, Franklin, PA 16323 is authorized to discharge from a facility located in Cranberry Township, **Venango County** to an unnamed tributary to Lower Two Mile Run.

NPDES Permit No. PA0020541. Sewage. **Girard Borough**, 34 Main Street West, Girard, PA 16417 is authorized to discharge from a facility located in Girard Borough, **Erie County** to Elk Creek.

NPDES Permit No. PA0222356. Industrial waste. **Teledyne, Inc. (former Penn Union Facility)**, 350 All Wood Road, Clifton, NJ 07015 is authorized to discharge

from a facility located in Edinboro, **Erie County** to Darrows Creek.

NPDES Permit No. PA0222381. Sewage. **Clearfield-Jefferson Counties Regional Airport Authority**, P. O. Box 299, Falls Creek, PA 15840 is authorized to discharge from a facility located in Washington Township, **Jefferson County** to an unnamed tributary to Keys Run.

NPDES Permit No. PA0103969. Sewage. **Varischetti and Sons, Inc.**, P. O. Box 220, Brockway, PA 15824 is authorized to discharge from a facility located in Washington Township, **Jefferson County** to an unnamed tributary to Wolf Run.

**INDIVIDUAL PERMITS
(PAS)**

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

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by an aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-G262	The Harlan Corporation 266 East Lancaster Ave. Suite 204 Malvern, PA 19355	Pocopson Township Chester County	Unnamed Tributary to Pocopson Creek
PAS10-G272	G. Michael Main 1175 Montgomery Ave. Rosemont, PA 19010	Charlestown Township Chester County	Unnamed Tributary to Pickering Creek
PAS10-J025	Toll Brothers, Inc. 3103 Philmont Ave. Huntingdon Valley, PA 19006	Concord Township and Thornbury Township Delaware County	Unnamed Tributary to Chester Creek

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS105714	DEP-Bureau of Abandoned Mine Reclamation 2 Public Square 5th Floor Wilkes-Barre, PA 18711	Schuylkill County Walker Township and Tamaqua Borough	Little Schuylkill River

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

PAS-10-M098. Individual NPDES. **Paul M. Sands**, 1201 Airport Road, Coatesville, PA 19320. To implement

an Erosion and Sedimentation Control Plan for a single family housing development called Wheatland-Phase IV and V on 53 acres in Southampton Township, **Franklin County**. The project is located about 1.1 miles southwest of Interchange #9 of I-81 and in between I-81 and PA-696

(Shippensburg, PA Quadrangle N: 0.1 inch; W: 6.4 inches).

PAS-10-P026. Individual NPDES. **Arborgate, LTD**, 950 East Kercher Avenue, Myerstown, PA 17067-9998. To implement an Erosion and Sedimentation Control Plan for the Arborgate Village-Type of individual homes on 80 acres in Jackson Township, **Lebanon County**. The project is located along the south side of Kercher Avenue, about 1/4 mile west of its intersection with Ramona Road (Richland, PA Quadrangle N: 22 inches; W: 13.5 inches). Drainage will be to the Tulpehocken Creek.

**INDIVIDUAL PERMITS
(PAR)**

**APPROVALS TO USE NPDES AND/OR OTHER
GENERAL PERMITS**

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth. The approval for coverage under these

general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

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

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

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

- PAG-1 General Permit For Discharges From Stripper Oil Well Facilities
- PAG-2 General Permit For Discharges of Stormwater From Construction Activities
- PAG-3 General Permit For Discharges of Stormwater From Industrial Activities
- PAG-4 General Permit For Discharges From Single Residence Sewage Treatment Plant
- PAG-5 General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
- PAG-6 General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
- PAG-7 General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
- PAG-8 General Permit For Beneficial Use of Non-Exceptional Sewage Sludge By Land Application to Agricultural Land, Forest, A Public Contact Site or a Land Reclamation Site
- PAG-9 General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

<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>
Montgomery Co. Upper Gwynedd Township	PAR110046	Triumph Controls, Inc. 205 Church Road North Wales, PA 19454	Wissahickon Creek	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Chester County London Grove Twp.	PAR500001	Southeastern Chester Co. Refuse Authority P. O. Box 221 Kennett Square, PA 19348	White Clay Creek	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Montgomery Co. Telford Borough	PAR800012	Moyer & Son, Inc. 113 East Reliance Road Souderton, PA 18964	Indian Creek	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Philadelphia Co. City of Philadelphia	PAR900017	Soil Remediation of Philadelphia 3201 61st St. Philadelphia, PA 19153	Schuylkill River	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130

<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 Telephone No.</i>
Montgomery Co. Hatboro Borough	PAR230030	Proctor and Gamble Manufacturing 330 South Warminster Rd. Hatboro, PA 19040	Pennypack Crk.	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Chester Co. East Whiteland Twp.	PAR150001	Whitford Corporation P. O. Box 2347 West Chester, PA 19380	Valley Crk. Watershed	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Montgomery Co. Borough of Pottstown	PAR600017	Pipe & Piling Supplies (USA), Ltd. 244 Kincheloe Road Kincheloe, MI 49788	Schuylkill River	Southeast Region Water Management Program Lee Park, Ste. 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130

General Permit Type—PAG 2

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Clarion County Clarion and Limestone Townships	PAR101516	Pennsylvania American Water Co. 300 Galley Road McMurray, PA 15137	Piney Creek Douglas Run Brush Run	DEP Northwest Region Water Management Program Manager 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942
Allegheny Co. Richland Twp.	PAR10A226	Jack Barmen 3637 Green Rd. Beechwood, OH 44122	Deer Creek	Allegheny CD (412) 241-7645
Allegheny Co. Plum Boro	PAR10A229	Pam-Lin Enterprises 100 E. Boyce Park Plaza Pittsburgh, PA 15239	Plum Creek	Allegheny CD (412) 241-7645
Allegheny Co. Jefferson Boro	PAR10A235	John Kudravy 3109 Forbes Ave. Pittsburgh, PA 15213	Peters Creek	Allegheny CD (412) 241-7645
Allegheny Co. N. Fayette Twp.	PAR10A236	Pa. Dept. of Transportation 45 Thoms Run Rd. Bridgeville, PA 15017	Robinson Run	Allegheny CD (412) 241-7645
Allegheny Co. W. Deer Twp.	PAR10A228	National Development Corp. 4415 5th Ave. Pittsburgh, PA	Deer Creek	Allegheny CD (412) 241-7645
Allegheny Co. Monroeville	PAR10A227	Gateway School District 2609 Mossie Boulevard Monroeville, PA 15146	Turtle Creek	Allegheny CD (412) 241-7645
Armstrong Co. E. Franklin Twp.	PAR10B018	Armstrong Co. Indus. Dev. Auth. 402 Market St. Kittanning, PA	Allegheny River and Glade Run	Armstrong CD (412) 548-3425
Beaver Co. N. Sewickley Twp.	PAR100240	Riverside Beaver Middle School 318 Country Club Dr. Ellwood City, PA	Connoquenessing Crk.	Beaver CD (412) 774-7090
Berks Co. Shoemakersville Boro and Perry Twp.	PAR10C182	Harold Gresh 2 Sycamore Dr. Boyertown, PA 19512	UNT to Schuylkill River	Berks CD (610) 372-4657

<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>
Blair Co. Hollidaysburg Boro	PAR100660	Hollidaysburg Boro Council 401 Blair St. Hollidaysburg, PA	Beaver Dam and Juniata Branch	Blair CD (814) 696-0877
Bucks Co. Morrisville Boro	PAR10D308	Boro of Morrisville 35 Union St. Morrisville, PA 19067	Delaware River	Bucks CD (215) 345-7577
Bucks Co. Middletown Twp.	PAR10D309	Neshaminy School District 2250 Langhorne-Yardley Road Langhorne, PA	Mill Creek	Bucks CD (215) 345-7577
Bucks Co. Richland Twp.	PAR10D310	Warren and Wanda Baringer 166 Mine Road Quakertown, PA	Tohickon Creek	Bucks CD (215) 345-7577
Centre Co. Patton Twp.	PAR10F062	Lance Shaner 303 Science Park Rd. State College, PA 16803	UNT to Spring Creek	Centre CD (814) 355-6817
Clearfield Co. Brady Twp.	PAR101735	Patrick Mowery 362 N. Park St. Sykesville, PA 15865	E. Br. Mahoning Crk.	Clearfield CD (814) 765-2629
Clearfield Co. Lawrence Twp.	PAR101736	Novey Metal Company 2 W. Pine St. Clearfield, PA 16830	Moose Creek and Orrs Run	Clearfield CD (814) 765-2629
Clearfield Co. Lawrence Twp.	PAR101737	DEP, BAMR P. O. Box 149 Ebensburg, PA 15931	W. Br. Susquehanna	Clearfield CD (814) 765-2629
Clearfield Co. Sandy Twp.	PAR101738	Glen McCrea P. O. Box 2081 Erie, PA 16512	Wolf Run	Clearfield CD (814) 765-2629
Dauphin Co. Swatara Twp.	PAR10I113	Eastern Development and Planning 7300 Derry St. Harrisburg, PA	Spring Creek	Dauphin CD (717) 921-8100
Dauphin Co. S. Hanover Twp.	PAR10I125	Antique Auto Club of America 501 W. Governor Rd. Hershey, PA 17033	Swatara Creek	Dauphin CD (717) 921-8100
Delaware Co. Radnor Twp.	PAR10J096	B & L Realty Enterprises 1654 Hollyrock Circle Malvern, PA	Darby Creek	Delaware CD (610) 892-9484
Delaware Co. Edgmont, Middletown, and Brookhaven Twps.	PAR10J100	Texas Eastern Transmission Corp. 544 Westheimer Houston, TX	Ridley Creek, Rocky Cheone and Crum Runs	Delaware CD (610) 892-9484
Erie Co. Summit Twp.	PAR10K084	Schmalbach-Lubeca Plastic Containers Inc. 2709 W. 12th St. Erie, PA 16505	Lake Erie	Erie CD (814) 796-4203
Erie Co. Platea Boro	PAR10K087	Country Greens 8850 Rt. 18 Cranesville, PA 16410	Onsite Manmade Pond	Erie CD (814) 796-4203
Indiana Co. White Twp.	PAR103136	Indiana Co. Airport Authority 398 Airport Rd. Indiana, PA	Ramsey Run	Indiana CD (412) 463-7702

<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>
Juniata Co. Fermanagh Twp.	PAR103501	Juniata Business & Industry Inc. P. O. Box 70 Mifflintown, PA	Schweyer Run	Juniata CD (717) 436-6919
Lancaster Co. Rapho Twp.	PAR10-O-261	Summer Hill Farm 897 C Mt. Joy Rd. Mount Joy, PA	Ltl. Chickies Crk.	Lancaster CD (717) 299-5361
Lancaster Co. N. Holland Boro	PAR10-O-264	P I M Inc. 2065 W. Main Street Ephrata, PA 17522	UNT to Groff Crk.	Lancaster CD (717) 299-5361
Lancaster Co. Manheim Twp.	PAR10-O-255	Old Guard Insurance Group 2929 Lititz Pike Lancaster, PA	UNT to Ltl. Conestoga	Lancaster CD (717) 299-5361
Lancaster Co. Ephrata Twp.	PAR10-O-259	Mark Line Indus. of PA Inc. 502 Alexander Dr. Ephrata, PA	Cocalico Crk.	Lancaster CD (717) 299-5361
Lancaster Co. Denver Boro	PAR10-O-260	Pa. Turnpike Commission P. O. Box 67676 Harrisburg, PA	Cocalico Crk.	Lancaster CD (717) 299-5361
Lancaster Co. W. Hempfield Twp.	PAR10-O-273	West Hempfield Twp. 3401 Marietta Ave. Lancaster, PA	UNT to Swarr Run	Lancaster CD (717) 299-5361
Lancaster Co. W. Hempfield Twp.	PAR10-O-275	John Hess 322 N. Queen St. Lancaster, PA	UNT to Strickler Run	Lancaster CD (717) 299-5361
Lancaster Co. Mount Joy Boro	PAR10-O-276	Pennfield Corp. 711 Rohrerstown Rd. Lancaster, PA 17604	Ltl. Chickies Crk.	Lancaster CD (717) 299-5361
Lancaster Co. U. Leacock Twp.	PAR10-O-277	Miller Structure 64 Hess Road Leola, PA 17540	UNT to Mill Crk.	Lancaster CD (717) 299-5361
Lebanon Co. Annville Twp.	PAR10P060	Lebanon Valley College 101 N. College Ave. Annville, PA 17003	Quittapahilla Crk.	Lebanon CD (717) 272-3377
Lehigh Co. U. Saucon Twp.	PAR10Q090	Coopersburg Homes Inc. 2275 Old Bethlehem Pike Quakertown, PA	Saucon Crk.	Lehigh CD (610) 391-9583
Luzerne Co. Hanover Twp.	PAR10R123	Hanover Ind. Est. Expansion Hanover Twp., PA 18702	UNT to Warrior Crk. to the Susquehanna	Luzerne CD (717) 674-7991
Luzerne Co. Hazle Twp.	PAR10R121	Laurel Mall—Phase 2 580 W. Germantown Pike Plymouth Meeting, PA	Lake Irema	Luzerne CD (717) 674-7991
Mercer Co. Springfield Twp.	PAR104331	Jeffrey Reckard 496 Old Ash Rd. Mercer, PA 16137	UNT to Black Run	Mercer CD (412) 662-2242
Montgomery Co. L. Moreland Twp.	PAR10T062	Brandon Byers 850 Welsh Rd. Huntingdon Valley, PA	Pennypack Creek	Montgomery CD (610) 489-4506
Montgomery Co. Whitemarsh Twp.	PAR10T300	Andorra Group P. O. Box 727 Conshohocken, PA 19428	Andorra Creek	Montgomery CD (610) 489-4506
Montgomery Co. E. Greenville Twp.	PAR10T347	John Wentz Box 315 Palm, PA 18070	N/A	Montgomery CD (610) 489-4506

NOTICES

5305

<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>
Montgomery Co. Providence Twp.	PAR10T340	Oaks Assocs/Acorn Develop. 150 S. Warner Rd. King of Prussia, PA	Perkiomen Crk.	Montgomery CD (610) 489-4506
Montgomery Co. U. Pottsgrove Twp.	PAR10T339	Renovations by Design P. O. Box J Newtown Square, PA 19073	Sprogel's Run	Montgomery CD (610) 489-4506
Montgomery Co. L. Providence Twp.	PAR10T354	Valley Forge Equities P. O. Box 940 Valley Forge, PA 19482	UNT to Schuylkill	Montgomery CD (610) 489-4506
Montgomery Co. Hatboro Twp.	PAR10T357	330 Warminster Road LP 555 N. Lane Conshohocken, PA	Pennypack Crk.	Montgomery CD (610) 489-4506
Montgomery Co. Towamencin Twp.	PAR10T344	Towamencin Town Center Assoc. 233 W. Main St. Lansdale, PA	Skipack Crk.	Montgomery CD (610) 489-4506
Montgomery Co. L. Gwynedd Twp.	PAR10T360	Metro Dev. Co. 232 N. 22nd St. Philadelphia, PA 19003	Willow Run	Montgomery CD (610) 489-4506
Montgomery Co. U. Gwynedd Twp.	PAR10T363	Merck & Company WP20-208 Sumneytown Pike West Point, PA	Wissahickon Crk.	Montgomery CD (610) 489-4506
Montgomery Co. Whitpain Twp.	PAR10T365	Plymouth Rock Assocs. 5185 Campus Dr. Plymouth Mtg., PA	Culvert under Twp. Line Road	Montgomery CD (610) 489-4506
Northampton Co. Hanover Twp.	PAR10U073	Liberty Property Trust 1510 Vly Ctr. Pkwy Bethlehem, PA	UNT to Lehigh Rvr.	Northampton CD (610) 746-1926
Somerset Co. Summit Twp.	PAR106126	New Enterprise Stone & Lime P. O. Box 77 New Enterprise, PA 16664	UNT to Casselman Rvr.	Somerset CD (814) 445-4652
Union Co. Buffalo Twp.	PAR106823	Playworld Systems Inc. P. O. Box 505 New Berlin, PA 17855	UNT to Buffalo Crk.	Union CD
York Co. Newberry Twp.	PAR10Y133-1	Leon Wintermyer 220 Yocumtown Rd. Etters, PA 17319	UNT to Fishing Crk.	York CD (717) 840-7430
York Co. Dover and Manchester Twps.	PAR10Y260	Columbia Gas Transmission Corp. 1700 MacCorkle Ave. Charleston, WV 25314	Fox Run	York CD (717) 840-7430
York Co. Dillsburg Boro	PAR10Y266	Dave Miller 630 N. Rt. 15 Dillsburg, PA 17019	Yellow Breeches Crk.	York CD (717) 840-7430
York Co. Conewago Twp.	PAR10Y267	Robert Kinsley 2700 Water St. York, PA 17403	Poplar Run	York CD (717) 840-7430
York Co. Newberry Twp.	PAR10Y270	Newberry Twp. Mun. Authority 1915 Old Trail Rd. Etters, PA	Fishing Crk.	York CD (717) 840-7430
York Co. Hellam Twp.	PAR10Y272	James Argento 890 Windsor Rd. York, PA 17403	Kreutz Crk.	York CD (717) 840-7430

<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>
York Co. W. Manchester Twp.	PAR10Y274	American Ash Recycling Corp. of Pa. 1058 Roosevelt Ave. York, PA	Quarry	York CD (717) 840-7430
<i>General Permit Type—PAG 3</i>				
<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>
Lehigh County Macungie Boro	PAR202218	Tyler Pipe 101 North Church Street Macungie, PA 18062	Swabia Creek	Northeast Regional Office Water Management Program 2 Public Square Wilkes-Barre, PA (717) 826-2554
Clarendon Borough Warren County	PAR228320	Bingaman & Son Lumber, Inc. P. O. Box 247 East Main St. Kreamer, PA 17833	Unnamed Tributary of West Branch/Tionesta Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Triumph Twp. Warren Co.	PAR228303	J. T. Shannon Lumber Co. of PA, Inc. P. O. Box 194 Tidioute, PA 16351-0194	Tidioute Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Oakland Twp. Venango Co.	PAR208332	Ronald M. Tarr Hegedus Aluminum Ind., Inc. P. O. Box 1067 Route 428 Halyday Run Rd. Oil City, PA 16301	Wykle Run Tributary to Cherrytree Run to Oil Creek	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Hickory Twp. Lawrence Co.	PAR708302	Lindy Paving, Inc. R. D. 3, Box 2A Northgate Industrial Park New Castle, PA 16105	Hottenbaugh Run Neshannock Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Center Twp. Butler Co.	PAR608320	Marshall Offstein 655 Oneida Valley Rd. P. O. Box 213 Butler, PA 16003	Connoquenessing Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Mercer Borough Mercer Co.	PAR208341	Mark Clark, President Mercer Forge Corporation Subsidiary of Rotterdam Ventures Inc. P. O. Box 272 Brown Street Mercer, PA 16137	Otter Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Forward & Adams Twps. Butler Co.	PAR118331	Mine Safety Appliances Co. P. O. Box 429 Pittsburgh, PA 15230	Breakneck Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942

<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>
Ellwood City Boro. Lawrence Co.	PAR208355	Ellwood City Forge P. O. Box 31 Ellwood City, PA 16117	Connoquenessing Crk.	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Lake City Boro. Erie Co.	PAR208356	Progress Rail Services Corp 1600 Progress Dr. Albertville, AL 35950	Lake Erie	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
<i>General Permit Type 4</i>				
<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>
Centre Huston	PAG044966	James R. and Susan L. White 656 Jack Straw Rd. Julian, PA 16844	Unnamed tributary to Laurel Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Clearfield Bradford Twp.	PAG044964	Timothy L. Hertlein R. R. 1, Box 73 Frenchville, PA 16836	Forcey Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Columbia Co. Roaring Crk. Twp.	PAG044965	Jacqueline J. Walter R. D. 1, Box 83 Catawissa, PA 17820	Unnamed tributary to Roaring Crk.	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Clearfield Co. Bradford Twp.	PAG044962	Thomas and Mona Young R. D. 1, Box 527 Woodland, PA 16881	West Branch Susquehanna River	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Glade Twp. Warren Co.	PAG048457	Donald E. Shinn 736 Cobham Park Rd. Warren, PA 16365	Glade Run	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
<i>General Permit Type—PAG 5</i>				
<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>
Dauphin Co. Middle Paxton Twp.	PAG053514	Getty Petroleum Marketing, Inc. 86 Doremus Ave. Newark, NJ 07110	Storm Sewer to Susquehanna River	Southcentral Regional Office One Ararat Blvd. Harrisburg, PA 17110 (717) 657-4590

SAFE DRINKING WATER

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

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

Permit No. 0997505. Public water supply. **Peddler's Village Partnership**, P. O. Box 218, Lahaska, PA 18931. The projects propose the construction of Well No. 3 as an additional source of supply to Peddler's Village Partnership in Buckingham Township, **Bucks County**.

Type of Facility: Public Water Supply

Consulting Engineer: Mr. Hinkle, Gilmore & Associates, Inc., 331 Butler Avenue, New Britian, PA 18901.

Permit No. 0997511. Public water supply. **Buckingham Township**, Graham Orton, P. O. Box 413, Buckingham, PA 18912. A permit has been issued granting Buckingham Township approval to change from Sodium Hexametaphosphate to Caustic Soda on Well Nos. CS-1 and CS-2 for Corrosion Control treatment in Buckingham Township, **Bucks County**.

Type of Facility: Public Water Supply.

Consulting Engineer: Tatman and Lee Associates, 171 S. Main Street, Doylestown, PA 18901.

Permit to Construct Issued: September 19, 1998.

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

A. 1794502. The Department modified the operating permit previously issued to **Houtzdale Municipal Authority**, P. O. Box 97, 731-I Kirk Street, Houtzdale, PA 16651 (Houtzdale Borough, **Clearfield County**) to allow use of a groundwater source known as Well TH-10.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports.

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)—Distribution pole #64413S48756 (off Airport Road), City of Bethlehem, **Northampton County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils which became contaminated with PCBs (polychlorinated biphenyls). The report is intended to document remediation of the site to meet the Statewide human health standard.

Pennsylvania Power & Light Company (PP&L)—Distribution pole #63219S50608 (Weaversville Road), Allen Township, **Northampton County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils which became contaminated with PCBs (polychlorinated biphenyls). The report is intended to document remediation of the site to meet the Statewide human health standard.

SOLID AND HAZARDOUS WASTE RESIDUAL WASTE PROCESSING FACILITIES

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

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 300558. Little Blue Run Impoundment, Pennsylvania Power Company, One East Washington Street, New Castle, PA 16101-5531. Repermitting and operation of a residual waste disposal impoundment in Green Township, **Beaver County** in accordance with 25 Pa. Code § 287.115. Permit issued in the Regional Office on September 25, 1997.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428.

Permit No. 101656. Accurate Recycling Corporation, 300 East Baltimore Pike, Lansdowne, PA 19050-2508. This permit is for the construction and operation of a Construction and Demolition Waste Transfer Facility to be located in Upper Darby Township, **Delaware County**. Permit issued in the Southeast Regional Office on September 25, 1997.

AIR POLLUTION

OPERATING PERMITS

Construct, modify or activate air contaminant sources

25 Pa. Code § 129.1

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

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

GP-61012: OMG Americas (P. O. Box 111, Franklin, PA 16323) issued for a combustion unit in Sugar creek Borough, **Venango County**.

PLAN APPROVALS

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

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

39-318-101: Synthetic Thread Co. (825 12th Avenue, Bethlehem, PA 18016) for the installation of a thread bonding operation controlled by a catalytic oxidizer in the City of Bethlehem, **Lehigh County**.

48-310-030: A.B.E. Materials Co. (P. O. Box 196, Skippack, PA 19474) for the construction of a stone crushing plant controlled by a water spray system at the Eagle II Plant in Lower Mt. Bethel Township, **Northampton County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

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

Coal Applications Issued

11960108-02, Revision. Laurel Land Development, Inc. (P. O. Box 629, Carrolltown, PA 15722). Revision to add 12.1 acres to an existing bituminous surface mine for support use/haulroad access only. A section of this added haulroad drains to a different watershed (South Branch Blacklick Creek). This revision includes a road variance to affect within 100 feet of T-455 also. This bituminous surface mining site is located in Blacklick Township, **Cambria County** affecting 66.2 acres. Receiving streams Coalpit Run and South Branch Blacklick Creek. Application received July 14, 1997, issued September 19, 1997.

32870103, Permit renewal, M. B. Energy, Inc. (P. O. Box 1319, Indiana, PA 15701-1319), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Burrell Township, **Indiana County**, affecting 74.0 acres, receiving stream unnamed tributaries to the Conemaugh River, application received September 19, 1997, permit issued September 25, 1997.

56920108. Permit renewal, Godin Brothers, Inc. (136 Godin Drive, Boswell, PA 15531), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Jenner Township, **Somerset County**, affecting 71.7 acres, receiving stream unnamed tributary to Hoffman Run, Hoffman Run, and Quemahoning Creek, all to Quemahoning Creek to Stony Creek to Conemaugh River, application received September 19, 1997, permit issued September 24, 1997.

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

02950101-05. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Revision issued adding 5.0 acres of mining and 18.4 acres of support (including reclaiming 5.1 additional acres of abandoned spoil) to an existing bituminous surface mine located in Elizabeth Township, **Allegheny County**, now affecting 78.4 acres. Receiving streams unnamed tributaries to Youghiogheny River, Youghiogheny River. Revision application received June 13, 1997. Revision issued September 23, 1997.

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

54941303C. Ram Head Coal Company (306 Main Street, Joliett-Tremont, PA 17981), correction to an existing anthracite underground mine operation in Frailey Township, **Schuylkill County**, affecting 3.9 acres, receiving stream Rausch Creek. Correction issued September 24, 1997.

The Bureau of Deep Mine Safety has received a request for variance from **Cyprus Emerald Resources Corporation**. The following notification contains a summary of this request. Complete copies of the variance request may be obtained from Matthew A. Bertovich by calling (412) 439-7469.

The Department is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of The Bituminous Coal Mine Act (52 P.S. § 702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 242(e) states that, "If a split of air returning from active underground working places in a mine contains explosive gas, as detected by an approved flame safety lamp (1% or more), changes or adjustments shall be made at once in the ventilation in such mine so that such returning air shall not contain a detectable amount of explosive gas. This does not apply to bleeder returns."

Summary of the request: Cyprus Emerald Resources Corporation requests the use of an atmospheric monitoring system in return air courses to permit a concentration of methane of less than 1.5 percent at the Emerald Mine.

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

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

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, P. O. Box 8457, Harrisburg,

PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

Permits Issued and Actions on 401 Certifications

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

E23-357. Encroachment Permit. **Toll Brothers, Inc.**, 3103 Philmont Avenue, Huntingdon Valley, PA 19006. To perform the following activities associated with the construction of the Concord Chase Residential Subdivision:

To construct and maintain the Beech Tree Drive stream crossing consisting of approximately 140 linear feet of 36-inch reinforced concrete stream enclosure pipe, associated endwalls, and roadway approach fill across an unnamed tributary to the Chester Creek (TSF);

To construct and maintain the Great Oak Drive stream crossing consisting of approximately 105 linear feet of 48-inch reinforced concrete stream enclosure pipe, associated endwalls, and roadway approach fill across an unnamed tributary to the Chester Creek (TSF) and 0.36 acre of wetland (PFO);

To construct and maintain two stormwater outfall structures to unnamed tributaries of Chester Creek;

To construct and maintain one 8-inch water utility line in association with the Great Oak Drive stream crossing.

This site is located just northeast of the intersection of Baltimore Pike (SR 0001) and School House Lane (T-312) (Media USGS Quadrangle N: 4.5 inches; W: 17.0 inches) in Concord Township, **Delaware County**.

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

E13-101. Encroachment. **Pennsylvania Power and Light Company**, 2 North Ninth Street, N-4, Allentown, PA 18101-1179. To place fill in 0.22 acre of wetlands (Wetland F) to widen an existing service road. The project, known as East Palmerton-Wagner 138/69 II, is located within an existing Pennsylvania Power & Light Company right-of-way on the southeastern side of T-516 approximately 1.4 miles northeast of the intersection of T-516 and T-473 (Pohopoco Mountains, PA Quadrangle N: 20.4 inches; W: 13.6 inches) in Penn Forest Township,

Carbon County. The permittee is required to provide 0.22 acre of replacement wetlands.

E39-334. Encroachment. **Parkland School District**, 1210 Springhouse Road, Allentown, PA 18104-2119. To construct and maintain a 48-inch R.C.P. outfall structure along the left bank of Jordan Creek. The project is associated with the new Parkland High School Project and is located on the southside of T-599 (Ritter Road) approximately 0.4 mile west of the intersection of T-599 and S. R. 1019 (Cedar Crest Boulevard) (Cementon, PA Quadrangle N: 2.0 inches; W: 6.9 inches) in South Whitehall Township, **Lehigh County**.

E39-338. Encroachment. **City of Allentown**, 435 Hamilton Street, Allentown, PA 18101-1699. To maintain a stone riprap blanket on the channel bed and banks of the Lehigh River for protecting an existing waterline and sanitary sewer line crossing of the Lehigh River. The project is located at a point 360 feet downstream from the Hamilton Street Bridge, in the City of Allentown, **Lehigh County** (previously authorized by Permit No. 13556).

E54-232. Encroachment. **Mostafa Montasser**, P. O. Box 40, Andreas, PA 18211. To maintain twin 48-inch PVC culverts in the channel of a tributary to Lizard Creek to provide sole access to a private residence and farmland. This project was constructed under Emergency Permit No. EP5497401 and is located along Pine Hill Road (T-995) approximately 1 mile east of S. R. 0309 (New Tripoli, PA Quadrangle N: 20.5 inches; W: 15.5 inches) in West Penn Township, **Schuylkill County**.

E66-113. Encroachment. **Wyoming Sand and Stone Company**, R. R. 2, Box 100, Tunkhannock, PA 18657. To place fill in 0.37 acre of wetlands for the purpose of constructing a hot mix asphalt plant and associated bituminous pavement parking areas of Hilltop Quarry. The project is located 0.3 mile south of the intersection of S. R. 0307 and Township Road T364 (Ransom, PA Quadrangle N: 19.2 inches; W: 9.4 inches) in Falls Township, **Wyoming County**. The permittee is required to provide 0.37 acre of replacement wetlands.

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

E08-320. Encroachment. **Pa. Dept. of Transportation**, 714 Jordan Ave., Montoursville, PA 17754. To remove the existing structure and to construct, operate and maintain a single span prestressed concrete adjacent box beam bridge to carry SR 0006, Section 072 across Laning Creek. The work shall consist of constructing a bridge that will have a normal clear span of 61 feet, an average underclearance of 9.5 feet and an out-to-out width of 57.6 feet. The project is located along the western right-of-way of SR 1033 approximately 1,000.0 feet west of the intersection of SR 0006 and SR 1033 (Towanda, PA Quadrangle N: 3.5 inches; W: 6.5 inches) in Wysox Township, **Bradford 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**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E19-169. Encroachment. **Pa. Dept. of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To remove the existing arch bridge and to construct and maintain a prestressed concrete spread box beam bridge

with a normal span of 63.5 feet and minimum underclearance of 13.7 feet in Little Pine Creek located on SR 1026, Section 002 approximately 600 feet west of the SR 1026 intersection with S. R. 1033 (Stillwater, PA Quadrangle N: 4.9 inches; W: 8.3 inches) in Fishing Creek Township, **Columbia County**.

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

E25-553. Encroachment. **Pa. Dept. of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a precast reinforced concrete channel beam bridge having a clear, normal span of 30 feet and an average underclearance of 6.36 feet across Horton Run on S. R. 2008, Segment 0020, Offset 0832 approximately 1,100 feet east of Union LeBoeuf Road (Waterford, PA Quadrangle N: 4.0 inches; W: 1.1 inches) located in Union Township, **Erie County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

DAM SAFETY

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

D63-089B. Dam. **Eighty-Four Mining Company** (P. O. Box 729, Indiana, PA 15701-0729). To enlarge the existing Pond No. 6 pond in fine coal refuse (slurry) disposal at the Eighty-Four Mining Company site located in Somerset Township, **Washington County**.

D67-517A. Dam. **Modern Trash Removal of York, Inc.** (R. D. 9, Box 317, York, PA 17402). To decommission and remove an existing sediment dam (Pond E) at Modern Landfill located in Lower Windsor and Windsor Townships, **York County**.

SPECIAL NOTICES

Proposed Wellhead Protection Program for Drinking Water Source Protection Under the 1996 Federal Safe Drinking Water Act Amendments

As required under section 1428 of the Federal Safe Drinking Water Act, the Department of Environmental Protection (DEP) has developed a proposed wellhead protection (WHP) program to protect groundwater sources used by public water systems from contamination that may have an adverse effect on public health. Participation in the program is voluntary and builds upon the basic requirements for water purveyors to obtain the best available source and to take the appropriate actions to protect the source, thereby ensuring a continual and safe water supply. The WHP program will also suffice for the groundwater component of the source water assessment program which is also required to be developed under section 1453 of the Federal Safe Drinking Water Act.

Following the public comment period which closes November 14, 1997, DEP will submit the document, *Proposed Pennsylvania Wellhead Protection Program*, to the United States Environmental Protection Agency for formal approval.

Discussions on this proposed program will be held during the following meetings:

- | | | |
|------------|---------|--|
| October 21 | 10 a.m. | Northampton Community College Main Campus, KIVA Hall, 3835 Green Pond Road, Bethlehem, PA |
| October 22 | 10 a.m. | Jennings Environmental Education Center, 2951 Prospect Road, Slippery Rock, PA |
| October 23 | 10 a.m. | Rachel Carson State Office Building, 2nd Floor Auditorium, 400 Market Street, Harrisburg, PA |

Requests for copies of the document, *Proposed Pennsylvania Wellhead Protection Program*, and written comments may be directed to Joseph J. Lee, Chief, Source Protection Section, Division of Drinking Water Management, Bureau of Water Supply Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 772-4018. The document, *Proposed Pennsylvania Wellhead Protection Program*, is also available on the DEP website at <http://www.dep.state.pa.us> (choose Information by Subject/Water Management/Bureau of Water Supply Management).

[Pa.B. Doc. No. 97-1628. Filed for public inspection October 10, 1997, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "June 1997 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will be adding its revised documents to the Web throughout 1997.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

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

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number are listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

Final Technical Guidance—Substantial Revision

DEP ID: 383-2125-108 Title: Public Water Supply Manual-Part II Description: Direct and support implementation of permitting activities for community water systems under the drinking water management program. Effective Date: September 1, 1997 Page Length: 148 pages Location: Vol 22, Tab 01 Contact: Joseph Hoffman at (717) 787-5017

Final Technical Guidance—Minor Revision

DEP ID: 383-0810-107 Title: Summary of Key Requirements for Lead & Copper Rule Description: To direct and

support implementation of the Lead and Copper Rule under the safe drinking water management programs. Effective Date: March 27, 1997 Page Length: 14 pages Location: Vol 21, Tab 01 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0810-201 Title: Summary of Key Requirements for Transient Noncommunity Water Systems Description: Direct and support implementation of transient noncommunity water systems activities under the safe drinking water management programs. Effective Date: March 27, 1997 Page Length: 13 pages Location: Vol 15, Tab 12A Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 391-3200-004 Title: Aquatic Life—Attainability Studies for Flowing and Impounded Water Bodies Description: Establishes and standardizes the Department's procedures for determining if protected aquatic life uses are being attained in flowing and impounded waters. Effective Date: September 15, 1997 Page Length: 52 pages Location: Vol 30, Tab 04 Contact: Ed Brezina at (717) 787-9637

Draft Technical Guidance—New Guidance

DEP ID: 383-0810-401 Title: Summary of Key Requirements for Consecutive Water Systems Description: Directs and supports implementation of consecutive water systems activities under the safe drinking water management programs. Effective Date: January 1, 1998 Page Length: 12 pages Location: Vol 15, Tab 18 Contact: Bruce Carl at (717) 772-4018

Intent to Develop

DEP ID: 383-3310-209 Title: PADWISA Inventory Reports by PWSID Description: The layout of the computerized inventory of regulated public water supplies has changed over the last several years requiring change in standard format. Anticipated Effective Date: November 15, 1997 Contact: Barry Greenawald at (717) 772-4018

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1629. Filed for public inspection October 10, 1997, 9:00 a.m.]

Availability of Universal Waste Petitions for Public Comment

The Department of Environmental Protection (DEP) is providing notice of its receipt of two petitions requesting regulatory amendments under 25 Pa. Code Chapter 266, Subchapters J-O (relating to universal waste). One petition requests inclusion of fluorescent and mercury lamps as universal wastes; the other petition requests inclusion of mercury devices. The petitions were submitted by Advanced Environmental Recycling Corporation.

DEP has determined that the petitions are complete and is soliciting public comments on whether to include the petitioned items as universal wastes. Copies of the petitions may be obtained from Richard Shipman, Chief, Division of Hazardous Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, or by calling (717) 787-6239. Interested persons may submit comments on the petitions until December 10, 1997. Comments should be directed to

Richard Shipman at the above address or electronically to Shipman.Rick@a1.dep.state.pa.us.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1630. Filed for public inspection October 10, 1997, 9:00 a.m.]

DEPARTMENT OF HEALTH

Advisory Health Board

The Advisory Health Board is scheduled to hold a meeting on October 24, 1997, at 9 a.m. in Room 812 of the 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 aide service, or other accommodation to do so, contact Richie Martz at (717) 787-6436. TDD: (717) 783-6514 or Network/TDD: (8) (717) 433-6514. This meeting is subject to cancellation without notice.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 97-1631. Filed for public inspection October 10, 1997, 9:00 a.m.]

Governor's Council on Physical Fitness and Sports

The Governor's Council on Physical Fitness and Sports is scheduled to hold a meeting on November 5, 1997, from 9 a.m. to 12:30 p.m. in Room 812, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

For additional information, or persons with a disability who desire to attend the meeting and require an auxiliary aide service, or other accommodation to do so, contact Emilie M. Tierney, Director, Pennsylvania Department of Health, Bureau of Chronic Diseases or Terry L. Walker, Administrative Officer, at (717) 787-6214. TDD: (717) 783-6514 or Network/TDD: (8) 717-433-6514.

This meeting is subject to cancellation without notice.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 97-1632. Filed for public inspection October 10, 1997, 9:00 a.m.]

Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee is scheduled to hold a meeting on October 29, 1997, from 10 a.m. to 12 noon in Room 812 of the Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA.

For additional information or for persons with a disability who desire to attend the meeting and require an auxiliary aide service or other accommodation to do so, contact William J. Neil, Chief, Program Development Section, Division of Health Risk Reduction at (717) 787-5900. TDD: (717) 783-6514 or Network/TDD: (8) (717)

433-6514. This meeting is subject to cancellation without notice.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 97-1633. Filed for public inspection October 10, 1997, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Pennsylvania Conservation Corps; Grants for Projects

Grants for projects related to conservation, recreation, historical preservation, graffiti removal and the repair of institutional vandalism are available under the Pennsylvania Conservation Corps (PCC) program.

Agencies eligible to apply for PCC projects are:

- The Departments of Labor and Industry, Conservation and Natural Resources, Public Welfare, Corrections, Military Affairs, Aging, Education and Community and Economic Development
- The Pennsylvania Game, Fish and Boat, and Historical and Museum Commissions
- The Pennsylvania Emergency Management Agency
- Local political subdivisions (municipalities and school districts)
- Nonprofit agencies in cities of the first class (for projects involving the removal of graffiti and the repair of institutional vandalism only)

The PCC program is designed to provide work experience and educational opportunities to unemployed young adults as they undertake needed projects on the Commonwealth's public lands. Funds available through the program may be used to purchase approved construction materials and contracted services (political subdivisions must provide a 25% cash match). The wages of corpsmembers and crewleaders are paid directly by the Department of Labor and Industry.

Applications for PCC projects will be accepted from political subdivisions and eligible nonprofits through Friday, January 9, 1998. State agency applications will be accepted through Friday, February 6, 1998.

For more information, or to obtain an application and procedures manual, contact: Pennsylvania Conservation Corps, 1304 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 783-6385.

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 97-1634. Filed for public inspection October 10, 1997, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Access Route Approval

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways, the Department of Transportation

approved the following access routes for use by the following types of truck combinations: 102" wide 53' long trailer; 102" wide 48' long trailer; 102" wide twin trailers (28 1/2' maximum length per trailer); 102" wide maxi-cube.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 11 (Montour and Counties)	From PA 54 at Danville to I-80 (Exit 36)	16.3
T-508 (Lows Street) (Columbia County)	From US 11 to the Heinz Facility (Starkist Foods)	0.2

Note: The approval of US 11 incorporates sections previously approved and provides a continuity between two points.

Approved February 27, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 10 (Chester, Berks and Lancaster Counties)	From US 1 to I-76 (Exit 22)	29.1

Approved February 27, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 11 (Montour and Columbia Counties)	From PA 54 at Danville to I-80 (Exit 36)	16.3

Note: The approval of US 11 incorporates sections previously approved and provides a continuity between two points.

Approved February 27, 1997.

The following municipalities approved the access routes within their jurisdictions:

East Hempfield Township
West Hempfield Township

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 3017 (Stony Battery Road) (Lancaster County)	From US 30 to T-368 (Stony Battery Road)	2.4
T-368 (Lancaster County)	Stony Battery Road—from SR 3017 to T-669 (Ivy Drive)	0.4
T-660 (Lancaster County)	Ivy Drive—from T-368 to the QVC facility entrance	0.5

Approved March 3, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 322 (Lancaster County)	From PA 23 to the Chester County Line	5.8

Approved March 11, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 22 (Dauphin County)	From I-81 (Exit 23) to PA 230	1.0

Route Identification *Route Description* *Length (Miles)*

PA 230 From US 22 to Franklin Street 3.6
(Dauphin County)

Approved March 28, 1997.

The following municipality approved the access routes within its jurisdiction:

Borough of Middletown

Route Identification *Route Description* *Length (Miles)*

SR 2003 From PA 230 to PA 283 1.8
(Dauphin County)

Adelia Street From PA 230 to Emaus Street 0.5
(Dauphin County)

Emaus Street From Adelia Street to the Manley-Regan Chemicals facility 0.1
(Dauphin County)

Approved March 28, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 230 From PA 441 to SR 2023 2.6
(Dauphin County)

Approved March 28, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 61 From T-305 to the Schuylkill County Line 0.1
(Columbia County)

T-305 From PA 61 to the Schuylkill County Line 0.1
(Columbia County)

SR 2042 From PA 901 to SR 3002 1.3
(Northumberland County)

SR 3002 From SR 2042 to the Schuylkill County Line 0.3
(Columbia County)

Approved March 28, 1997.

Route Identification *Route Description* *Length (Miles)*

Railroad Street From US 11 to the TRW terminal 0.3
(Montour County)

Approved March 28, 1997.

Route Identification *Route Description* *Length (Miles)*

SR 8018 Off Ramp from SR 3032 (Airport Connector) to Airport Drive 0.4
(Dauphin County)

Airport Drive From SR 8018 ramp to Olmstead Drive 0.8
(Dauphin County)

Olmstead Drive From Airport Drive to the PA Air National Guard Gate 0.4
(Dauphin County)

SR 8018 On Ramp from Airport Drive to SR 3032 (Airport Connector) 0.3
(Dauphin County)

Approved March 28, 1997.

Route Identification *Route Description* *Length (Miles)*

US 30 From US 15 to PA 116 20.0
(Adams and York Counties)

Approved March 28, 1997.

The following municipality approved the access route within its jurisdiction:

Lower Macungie Township

Route Identification *Route Description* *Length (Miles)*

PA 100 From I-78 (Exit 14) to Gehman Rd. 6.0
(Lehigh County)

Gehman Road From PA 100 to the Mack Trucks facility driveway 0.2
(Lehigh County)

US 222 From SR 3055 to PA 73 1.4
(Berks County)

Approved April 2, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 641 From Bear Road to 500 Carlisle Road 3.0
(Cumberland County)

Approved April 14, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 414 From US 15 to PA 287 9.8
(Tioga County)

PA 287 From PA 414 to US 6 11.9
(Tioga County)

Approved May 1, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 616 From US 30 to SR 3046 1.7
(York County)

SR 3046 From PA 616 to the Terra Distribution facility 1.5
(York County)

Approved May 9, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 74 From I-81 (Exit 15) to US 15 8.7
(Cumberland and York Counties)

Approved May 9, 1997.

Route Identification *Route Description* *Length (Miles)*

PA 16 From I-81 (Exit 3) to the Maryland State Line 21.8
(Adams and Franklin Counties)

PA 116 From PA 16 to SR 3016 4.0
(Adams County)

SR 3016 From PA 116 to the Quebecor facility 0.5
(Adams County)

Approved May 14, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>	<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 120 (Cameron and Clinton Counties)	From PA 155 to US 220	73.3	SR 1003 (Market Street) (Montgomery County)	From East Broad Street to Union Street	0.2

Approved May 15, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>	<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 120 (Cameron and Clinton Counties)	From PA 155 to US 220	73.3	SR 1003 (Union Street) (Montgomery County)	From Market Street to Penn Street	0.1
			Union Street (Montgomery County)	From Penn Street to the Hatfield Borough Line	0.2
			Unionville Pike (Montgomery County)	From the Hatfield Borough Line to Richmond Road	0.4

Approved May 15, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>	<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 1002 (Venango County)	PA 8 Bypass—From Center Street to N. Seneca Street	0.7	Richmond Road (Montgomery County)	From Unionville Pike to Bergey Road	0.5
			Bergey Road (Montgomery County)	From Richmond Road to the Rosenberger Cold Storage facility	0.1

Approved June 10, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 241 (Lancaster County)	From PA 441 to Bainbridge Street West	4.6
Bainbridge Street West (Lancaster County)	From PA 241 to PA 230	0.4
PA 743 (Lancaster County)	From PA 441 to PA 230	6.5
SR 4025 (Lancaster County)	From PA 230 to PA 283	1.1
PA 743 (Lancaster County)	From PA 241 to PA 283	1.0
PA 241 (Lancaster County)	From PA 230 to PA 743	0.6
PA 772 (Lancaster County)	From PA 230 to PA 283	2.3
PA 241 (Lancaster County)	From PA 230 to Brown Street	0.3
Brown Street (Lancaster County)	From PA 241 to Bainbridge Street West	0.4

Approved June 10, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 1003 (East Broad Street) (Montgomery County)	From Main Street to Market Street	0.2

Approved July 23, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways, the Department of Transportation approved the following access routes for use by the following types of truck combinations: 102" wide 48' long trailer; 102" wide twin trailers (28 1/2' maximum length per trailer); 102" wide maxi-cube.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 11 (Water Street) (Northumberland County)	From PA 147 (Duke Street) to PA 147 (King Street)	0.2

Approved February 27, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 2035 (Northumberland County)	From SR 3028/3024 to PA 54/61 to Strong	1.4

Approved April 14, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways the Department of Transportation approved the following access routes for use by the following types of truck combinations: 102" wide 53' long trailer; 102" wide 48' long trailer.

The following municipality approved the access routes within its jurisdiction:

City of Wilkes-Barre

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 2009 (Butler Street) (Luzerne County)	From Wilkes-Barre Blvd. to SR 2022 (N. Main St.)	0.4
SR 2022 (North Main St.) (Luzerne County)	From SR 2009 (Butler St.) to Wilkes-Barre City Line	0.6

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
Conyngham Ave. (Luzerne County)	From Wilkes-Barre Blvd. to Pennsylvania Avenue	0.2
Pennsylvania Ave. (Luzerne County)	From Conyngham Ave. to Johnson Street	0.6
Johnson Street (Luzerne County)	From Pennsylvania Ave. to SR 2022 (N. Main Street)	0.2

Approved January 15, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 150 (Centre County)	From US 220 to PA 26	9.3
T-533 (Rolling Ridge Drive) (Centre County)	From PA 150 to its terminus	N/A
East Rolling Drive (Centre County)	From Rolling Ridge Drive to its terminus	N/A

Approved January 23, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 230 (Lancaster County)	From PA 283 to the Dauphin County Line	11.1

Approved January 29, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 147 (Dauphin County)	From US 322 to US 209	13.8
US 209 (Dauphin and Schuylkill Counties)	From PA 147 to I-81 (Exit 33)	29.2

Approved January 29, 1997.

The following municipality approved the access routes within its jurisdiction:

Borough of Ashland		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 61 (Schuylkill County)	From I-81 (Exit 36) to PA 54	7.8
PA 54 (Schuylkill County)	From PA 61 to Market Street	1.0
Market Street (Schuylkill County)	From PA 54 to the Tri-State Envelope facility	0.1
19th Street (Schuylkill County)	From PA 54 to the Tri-State Envelope facility	0.2
SR 4028 (Schuylkill County)	From PA 54 to the Columbia County line	1.1

Approved March 28, 1997.

The following municipality approved the access routes within its jurisdiction:

City of York		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 124 (York County)	From I-83 (Exit 7) to Prospect Street	1.3
Prospect Street (York County)	From PA 124 (Mt. Rose Ave.) to East College Ave	0.6
East College Ave. (York County)	From Prospect Street to West College Avenue	0.4
West College Ave. (York County)	From East College Ave. to the Classic Caramel Company facility	0.3

Approved May 1, 1997.

The following municipalities approved the access route within their jurisdictions:

Windsor Township Red Lion Borough		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
T-800 (York County)	Springvale Road—From PA 24 to the Tate Access Floors Facility	0.2

Approved July 2, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 1011 (Cumberland County)	Silver Spring Road—from US 11 to T-604 (Old Silver Spring Road)	1.7
T-604 (Cumberland County)	Old Silver Spring Road—from SR 1011 to the Northernmost gate at 350 Old Silver Spring Road	0.1

Approved July 23, 1997.

The following municipality approved the access route within its jurisdiction:

Bern Township		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 3055 (Berks County)	From US 422 to PA 183	4.6
T-935 (MacArthur Road) (Berks County)	From PA 183 to the Airport Industrial Park	0.6

Approved July 23, 1997.

The following municipality approved the access routes within its jurisdiction:

Bern Township		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
SR 3055 (Berks County)	From US 422 to PA 183	4.6
SR 3021 (Berks County)	Paper Mill Road—From US 422 to SR 3055	1.8
Van Reed Road (Berks County)	From PA 183 to Arnold Road	0.5
Arnold Road (Berks County)	From Van Reed Road to the Premium Beverage Packers terminal	0.3

Approved July 28, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways the Department of Transportation approved the following access routes for use by the following types of truck combinations: 102" wide 48' long trailer; 102" wide twin trailers (28 1/2' maximum length per trailer).

The following municipality approved the access route within its jurisdiction:

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 130 (Westmoreland Co.)	From 4th Street to the McGuire Trucking Terminal	0.1
PA 130 (Westmoreland Co.)	From PA Toll 66 (Exit 4) to SR 4002 (Locust Valley Rd)	2.0
SR 4002 (Westmoreland Co.)	From PA 130 to SR 0066 (PA Business 66)	1.2

Approved March 28, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 40 (Washington County)	From the WV State Line to SR 3024	5.5
SR 3024 (Washington County)	From US 40 to I-70 (Exit 2)	0.1

Approved April 14, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways the Department of Transportation approved the following access routes for use by the following type of truck combination: 102" wide 48' long trailer.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 410 (Jefferson and Clearfield Counties)	From US 119 to US 322	9.1
T-608 (Jefferson County)	From PA 410 to the Shrencengost facility	0.2

Approved February 13, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 309 (Schuylkill and Lehigh Counties)	From PA 54 to PA 100	21.3
PA 100 (Lehigh County)	From PA 309 to I-78 (Exit 14)	8.6

Approved February 27, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
US 322 (Chester County)	From the Lancaster County Line to the Zook Molasses Company	1.3

Approved March 11, 1997.

The following municipality approved the access route within its jurisdiction:

East Fallowfield Township		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
Gum Tree Road (Chester County)	From US 1 to the South Coatesville Scrap and Iron Company facility	8.0

Approved May 1, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways the Department of Transportation approved the following access routes for use by the following type of truck combination: 102" wide twin trailers (28 1/2' maximum length per trailer).

The following municipality approved the access routes within its jurisdiction:

Upper Macungie Township		
<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 100 (Lehigh County)	From S. R. 2021 to T-905 (Penn Drive)	6.3
SR 2021 (Lehigh County)	From PA 29 to PA 100 (Buckeye Road)	1.6
T-905 (Lehigh County)	Penn Drive—From PA 100 to T-906 (Star Road)	0.1
T-906 (Lehigh County)	Star Road—From T-905 (Penn Drive) to Conway Central Express Terminal	0.1

Approved February 27, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 5 (Erie County)	(East 12th St.) From the ABF Terminal to Franklin Ave.	0.3
Franklin Avenue (Erie County)	From PA 5 (East 12th St.) to PA 20	0.3
PA 20 (Erie County)	From Franklin Avenue to I-90 (Exit 12)	15.2

Approved March 28, 1997.

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 901 (Schuylkill County)	From I-81 (Exit 35) to the Con-Way Central Express Terminal	6.3

Approved April 14, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways, the Department of Transportation approved the following access routes for use by the following type of truck combination: 96" wide twin trailers (28 1/2' maximum length per trailer).

The following municipality approved the access routes within its jurisdiction:

Borough of Stroudsburg

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 611 (Monroe County)	From I-80 (Exit 51) to PA 191	0.3
PA 191 (Monroe County)	From PA 611 to SR 2011	3.0
SR 2011 (Monroe County)	From PA 191 to the Pocono Produce Company entrance	0.2

Approved March 11, 1997.

Under the provisions of 75 Pa.C.S. § 4908, relating to operating certain combinations on Interstates and certain primary highways, the Department of Transportation approved the following access route for use by the following type of truck combination: 96" wide 48' long trailer (greater than 60' combination length).

<i>Route Identification</i>	<i>Route Description</i>	<i>Length (Miles)</i>
PA 87 (Sullivan and Wyoming Counties)	From US 220 to US 6	26.3

Approved May 21, 1997.

Comments, suggestions or questions may be directed to James Weakland, Truck Access Manager, 7th Floor—Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1900, (717) 787-7445.

BRADLEY MALLORY,
Secretary

[Pa.B. Doc. No. 97-1635. Filed for public inspection October 10, 1997, 9:00 a.m.]

Bureau of Aviation; Availability of Local Real Estate Tax Reimbursement Grants for Taxes Paid in 1997

The Department of Transportation, Bureau of Aviation, is accepting applications for Tax Reimbursement Grants from qualifying owners of public airports who have paid local real estate taxes for the calendar year ending December 31, 1997.

Each year, under Subchapter B of the Aviation Code (74 Pa.C.S. Sections 6121, 6122, 6123 and 6124) and 67 Pa. Code Chapter 477, the owner of a public airport shall be eligible for a grant from the local real estate tax reimbursement portion of the Aviation Restricted Account. These grants are available to reimburse airport owners for local real estate taxes paid on those portions of an airport which are aviation related areas, as defined in Section 5102 of the Aviation Code (74 Pa.C.S. § 5102). Prior to applying for a grant, each public airport owner shall enter into an agreement with the Department. This agreement shall specify that the owner shall continue, for a period of not less than ten years, to maintain the property, for which the grant will be sought, as an airport at least equal in size and capacity as that indicated in the owner's initial grant application. This agreement shall be a covenant which runs with the land and thus shall apply to any subsequent purchases of land. Upon acceptance of any grant, the covenant shall be deemed extended for one additional year. Any violation of the agreement shall make the owner liable for the repayment of the total

appropriation for the year plus a penalty of two times the grant. In any action wherein the owner is found to have violated the agreement, the Department shall receive all costs of prosecution.

The final date for submission of applications for reimbursement of local real estate taxes paid in calendar year ending December 31, 1997 is the close of business on February 1, 1998. Applications shall be filed with the Department of Transportation, Bureau of Aviation, 555 Walnut Street—8th Floor, Harrisburg, PA 17057.

Interested persons may direct their request for applications, inquiries or comments regarding the local real estate tax reimbursement program to Demetrius D. Glass, Director, Bureau of Aviation, 555 Walnut Street—8th Floor, Harrisburg, PA 17101, (717) 705-1230.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1636. Filed for public inspection October 10, 1997, 9:00 a.m.]

Retention of Engineering Firms

Mercer County

Project Reference No. 08430AG2116

The Department of Transportation will retain an engineering firm to perform final design and consultation during construction for S.R. 0018, Section A01, known as North Hermitage Road, from the intersection with S.R. 0062 (Shenango Valley Freeway), north to the existing four-lane section of T.R. 18, all within the City of Hermitage, Mercer County. The project is approximately 2.61 miles in length and the estimated construction cost is \$12 million.

The selected firm will be required to provide the following engineering and design services for final design: field surveys; right-of-way plan preparation; roadway design; traffic studies; traffic signal design; erosion and sedimentation pollution control plan preparation; pavement marking and signing plan preparation; utility coordination; traffic control plan preparation; coordination with the City of Hermitage; the area public and the Department; and preparation of final construction drawings, specification and cost estimates.

Services during construction will consist of construction consultation, alternate design review, and shop drawing review.

Firms that are under contract, or are being considered, to provide engineering services to a land developer for a site that is along the project corridor will not be considered for this assignment. Firms are to state in their letter of interest that they are not under contract nor are being considered for a contract with a land developer with interests in the project area.

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. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
2. Proven ability to meet project schedules and control costs.

3. Experience and competence of project manager and key personnel.

4. Innovations and flexibility in thinking, particularly with respect to the needs of the local community.

5. Past performance record on similar projects.

6. Past performance record of listed subconsultants.

7. Availability of listed staff.

8. Current workload.

Limits to the letters of interest submittals, in addition to those mentioned in the General Requirements and Information section following the advertised project(s) are as follows:

1. Resumes—No more than five (5) total pages of resumes, one sided.

2. Standard Form 255—No more than five (5) project descriptions are to be included under Item No. 8.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

Engineering District 1-0 will announce the firms that have been shortlisted at an open, public meeting to be held in the District Office. All firms that have submitted a letter of interest will be notified of the time and date. Specify two (2) contact persons in the letter of interest.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. John L. Baker, P.E., District Engineer, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323, Attention: Mr. Michael L. McMullen, P.E.

Any technical questions concerning the requirements for this project should be directed to Mr. Richard R. Paravano, District 1-0, at (814) 437-4384 or Mr. Michael L. McMullen, P.E., District 1-0, at (814) 437-4331.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

Erie County

Project Reference No. 08430AG2117

The Department of Transportation will retain an engineering firm to perform final design, assist in right-of-way acquisition and provide services during construction for S.R. 4034, Section A51 in the City of Erie, Erie County. This project involves the construction of a new four lane, controlled access highway between 6th Street (S.R. 4016) and 12th Street (S.R. 0005) in the City of Erie. This project is a part of the East Side Access corridor for which the Final Environmental Impact Statement (FEIS) was approved on March 3, 1997. The estimated project construction cost is \$1.8 million.

The selected firm will be required to provide the following engineering and design services for final design: field surveys; right-of-way plan preparation; roadway design; traffic studies; traffic signal design; erosion and sedimentation pollution control plan preparation; pavement marking and signing plan preparation; utility coordination; PUC and railroad coordination; railroad relocation design; traffic control plan preparation; coordination with environmental review agencies; the City of Erie; the area public and the Department; soils and geological

investigations; noise and vibration studies and analysis and preparation of final construction drawings, specification and cost estimates. All final designs must be in accordance with the mitigation summary that is a part of the FEIS.

Services during construction will consist of construction consultation, alternate design review and shop drawing review.

Firms that are under contract, or are being considered, to provide engineering services to a land developer for a site that is along the project corridor will not be considered for this assignment. Firms are to state in the transmittal letter of their letter of interest that they are not under contract nor are being considered for a contract with a land developer with interests in the project area.

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. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.

2. Proven ability to meet project schedules and control costs.

3. Experience and competence of project manager and key personnel.

4. Innovations and flexibility in thinking, particularly with respect to the needs of the local community.

5. Past performance record on similar projects.

6. Past performance record of listed subconsultants.

7. Availability of listed staff.

8. Current workload.

Limits to the letters of interest submittals, in addition to those mentioned in the General Requirements and Information section following the advertised project(s), are as follows:

1. Resumes—No more than five (5) total pages of resumes, one sided.

2. Standard Form 255—No more than five (5) project descriptions are to be included under Item No. 8.

Engineering District 1-0 will announce the firms that have been shortlisted at an open, public meeting to be held in the District Office. All firms that have submitted a letter of interest will be notified of the time and date. Specify two (2) contact persons in the letter of interest.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. John L. Baker, P.E., District Engineer, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323, Attention: Mr. Michael L. McMullen, P.E.

Any technical questions concerning the requirements for this project should be directed to Mr. Richard R. Paravano, District 1-0, at (814) 437-4384 or Mr. Michael L. McMullen, P.E., at (814) 437-4331.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties

Project Reference No. 08430AG2118

The Department of Transportation will retain two (2) engineering firms for two (2) Open-end Contracts for

various engineering and/or environmental services on various projects located in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties. Each Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of each Open-end Contract will be \$1.0 million.

The Department will establish an order of ranking of a minimum of five (5) firms for the purpose of negotiating two (2) Open-end Contracts based on the Department's evaluation of the 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. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.

b. Specialized experience and technical competence of firm with emphasis on the firm's ability to handle projects of a diverse and complex nature. The firm's experience in 3R and I-4R design, safety improvement projects and bridge design projects; the firm's ability to address critical environmental issues in a timely and cost effective manner; and the firm's ability to procure all necessary permits.

c. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on Open-end Contracts. The specific experience of individuals who constitute the firms shall be considered.

d. Location of consultant in respect to the District.

e. Projected workload for the next two (2) calendar years.

f. Available staffing for this assignment. The selected firm could be assigned up to 20 concurrent work orders of a similar or diverse nature. Prompt turn-around time is expected.

g. Relative size of firm to size of projects that may be completed under each contract.

The work and services required under these Contracts may encompass a wide range of environmental studies and engineering efforts with the possibility of several different types of projects with short completion schedules being assigned concurrently. The anticipated types of projects include, but not limited to, bridge replacements or bridge rehabilitation with minor approach work, environmental studies, roadway betterments (3R type), minor capital improvement projects (bridges or roadway), railroad grade crossing projects, and minor location studies, etc.

The engineering work and services which may be required under these Contracts include, but are not limited to: perform field surveys; plot topography and cross sections; prepare submission for utility verification and relocations engineering; prepare all pertinent submissions and materials necessary for the Department to prepare the application to PUC and for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during the design of the project; develop erosion control details and narrative; prepare right of way plans; complete structure designs

including type, size and location reports, core boring layouts and foundation designs and reports; develop traffic control plans with narratives; conduct soils investigations and prepare soils reports; investigate utility involvement on projects; provide material for and participate in value engineering reviews; coordinate contacts with railroad officials and procure railroad related costs, permits, and insurance; collect signal timing, accident data and other traffic flow data; document engineering study findings and activities; alternative analysis to assess impacts and mitigation; and prepare construction plans, specifications, and estimates.

The areas of environmental study required under these Contracts may include, but are not limited to; air quality; noise; energy; vibration; hazardous waste; surface water and ground water quality; surface water and ground water hydrology; terrestrial ecology including threatened and endangered species; wetlands; soils; geology; farmlands; visual quality; socio-economic resources; cultural resources; Section 4(f) Evaluations; early coordination and; scoping correspondence; meeting minutes; public meeting and hearing presentations; visualization materials, handouts and displays; technical basis reports (TBRs) and/or technical files; NEPA environmental documents; Section 106 documents; mitigation plans and reports; wetland and floodplain findings; and preliminary engineering plans, and remote sensing/mapping innovations; The format and content of all documents will be consistent with applicable State and Federal regulations, policies and guidelines.

The engineering services and environmental studies identified above are the general work activities that can be expected under these Open-end Contracts. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under these Open-end Contracts.

The second copy of the letter of interest and required forms (see "General Requirements and Information" section) shall be sent to: Mr. Barry G. Hoffman, P.E. District Engineer, District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699.

Technical questions concerning the requirements for this project should be directed to Mr. John Bachman, District 8-0, at (717) 783-4519.

Questions concerning the submittal of the letter of interest for these Open-end Contracts can be directed to the Consultant Agreement Division at (717) 783-9309.

Indiana County

Project Reference No. 08430AG2119

The Department of Transportation will retain an engineering firm for a specific agreement to provide the preliminary engineering and environmental studies, final design and construction consultation for the S.R. 0119, Section 495 project (Grove Chapel Climbing Lane) in Indiana County. The project will begin on S.R. 0119 south of the intersection with Township Road 840 in Rayne Township, and continues north on S.R. 0119 for approximately 2.6 km, ending near the intersection with Township Road 491, Rayne Township, Indiana County.

The project will be designed to meet current design criteria and to provide a southbound truck climbing lane and a center land for left turns on S.R. 0119. As much of the existing roadway as possible will be retained in the new design. The selected firm will obtain all environmental clearances. Other tasks will include but not limited to field surveys; preliminary area reconnaissance; alterna-

tives analysis; cross sections; reconnaissance soils and geologic engineering report; erosion and sedimentation control plan; design field view submission (Step 9); project management and public meetings; final design activities; preparation of plans, specifications, and estimates; and construction consultation.

The design of this project will be developed in metric units. The duration of this Contract will be eighteen (18) months. Funding for this project will be 100% of State, therefore State overhead limitations will apply.

Letters of interest will be evaluated with emphasis on the following factors, listed in order of importance:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Specialized experience and technical competence of the firm.
- c. Past record of performance with respect to cost control, work quality, ability to meet schedules and ability to work with accelerated schedules.
- d. Workload.
- e. Listing of Subconsultants.
- f. Location of office to perform the work.

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Richard Hogg, P.E., District Engineer, District 10-0, Route 286 South, P.O. Box 429, Indiana, PA 15701.

Any technical questions concerning the requirements for this project should be directed to Mr. Craig Chelednik, P.E., District 10-0, at (412) 357-2842.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

General Requirements and Information

Firms interested in providing the above work and services 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:

Mr. Charles W. Allwein, P.E., Chief
 Consultant Selection Committee
 7th Floor, Forum Place,
 555 Walnut Street
 P.O. Box 3060
 Harrisburg, Pennsylvania 17105-3060

The Letter of Interest and required information must be received within thirteen (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 corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Each Letter of Interest must include the following information and the information must be packaged and presented in the following order:

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

The subject heading of the transmittal letter must include the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate in the body of their transmittal letter the names and Professional Engineer License Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm.

2. Project Organization Chart (one 8 1/2" x 11" page, one side)

This Chart must show key staff from the prime and each subconsultant and their area of responsibility.

3. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team).

The Standard Form 255 must be signed, dated, and filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project. Under Item 4 of this form, Column A must include the number of subconsultant personnel and Column B must include the number of prime consultant personnel to be assigned to work on this project reference number. The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantage Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, must accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the Letter of Interest, the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

These Forms must be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Form 255.

5. Workload Projection Graph (Not required for Construction Inspection Services)

Separate Workload Projection Graphs for the prime and each subconsultant shown in Item 6 of the Form 255 must be included and must indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next two-year time frame. The Workload Projection Graphs must be submitted for the office(s) where the work would be performed and must only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the Letter of Interest, the letters from proposed prime employees must be first, followed by subconsultant employees, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. Overhead Rates (one page)

A single page summary must indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public 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 (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary of Transportation

[Pa.B. Doc. No. 97-1637. Filed for public inspection October 10, 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>
10-147	Department of Health Repeal of Hotline and Drop-In Shelter Regulations	9/29/97

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
10-144	Department of Health Drugs Which May Be Used by Qualified Optometrists; Sched- ules of Controlled Substances	9/29/97

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 97-1638. Filed for public inspection October 10, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT

Capital Blue Cross and Pennsylvania Blue Shield; Rate Hearing for Non-Group Basic, Major Med- ical and Comprehensive Major Medical Pro- grams and Medicare Supplement/Security 65 Programs Plans B, C and H; Filing Nos. 97-T, 97-U, 97-V, 97-KK, 1-DPMS-97-HI and 1-DPCM- 97-HI

Capital Blue Cross and Pennsylvania Blue Shield have requested approved to increase the premium rates for the above listed filings. The requested premium rate increases vary by filing. These filings were previously published for public comment in the *Pennsylvania Bulletin*. See 27 Pa.B. 4164 (August 16, 1997), 27 Pa.B. 4516—4517 (August 30, 1997) and 27 Pa.B. 4882—4883 (September 20, 1997).

A public informational hearing on these rate filings has been scheduled for:

Date: Friday October 31, 1997

Time: 10 a.m.

Location: Ramada Inn on Market Square, 2nd and Chestnut Street, Harrisburg, PA

Anyone wishing to testify about these filings may contact the Office of Rate and Policy Regulation at the address and phone number below to schedule to testify at this hearing. Individuals may also appear at the hearing without advance notice and will be afforded the opportunity to testify after all individuals scheduled in advance have testified. Testimony will be limited to no more than a 10 minute presentation. The Department requests that individuals provide a written copy of their testimony the date of the hearing.

Copies of the filings are available for public inspection, by appointment, during normal business hours at the Insurance Department's office in Harrisburg.

All interested parties are invited to submit written comments, suggestions and objections about these filings to: CBC Rate Hearing, Pennsylvania Insurance Department, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-4192 by November 7, 1997.

N. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1639. Filed for public inspection October 10, 1997, 9:00 a.m.]

Highland Insurance Company; Pennsylvania Com- pensation Rating Bureau; Doc. No. RT97-09-030

And Now, this 25th day of September, 1997, upon consideration of the request for hearing made by Highland Insurance Company by letter dated September 16, 1997, *It Is Hereby Ordered That:*

Highland Insurance Company's request for hearing is granted.

A formal administrative hearing is scheduled for November 13, 1997, in the Administrative Hearing Office, 901 North Seventh Street, Second Floor, Harrisburg, PA 17102.

A prehearing telephone conference is scheduled for October 30, 1997, at 11 a.m. to be initiated by the Administrative Hearing Office.

Motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Docket Clerk, Administrative Hearing Office, 901 North Seventh Street, Harrisburg, PA 17102, on or before October 30, 1997.

The Pennsylvania Compensation Rating Bureau shall file its record of proceedings regarding the classification on or before October 30, 1997.

The formal administrative hearing in this matter shall be held in accordance with the Administrative Agency Law, 2 Pa.C.S. §§ 501—508, 701—704; the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.193, 35.225—35.251; the Special Rules of Administrative Practice and Procedure, 31 Pa. Code §§ 56.1-56.3; and any other relevant procedural provisions of law.

The Docket Clerk shall cause notice of the scheduled hearing and the due date for preliminary filings to be published in the *Pennsylvania Bulletin*.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1640. Filed for public inspection October 10, 1997, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Re- fusal 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 Puharic, Thomas and Ann; file no. 97-303-71938; American Economy Insurance Company; doc. no. PI97-09-027; October 30, 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) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1641. Filed for public inspection October 10, 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 Moravetz, James and Nancy; file no. 97-303-71694; Cigna Insurance Company; doc. no. PI97-09-031; October 30, 1997, 11 a.m.;

Appeal of Macdade, Brian and Ann; file no. 97-280-34918; Prudential Property & Casualty; doc. no. PH97-09-032; November 4, 1997, 1 p.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) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1642. Filed for public inspection October 10, 1997, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Columbia County, Wine & Spirits Shoppe #1901, Berwick Plaza, 1530 W. Front Street, Berwick, PA 18603-4321.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 6,400 net useable square feet of new or existing retail commercial space within the Borough of Berwick.

Proposals due: October 24, 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: Charles D. Mooney, (717) 657-4228

Schuylkill County, Wine & Spirits Shoppe #5408, 243 Sunbury Street, Minersville, PA 17954-1345.

Lease Expiration Date: November 30, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,400 net useable square feet of new or existing retail commercial space along the Route 901/209 corridor between Minersville and West Pottsville.

Proposals due: October 24, 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

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 97-1643. Filed for public inspection October 10, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Gas Service Without Hearing

A-212285, F0043. Equitable Gas Company. Application of Equitable Gas Company for approval of abandonment of service to one gas service customer located in Waynesburg, 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 October 27, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Equitable Gas Company

Through and By Counsel: Cheryl N. O'Malley, Staff Attorney, Equitable Gas Company, 200 Allegheny Center Mall, Pittsburgh PA 15212-5352.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1644. Filed for public inspection October 10, 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 (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before November 3, 1997 as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the right to *begin* to operate as a *broker* for the transportation of persons as described under each application.

A-00114299. Mervin McMichael, t/a Mer-Lene Tours (68 Marticville Road, Lancaster, Lancaster County, PA 17603)—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania. *Attorney:* James H. Thomas, 28 Penn Square, Lancaster, PA 17603.

Application of the following for the approval of the *transfer of stock* as described under each application.

A-00105095, Folder 5000. Best Limousine Company, Inc., t/a Dave's Limousine Service (1915 Harbison Avenue, Philadelphia, PA 19135)—for the approval of the transfer of part of the issued shares of stock (1,000) from Ariel Zmora to Best Limousine Company, Inc., t/a Dave's Limousine Company, Inc. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, Suite 1400, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102-1890.

A-00112257, F. 5001. Lenzner Transit, Inc. (RD 2, Nicholson Road, Sewickley, Allegheny County, PA 15143), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of all issued and outstanding stock held by Pennsylvania Transportation Systems, Inc. (100) shares to Coach USA, Inc. *Attorney:* John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219-2383.

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-00114259. West Shore Advanced Life Support Services, Inc. (503 North 21st Street, Camp Hill, Cumberland County, PA 17011), a corporation of the Commonwealth of Pennsylvania—to transport, persons, in paratransit service, between points in the counties of Cumberland, Dauphin, Perry, York, Franklin and Adams, and from points in said counties, to points in Pennsylvania, and return; subject to the following condition: that the service be provided in vehicles equipped with special equipment. *Attorney:* J. Bruce Walter, Rhoads & Sinon, One South Market Square, P. O. Box 1146, Harrisburg, PA 17108-1146.

A-00114289. Cumberland Valley Hose Co. No. 2 (56 West King Street, Shippensburg, Cumberland and Franklin Counties, PA 17257), a corporation of the Commonwealth of Pennsylvania—persons, in paratransit service, between points in the counties of Cumberland and Franklin, and from points in said counties, to points in Pennsylvania, and return; limited to transportation in specialized equipment. *Attorney:* David P. Perkins, 126 East King Street, Shippensburg, PA 17257.

A-00114297. Jolanta Sedkowski (460 East Lincoln Highway, Langhorne, Bucks County, PA 19042)—persons upon call or demand, in Bucks County bounded as follows: beginning at State Route 1 and the Delaware River, then northwestwardly along the Delaware River to its intersection with State Route 232, thence southwardly via State Route 232 to its intersection with State Route 132, thence southeastwardly via State Route 132 to its intersection with State Route 1, then northeastwardly via State Route 1 to the Delaware River, the place of beginning.

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-00111863, F. 1, Am-B. Donato Trinkle t/d/b/a A & A Limousine Service (2848 Blakeslee Boulevard, Lehighton, Carbon County, PA 18235)—inter alia, to transport, by motor vehicle, persons in limousine service between points in the county of Carbon, and from points in said county, to points in Pennsylvania: *so as to permit* the transportation of persons in limousine service between points in the counties of Monroe, Schuylkill and Berks, and from points in the said counties to points in Pennsylvania, and return.

Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating as common carriers* for the transportation of persons by *transfer of rights* as described under each application.

A-00114296. Francis P. Pardo, t/a Ruberti's Limousine Service (1596-B Paoli Pike, West Chester, Chester County, PA 19380)—persons, in limousine service, between points in the borough of West Chester, the townships of Pennsbury, West Goshen and Westtown, Chester County, and from said municipalities, to points in Pennsylvania, and return; subject to the following conditions: (1) The above service to be rendered in Lincoln Town Car stretch limousines; (2) That no right, power or privilege is granted to provide transportation to points in the county of Delaware; and (3) That no right, power or privilege is granted to provide transportation to Great Valley Industrial Park, 65 Valley Stream Parkway, Malvern, Chester County and Sorbus, Inc., 50 East Swedesford Road, Frazer, Chester County; which is to be

a transfer of the right authorized under the certificate issued at A-00107648 to Donald E. Ruberti, t/a Ruberti's Limousine Service, subject to the same limitations and conditions.

A-00114298. Alpha and Omega Social Services, Inc., (45 East Butler Pike, Ambler, Montgomery County, PA 19002), a corporation of the Commonwealth of Pennsylvania—persons, for the City of Philadelphia, between points in the city and county of Philadelphia, and from points in the said city and county, to points in Pennsylvania, and return; which is to be a transfer of all of the contract carrier rights issued to Youth Advocacy, Inc., under the permit issued at A-00111412, subject to the same limitations and conditions. Application for temporary authority was filed seeking the right cited above. *Attorney:* Thomas P. Stevens, Five Neshaminy Interplex, Suite 315, Trevoise, PA 19053.

A-00114310. Beninati Transport Corporation (220 Hemlock Road, Trafford, PA 15085), a corporation of the Commonwealth of Pennsylvania—(1) persons in limousine service, between points in the counties of Armstrong, Washington and Fayette, and from points in the said counties, to points in the counties of Allegheny and Somerset, and the borough of Murrysville, Westmoreland County, and return; (2) persons in limousine service, from points in the county of Allegheny, to points in the counties of Armstrong, Washington, Fayette and Somerset, and the borough of Murrysville, Westmoreland County, and return; and (3) persons in limousine service, from points in the borough of Murrysville, Westmoreland County, to points in the counties of Allegheny, Armstrong, Washington, Fayette and Somerset, and return; which is to be a transfer of all of the rights authorized The Acumen Group, t/d/b/a Acumen Limousine, under the certificate issued at A-00110149, subject to the same limitations and conditions. *Attorney:* Richard K. Witchko, 7805 McKnight Road, Pittsburgh, PA 15237.

Application 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 household goods by transfer of rights as described under each application.

A-00114293. Leon McWilliams t/a Nicky Moving & Storage (6059 North Warnock Street, Philadelphia, Philadelphia County, PA 19141)—household goods in use, between points in the city and county of Philadelphia, and within an airline distance of 20 statute miles of the limits of said city and county, and from points in said territory, to points in Pennsylvania, and vice versa.

Motor Carrier Applications—Property, Excluding Household Goods in Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265 on or before October 27, 1997.

A-00114290 Christopher M. Geyer, t/d/b/a Geyer Trucking
4067 Buttonwood Drive, Mount Joy, PA
17552

A-00114294 Ronald J. English, t/d/b/ Ron English Trucking
5885 Telegraph Road, Elkton, PA 21921

A-00114295 Marshall Graham, Jr., t/d/b/a Graham Trucking
14 Conestoga Street, Washington, PA
17582

A-00114300 Joseph R. Gavalis, t/d/b/a J. R. Trucking
119 Laurel Road, Orwigsburg, PA 17961

A-00114309 Pickering Valley Contractors, Inc.
960 Pottstown Pike, Chester Springs, PA
19425

A-00114311 Thomas J. Cogle, t/d/b/a T. J. Cogle Trucking
P.O. Box 389, Emmaus, PA 18049

A-00114312 Guy G. & Christopher J. Timmons, t/d/b/a Timco Trucking
12490 Mountain Road, Orrstown, PA
17244: J Bruce Walter, P.O. Box 1146,
Harrisburg, PA 17108-1146

A-00114313 Seibert's Trucking, Inc.
200 Hess Avenue, Elizabethtown, PA
17022: George D. Alspach, 232 North
Duke Street, Lancaster, PA 17602

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1645. Filed for public inspection October 10, 1997, 9:00 a.m.]

Water Service Without Hearing

A-212285, F0043. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in additional portions of Conoquenessing Township, Butler 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 October 27, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company.

Through and By Counsel: Velma A. Redmond, Corporate Counsel and Secretary, Pennsylvania-American Water Company, 800 West Hershey Park Drive, P.O. Box 888, Hershey, PA 17033-0888.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1646. Filed for public inspection October 10, 1997, 9:00 a.m.]

Water Service Without Hearing

A-212285, F0043. Philadelphia Suburban Water Company. Application of Philadelphia Suburban Water Company for approval of the right to offer, render, furnish or supply water service to the public in additional portions of Newberry Township, York 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 October 27, 1997 under 52 Pa. Code (relating to public utilities).

Applicant: Philadelphia Suburban Water Company

Through and By Counsel: Mark J. Kropilak, Vice President and General Counsel, Philadelphia Suburban Water Company, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1647. Filed for public inspection October 10, 1997, 9:00 a.m.]

**Water Service
Without Hearing**

A-212370F0032. Philadelphia Suburban Water Company. Application of Philadelphia Suburban Water Company for approval of the right to offer, render, furnish or supply water service to the public in additional territory in Pocopson, Pennsbury and East Marlborough Townships, 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 October 27, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Philadelphia Suburban Water Company

Through and By Counsel: Mark J. Kropilak, Vice President and General Counsel, Philadelphia Suburban Water Company, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1648. Filed for public inspection October 10, 1997, 9:00 a.m.]

**PHILADELPHIA REGIONAL
PORT AUTHORITY**

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday, October 23, 1997, for Project #97-268-001 for Diesel Fuel Requirements. The Bid Document can be obtained from the Procurement Administrator, Philadelphia Regional Port Authority (PRPA), 210 W. Washington Square, 8th Floor, Philadelphia, PA 19106, (215) 928-9100 and will be available October 14, 1997. PRPA is an equal opportunity employer. The contractor will be required to comply with all applicable equal opportunity laws and regulations.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 97-1649. Filed for public inspection October 10, 1997, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following Contract:

Contract No. 94-001-FT03—Construction of Mon/Fayette Expressway, S.R. 0043, Section 50D between M. P. 5.7 and M. P. 8.3 in Fayette County, PA

Bid Opening Date—November 6, 1997, 11 a.m.

Bid Surety—5%

Plans, Cross-Sections, Specifications and Addendum Nos. 1 and 2 will be available and open to public inspection at the Administration Building. Copies may be purchased upon payment by check or P. O. money order (no cash) to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. Selection of the desired materials shall be by the following designations with proper respective remittance (Do not add sales tax): a) Construction Plans including roadway, structures and subsurface profiles—\$50; b) Cross Sections—\$40; c) Specifications and Contract Bid Documents—\$25. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

The Turnpike Commission, in accordance with Title VI of the United States Civil Rights Act of 1964 and 49 CFR Parts 21 and 23, notifies all bidders that it will affirmatively insure that DBE will be afforded full opportunity to submit bids in response to this invitation and that no person will be discriminated against on the grounds of race, color, sex or national origin in consideration for an award.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-1650. Filed for public inspection October 10, 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.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

⑥ Duration

REQUIRED DATA DESCRIPTIONS

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

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET THAT COMPETITIVE EDGE—FOR FREE!

Do you want to do business with your state government? The Treasury Department's office of Contract Information Services can assist you by providing you with information that may be helpful to you in successfully bidding on State contracts.

Act 244 of 1980 requires Commonwealth departments and agencies to file with the Treasury Department a copy of all contracts involving an expenditure of \$5,000 or more.

These fully executed contracts usually contain the vendor's name, dollar value, effective and termination dates and contract specifications. Some contracts also include the names of other bidding vendors and the bid proposal compiled by the awarded vendor. There is a minimal cost for photocopying contracts.

Allow the Treasury Department to "make a difference for you." For contract information call the office of Contract Information Services TOLL-FREE (in Pennsylvania) at 1-800-252-4700 or (717) 787-4586. Or you may write or visit the office at Room G13, Finance Building, Harrisburg, Pa. 17120.

BARBARA HAFER,
State Treasurer

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

Commodities

1336117 Building and construction materials (Security Component)—1 complete job door entry device (Pedestrian Sallyport) furnish and install materials to create a Pedestrian Sallyport in the school complex at State Correctional Institution-Waynesburg.

Department: Correctional Industries
Location: Waynesburg, Greene County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8504080 Construction, mining, excavating and highway maintenance equipment—500 each light, Plow Grote PN No. 64291-4.

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

8970720 Construction, mining, excavating and highway maintenance equipment—4 each latest model sweeper, truck mounted, right side discharge with air conditioning.

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

8970800 Construction, mining, excavating and highway maintenance equipment—2 each widener, pavement, 10' with broom.

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

1259117 Medical, dental and vet equipment and supplies—1 each Optek Profile X CNC generator/lap cutter. Must be compatible with other Optek equipment in the lab and the existing computer software and computer interface capability with existing hardware.

Department: Correctional Industries
Location: Albion, Erie County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1144217 Photographic equipment—3,000 each ribbon, printer with clear top coat, Datacard Product No. 806125-103 for Datacard Image Card III Photo Identification Printer. Each ribbon yields approximately 300 applications/ribbon.

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

SERVICES**Advertising—01**

RFP 96-07-18 The Department of Health is seeking a contractor to help manage our current health marketing efforts, to pursue new opportunities and to create and work with the Department to implement one coordinated disease prevention and health promotion marketing strategy. Instrumental to this effort is a uniform marketing theme for all of the Department's activities. The contractor will work with our Office of Communications on the development and implementation of a strategic marketing plan, supporting communications materials, media purchasing and other professional services.

Department: Health
Location: Statewide
Duration: March 1, 1998 through June 30, 2000
Contact: Megan E. Neuhard, (717) 787-1783

Audio/Video—04

IFB No. 97-002 Provide cellular phone service to the Department of the Auditor General. All requests must be in writing and faxed to Andrea Quigley at (717) 787-2518.

Department: Auditor General
Location: Statewide
Duration: October, 1997 through June 30, 1998
Contact: Andrea Quigley, (717) 787-2433

Tele-97 Vendor to provide to the State Correctional Institution Graterford maintenance service to the existing NEC NEAX 2400 IMS telephone systems. Vendor shall provide adds, moves and changes and removal of the equipment as required for institutional needs.

Department: Corrections
Location: State Correctional Institution Graterford, Box 246, off Route 29, Graterford, PA 19426
Duration: 3 years
Contact: Kelly Richardson, (610) 489-4151

Computer Related Services—08

PSERS-IVR The Public School Employees' Retirement System is soliciting bids for a license for interactive voice response development/deployment software. IVR software must consist of both PC-based development component and a mainframe-based deployment component. Must be able to develop/support an IVR system consisting of up to 24 ports. Specifications are available by contacting Ethel Straining at (717) 720-4606.

Department: Public School Employees' Retirement System
Location: 5 North 5th Street, Harrisburg, PA 17101
Duration: January 1, 1998
Contact: Ethel Straining, (717) 720-4606

X110097 Provide 20-user licenses and maintenance for PVCS Tracker Software developed by Intersolv, Inc.

Department: Environmental Protection
Location: Harrisburg, PA
Duration: One year from acquisition of software
Contact: Ally Castaneira, (717) 787-2471

Construction—09

080997 111533—Allegheny County—SR 79(A17); 042260—Lackawanna County—Group 4-98-LT1; 095716—Huntingdon County—Group 9598-RS5; 062266—Chester County—Group 6-97-TR2; 026046—Cameron County—Group 2-97-ST12; 022153—Clearfield County—SR 2007(226); 111532—Allegheny County—SR 48(A18); 037171—Tioga County—Group 3-98-GR1; 039158—Bradford County—Group 3-98-GR2; 080013—District Wide (8-0)—Group 4A-98-TLP; 111534—Allegheny County—SR 28(A19); 091717—Bedford County—SR 220(RS4); 087283—Lancaster County—SR 30(008); 124204—Washington County—SR 1045(C00); 064278—Montgomery County—Group 6-97-TR4; 064260—Montgomery County—SR 363(01N).

Department: Transportation
Location: Districts 2-0, 3-0, 4-0, 6-0, 8-0, 9-0, 11-0, 12-0
Duration: FY 1997-98
Contact: V. C. Shah, (717) 787-5914

080998 061265—Bucks County—Group 6-97-TR1; 082173—Cumberland County—SR 2017(002); 081087—Adams County—SR 233(004); 082181—Cumberland County—SR 1004(003); 011149—Crawford County—Hike and Bike Trail.

Department: Transportation
Location: Districts 1-0, 6-0, 8-0
Duration: FY 1997-98
Contact: V. C. Shah, (717) 787-5914

DGS A 251-444 Project title: Full Conversion From Oil to Natural Gas. Brief description: Convert two fuel oil burners on the existing boilers to new natural gas fuel burners including all related work. Replace the domestic hot water heater, furnish and install a new natural gas service and connect to the gas-fired equipment 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. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, October 22, 1997 at 2 p.m.

Department: General Services
Location: PennDOT County Maintenance District 2-5, Cyclone, McKean County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 577-19 Phase 3 Project title: Expansion Program—Phase 2 Renovation to Administrative Building. Brief description: renovation improvements to Graterford State Correctional Institution, internal administration building, including lead abatement, security equipment, HVAC and electrical work. Plans deposit: \$125 per set. Payable to: Benatec Associates Architects/Engineers. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Benatec Associates Architects/Engineers, 200 Airport Road, New Cumberland, PA 17070, (717) 901-7055. Bid date: Wednesday, November 5, 1997 at 11 a.m.

Department: General Services
Location: State Correctional Institution, Graterford, Montgomery County, PA
Duration: 180 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 800-190 Project title: Construction of a Multistory Building for Interdisciplinary and Interdepartmental Research Activities. Brief description: construction of a new three story 95,000 square foot classroom and research building including site improvements with complete HVAC, plumbing, electrical and fire protection systems. General, HVAC, plumbing, electrical and fire protection construction. Plans deposit: \$235. Payable to: The Hillier Group. 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: The Hillier Group, 1212 South Abington Road, Clarks Summit, PA 18411, (717) 586-4000. Bid date: Wednesday, October 22, 1997 at 2 p.m.

Department: General Services
Location: Pennsylvania State University, University Park, Centre County, PA
Duration: 390 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 800-197 Project title: Construction of a New Research Center. Brief description: construction of a new five level 101,000 square foot West Campus Research Building including complete HVAC, plumbing, electrical and fire protection systems. General, HVAC, electric and fire protection construction. Plans deposit: \$450. Payable to: L. Robert Kimball & Associates, Inc./Herbert Beckhard Frank Richlan & Associates (Joint Venture). 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: L. Robert Kimball & Associates, Inc./Herbert Beckhard Frank Richlan & Associates (Joint Venture), 615 West Highland Avenue, Box 1000, Ebensburg, PA 15931, (814) 472-7700. Bid date: Wednesday, October 29, 1997 at 2 p.m.

Department: General Services
Location: Pennsylvania State University, University Park, Centre County, PA
Duration: 450 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 1580-1 Project title: Renovation of Building No. 7 to Expand Dormitory Capacity, Office Space, Kitchen/Dining Area, Supporting Program Space and Recreational Facilities. Brief description: renovations, interior and exterior including site work to existing Building No. 7 involving general, HVAC, plumbing and fire protection construction and electrical construction to provide facilities for a motivational boot camp and support program space. General, HVAC, plumbing and electrical. Plans deposit: \$305 per set. Payable to: Burt Hill Kosar Rittelmann Associates. 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: Burt Hill Kosar Rittelmann Associates, 400 Morgan Center, Butler, PA 16001, (412) 285-4761. Bid date: Wednesday, November 12, 1997 at 2 p.m. A prebid conference has been scheduled for Thursday, October 23, 1997 at 10:30 a.m. Meet at Visitors' Center Check-In, Quehanna, Clearfield County, PA. Contact: Ron Kuhn, (814) 765-0644. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Quehanna Motivational Boot Camp, Karthus Township, Clearfield County, PA
Duration: 350 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Contract No. FDC-016-14 Providing and placing: 2A aggregate (11,500 tons); ID-3 bituminous material (13,000 tons); full depth road reclamation (50,000 s.v.); R-4 riprap; new inlets and grates (62); remortar existing stone inlets (11); C.P. pipe (12"—105 l. f., 18"—2,800 l. f., 24"—170 l. f. and 30"—70 l. f.); 7 end sections; 1,000 l. f. of trench drain; signing; and seeding and mulching. Site is located along Colton Road between Ansonia and Colton Point State Park.

Department: Conservation and Natural Resources
Location: Shippen Township, Tioga County, PA
Duration: All work completed by June 1, 1998
Contact: Construction Management Services, (717) 787-5055

Contract No. FDC-115-120R Repair all leaking cracks, holes through concrete, and all leaking construction joints and deteriorated joint material. Drill holes through walls, invert and roof to explore for voids and grout if needed. All work is in the outlet conduit for the dam at Lyman Run State Park.

Department: Conservation and Natural Resources
Location: West Branch Township, Potter County, PA
Duration: Complete all work by June 15, 1998
Contact: Construction Management Section, (717) 787-5055

MU-7701 The project consists of furnishing all labor, materials and equipment necessary for construction of a storage and press box structure at Shaute Baseball Field on campus of Mansfield University. The work includes excavation, construction of footings, reinforced concrete block walls, storage area slab on grade construction of wood framing, roofing, installation of windows and doors including garage doors. A prebid meeting is scheduled for October 10th at 10 a.m. in Brooks Maintenance Building, Mansfield University and the bid opening will be October 22nd at 2 p.m. in the Purchasing Department. Plans and specifications are available from the Purchasing Department. Bid package cost \$10 (nonrefundable deposit). Bidding is required for this project. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Mansfield University, Mansfield, PA 16933
Duration: 30 calendar days upon Notice to Proceed
Contact: Peg Chapel, (717) 662-4148

DGS 404-53 Phase 2 Rebid Project title: Renovate Founders Hall. Brief description: renovations to existing Founders Hall Building consisting of general construction, HVAC, plumbing and sprinkler system and electrical construction. Plans deposit: \$40 per set. Payable to: Dynamic Design 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. Mail requests to: Dynamic Design Engineering, Inc., 416 Main Street, Suite 200, Johnstown, PA 15901, (814) 536-1651. Bid date: Wednesday, November 5, 1997 at 11 a.m.

Department: General Services
Location: Clarion University of PA, Clarion, Clarion County, PA
Duration: 210 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Elevator Maintenance—13

401-BL-552 ADA elevator upgrade at the Bakeless Center, Bloomsburg University. The work includes new elevator and compliant electronic door detector, new signal fixtures, new elevator cab emergency communications, elevator cab interior modernization and new hydraulic cylinder with secondary PVC cylinder protection and associated electrical work. Work shall include, but is not necessarily limited to the furnishing of all labor, superintendence, and materials, tools, equipment for performing all work necessary to complete all construction to the satisfaction of the professional and State System of Higher Education. Plans can be obtained by submitting a nonrefundable \$75 deposit made payable to Reilly Associates, 222 Wyoming Avenue, West Pittston, PA 18643-2822, (717) 654-2473. It is anticipated that bids will be released in mid to late October with bids to open in mid November 1997.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA 17815
Duration: 4 months
Contact: Joseph C. Quinn, (717) 389-4311

Engineering Services—14

08430AG2116 To provide final design and services during construction for S. R. 0018, Section A01, North Hermitage Road in Mercer County.

Department: Transportation
Location: Engineering District 1-0
Duration: Fifteen (15) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2117 To provide final design and services during construction for S. R. 4034, Section A51, East Side Access from 6th Street to 12th Street, Erie County.

Department: Transportation
Location: Engineering District 1-0
Duration: Fifteen (15) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2118 Open-end contract for design and/or environmental services on various projects located in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York counties.

Department: Transportation
Location: Engineering District 8-0
Duration: Sixty (60) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2119 Preliminary engineering, final design and services during construction for S. R. 0119, Section 495, Grove Chapel Climbing Lane, Indiana County.

Department: Transportation
Location: Engineering District 10-0
Duration: Eighteen (18) months
Contact: Consultant Agreement Division, (717) 783-9309

Environmental Maintenance—15

Contract No. FDC-117-350 Dredging of lake (15,000 C. Y.); erosion and sedimentation control measures; construct temporary stream crossing; and landscaping at Parker Dam State Park.

Department: Conservation and Natural Resources
Location: Huston Township, Clearfield County, PA
Duration: 90 days
Contact: Construction Management Section, (717) 787-5055

BOGM 97-5 Clean out and plug one orphan oil well estimated to be 1,500 feet deep.

Department: Environmental Protection
Location: Walter Sklasky Property, Moon Township, Allegheny County, PA
Duration: 45 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 40(3218)101.1 Backfilling Strip Pits, Pardeesville involves clearing and grubbing, backfilling, grading an estimated 280,000 c. y. and 29 acres of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$13 million for Pennsylvania's 1996 AML Grant.

Department: Environmental Protection
Location: Butler Township, Luzerne County, PA
Duration: 360 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 40(2235)202.1 Backfilling shaft, Pennsylvania Avenue involves clearing and grubbing, backfilling, removal of structure and 900 s. y. of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$20.4 million for Pennsylvania's 1997 AML Grant.

Department: Environmental Protection
Location: Wilkes-Barre, Luzerne County, PA
Duration: 60 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 10(3795)101.1 Abandoned Mine Reclamation, Kepples Corners West involves an estimated 239,300 C. Y. of grading, 840 L. F. of subsurface drain, 4,960 C. Y. of ditch excavation, 470 S. Y. of PVC lining, 8,060 S. Y. of high velocity erosion control mulch blanket, 1,980 S. Y. of rock lining with filter material, wetland mitigation and 31 acres of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$20.4 million for Pennsylvania's 1997 AML Grant.

Department: Environmental Protection
Location: Fairview Township, Butler County, PA
Duration: 360 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 35(3742)101.1 Backfilling Strip Pits and removing structures. Grassy Island involves clearing and grubbing, backfilling, grading an estimated 631,000 c. y. and 40 acres of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$13 million for Pennsylvania's 1996 AML Grant.

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

Food—19

Inquiry No. 30214 Bread and rolls. Dates, specifications, quantities, special delivery instructions available upon request. For period: January, February, March, 1998.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: January, February, March 1998
Contact: Ginny Stinespring, Purchasing Agent I, (412) 873-3255

Fuel Related Services—20

19,978 The contractor shall remove and properly dispose of nine underground storage tanks at the State Correctional Institution at Dallas.

Department: Corrections
Location: State Correctional Institution at Dallas, Dallas, PA 18612
Duration: January 1, 1998 through June 30, 1998
Contact: Robert Faneck, Business Manager, (717) 675-1101

HVAC—22

038 HVAC ductwork for new office building located at Tuscarora State Park.

Department: Conservation and Natural Resources
Location: State Parks, Tuscarora State Park, R. R. 1, Box 1051, Barnesville, Schuylkill County, PA 18214-9715
Duration: June 30, 1998
Contact: Park Office, (717) 467-3404

010324 Plumbing services for Safety Rest Area Sites 17 and 18, 19 and 20, 21 and 22, E, L, and M on I-79, I-80 and I-90 in Northwestern Pennsylvania. Detailed requirements and an SPC are available upon request. FAX requests to Carol Shoup at (814) 437-4465.

Department: Transportation
Location: Crawford, Erie, Mercer and Venango Counties, PA
Duration: February 1, 1998—January 31, 1999
Contact: Carol L. Shoup, (814) 437-4392

010325 Electrical services for Safety Rest Area Sites 17 and 18, 19 and 20, 21 and 22, E, L, and M on I-79, I-80 and I-90 in Northwestern Pennsylvania. Detailed requirements and an SPC are available upon request. FAX requests to Carol Shoup at (814) 437-4465.

Department: Transportation
Location: Crawford, Erie, Mercer and Venango counties, PA
Duration: February 1, 1998—January 31, 1999
Contact: Carol L. Shoup, (814) 437-4392

WC 582 West Chester University is soliciting sealed bids for four separate prime contracts (General, HVAC, plumbing and electric) for the renovation of Schmucker Science Center I. The work includes, but is not limited to, relocation of equipment, selective demolition of partitions, building of new partitions, installation of new doors and frames, relocation of existing doors and frames, removing existing hardware, patching and painting of walls and floors, replacement of ceiling tiles and light fixtures, modification of existing ceiling grids, installation of new ceiling grid, installation of new ovens and relocation of existing ovens, installation of new power, installation of new mechanical ventilation and exhaust, connection of existing plumbing to new and relocated benches, eye washes and safety showers. Prevailing wages apply and contract bonds will be required. The bid packages will be available from MGA Partners, 206 South 4th Street, Philadelphia, PA 19106, (215) 925-0100 and fax (215) 923-4258. The packages are \$53.50 for pick-up and \$67 if mailed. The site visit is October 20, 1997 at 10 a.m. meeting at the site and the public bid opening is October 29, 1997 at 11 a.m.

Department: State System of Higher Education
Location: West Chester University, Schmucker Science Center, corner of West Rosedale Avenue and University Avenue, West Chester, PA
Duration: 70 days (2 shifts a day at least 5 days a week is anticipated)
Contact: Jacki Marthinsen, Contracts Manager, (610) 436-2705

Janitorial Services—23

97-98-1 Janitorial services for Pennsylvania Department of Transportation, Bureau of Construction and Materials, 1118 State Street, Harrisburg, PA 17120.

Department: Transportation
Location: 1118 State Street, Harrisburg, PA 17120
Duration: December 01, 1997 through November 30, 1998
Contact: Anita Sommer, (717) 783-6717

Medical Services—29

0882-127 Licensed Physical Therapist. The contractor agrees to provide the services of a Licensed Physical Therapist certified by the Commonwealth of Pennsylvania. Contractor shall take referrals from staff physicians and assume responsibility for said referrals regarding the physical therapy needs of our patients. Plans of care, evaluations, forms, reports, charts, logs, and the like are initiated, and are kept current and conform to State, Federal, long-term care rules and regulations, JCAHO standards, and SMRC policies and procedures. The Center has one completely equipped Physical Therapy Clinic, and will provide all supplies and materials. Services will be performed both in the Center's P. T. Clinic, and on the ward areas, depending upon patient needs and capabilities. Sessions shall be held Monday through Friday mornings, excluding State holidays, and each session shall be a minimum of 3 hours. Additional specifications will be furnished by contacting the Center.

Department: Public Welfare
Location: South Mountain Restoration Center, 10058 South Mountain Road, South Mountain, PA 17261
Duration: January 1, 1998—December 31, 2002 (5 years)
Contact: Cathy J. Tarquino, Purchasing Agent, (717) 749-4030

AMB-97 Vendor to provide nonemergency medical transport for residents of the S. E. PA Veterans Center local hospitals, medical centers and the like.

Department: Military and Veterans Affairs
Location: Southeastern PA Veterans Center, Spring City, Chester County, PA 19475
Duration: December 1, 1997 through June 30, 1999
Contact: Theresa Barthel, Purchasing Agent, (610) 948-2494

SP 351248 Contractor to provide the service of a part-time X-ray technician on the grounds of Wernersville State Hospital. Individual must have current registry with the American Registry of Radiologic Technologists. Details will be available upon request.

Department: Public Welfare
Location: Wernersville State Hospital, Route 422, Wernersville, Berks County, PA 19565
Duration: January 1, 1998 through December 31, 1998
Contact: Karl Koenig, Purchasing Agent, (610) 670-4127

Photography Services—32

4300-002 Provide Vertical Aerial photography on projects within the Commonwealth of Pennsylvania utilizing a 9" x 9" format vertical aerial precision mapping camera capable of meeting the Department's camera standard and rigid lens calibration requirements. Aerial photography shall be obtained at various stated altitudes and conform to all the provisions and requirements of the Department specifications for vertical photography. Specifications include a schedule for payment covering aircraft and flight charges and all materials and/or services necessary to provide the initial contact prints and aerial film negatives on each project for inspection and acceptance.

Department: Transportation
Location: Bureau of Design, Photogrammetry and Surveys Division, Harrisburg International Airport, Building 28, Middletown, PA 17057
Duration: January 1, 1998 to December 30, 2000
Contact: Harold C. Rogers, P. E., (717) 783-1518

Property Maintenance—33

AE-2620 Reroofing wooden dormar storage building. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Stockpile No. 06, Morris Township, Kylertown, Clearfield County, PA
Duration: 60 calendar days, proposed bid November, 1997
Contact: Tina Chubb, (717) 787-7001

FM-08729799 Contractor will supply all labor, tools, equipment and building materials to install a new suspended ceiling and lighting, painting of exposed plaster walls and ceilings, replacing plastic laminate on walls and counters and replacement of doors at the Danville State Hospital Snack Bar, Dietary Building No. 22. Complete specifications and drawings can be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: Danville State Hospital, Dietary Building No. 22, Danville, PA
Duration: October 20, 1997 through June 30, 1998
Contact: Ed Blandy, (717) 772-4883

Real Estate Services—35

18A 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, in Gibsonsia, Allegheny County, PA, with minimum parking for 15 vehicles, within a 4 mile radius of Exit 4, Gibsonsia, of the PA Turnpike. Proposals due: November 3, 1997. Solicitation No.: 92567.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Edward P. Meyer, (717) 787-4394

19A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 17,302 useable square feet of new or existing office space, in Norristown, Montgomery County, PA, with minimum parking for 60 vehicles, within the following boundaries: North: Whitehall Road; South: Spring Mill Road to Joshua Road; East: Skippack Pike; Penlyn/Blue Bell Pike, Stenton Avenue; West: Henderson Road, South Gulph Road, Old Gulph Road. In areas where street or public parking is not available, an additional 70 parking spaces are required. Proposals due: January 12, 1998. Solicitation No.: 92555.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Cynthia T. Lentz, (717) 787-4394

Sanitation—36

SP 331904 Removal of solid wastes from Little Pine State Park. Bids will be opened at the Little Pine State Park Office, HC63, Box 100, Waterville, PA 17776-9705, Lycoming County, October 31, 1997, 2 p.m. prevailing time.

Department: Conservation and Natural Resources
Location: Little Pine State Park, HC 63, Box 100, Waterville, Lycoming County, PA 17776-9705
Duration: January 1, 1998 to December 31, 2000
Contact: John Gasperine, Park Manager, (717) 753-6001

Security Services—37

IFB-12197CS The State System of Higher Education, Dixon University Center is soliciting bids for an upgrade of existing Security System, with proximity identification card system. Card readers, cards and software will be required. Please call Linda Venneri at (717) 720-4135 to receive a bid package. All bids must be received by November 3, 1997.

Department: State System of Higher Education
Location: Administrative Services, Dixon University Center, 2986 North Second Street (all buildings), Harrisburg, PA 17110
Duration: NTE 60 days
Contact: Linda Venneri, (717) 720-4135

L & I-12-97 Security Guard services: provide unarmed, uniformed security guard services during the hours of 8 a.m. to 5 p.m. Monday through Friday, except State holidays.

Department: Labor and Industry
Location: Unemployment Compensation Referee Office, 444 North Third Street, Second Floor, Philadelphia, Philadelphia County, PA 19123
Duration: December 1, 1997 through September 30, 1999
Contact: Donna A. Sallie, Procurement Manager, (717) 787-2560

Miscellaneous—39

002 Provide professional funeral services (cremation and minimal casket) to the inmate population of the State Correctional Institution at Pittsburgh. Removal of remains from institution, hospital or county morgue, securing the necessary permits and certificates, and to provide any special procedures required to handle remains with blood and body fluid precautions.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: December 01, 1997 to June 30, 2000
Contact: Carol R. Schaeffer, Purchasing Agent II, (412) 761-1955, ext. 291

639027-003 Thaddeus Stevens State School of Technology will be accepting bids for the producing, printing yearbook. Approximately 225 size 7 3/4" x 10 1/2" with 108 pages with a delivery date of May 1, 1998.

Department: Education
Location: Thaddeus Stevens State School of Technology, 750 East King Street, Lancaster, PA 17602
Duration: March 1, 1998 to June 1, 1998
Contact: Betty Tompos, Business Manager, (717) 299-7749

ME 70107 The Department's Division of Evaluation and Reports is responding to the State Board of Education mandates for State assessment. State assessment provides for testing of all Commonwealth students in grades 5, 8 and 11 in reading and mathematics and grades 6, 9 and 11 in writing. Tests are standards based, matrix sampled, composed of selected and constructed response items and must be statistically equated across years. The writing assessment consists of the writing of one essay. Results are reported at student level for all areas except writing. School reporting includes gains from a base period that is part of performance incentive monetary awards. Development and field testing of science items for grades 4, 7 and 10 will be conducted in 1999.

Department: Education
Location: Various locations throughout the Commonwealth
Duration: September 1, 1998—October 30, 1999
Contact: R. Lee Plempel, (717) 787-4234

V6-8-Training Consultant to provide on 5-day in-house training session on introduction to character based Progress programming. It covers all of the topics of Version 6 classes as well as all of the new facilities that are available in character based Versions 7 and 8. Distinctions are made as the class proceeds so that it is equally valuable no matter what release level the student is currently using. Please contact Nancy Taylor, (717) 783-2053 for a list of specific topics to be included in the training.

Department: Office of the Budget
Location: BMIS, Room 706, Health and Welfare Building, Harrisburg, PA 17120
Duration: December 1, 1997—June 30, 1998
Contact: Nancy J. Taylor, (717) 783-2053

PSERS-VERIFY The Public School Employees' Retirement System is soliciting bids for on-the-spot personal verification of approximately 500 to 1,000 check recipients receiving their checks. Successful bidder must be able to do face-to-face verification for annuitants widely dispersed throughout Pennsylvania and the adjoining states of Ohio, New Jersey, Maryland, West Virginia and New York. A brief written report will be required for each name and actual proof of an on-the-spot personal verification. Specifications may be obtained by contacting Ethel Straining at (717) 720-4606.

Department: Public School Employees' Retirement System
Location: 5 North 5th Street, Harrisburg, PA 17101
Duration: January 1, 1998—June 30, 1998
Contact: Ethel Straining, (717) 720-4606

1997-1 This request seeks proposals to appoint an independent consultant to review and validate estimated future cash flows of the privatization options available to the Medical Professional Liability Catastrophe Loss Fund Advisory Board, created by Act 135 of 1996, as well as conduct an audit to assess the economic impact of such options. The selected contractor will report directly to the Board and will provide a final report to the Board by January 15, 1998. The report shall review all available privatization options, and assign the financial ramifications associated with each option. The report shall also assess the financial implications of Act 135 relative to the Fund, the health care community, and the Pennsylvania professional liability insurance market. Copies of the Request for Proposals are available at the described location and must be directed in writing to the Contact. Proposals must be submitted by no later than 12 noon on November 3, 1997. Any proposals received after this date and time will not be accepted.

Department: Governor's Office of General Counsel—Medical Professional Liability Catastrophe Loss Fund
Location: 17th Floor, 333 Market Street, P. O. Box 11775, Harrisburg, PA 17108
Duration: November 12 1997—March 1, 1998
Contact: David Zuern, Chairperson c/o Rick Grimaldi, Esq., Deputy General Counsel, (717) 787-9343

[Pa.B. Doc. No. 97-1651. Filed for public inspection October 10, 1997, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
1171127-01	09/25/97	Digit-L-Ink	23,467.50	5610-25	09/23/97	National Limestone Quarry, Inc.	29,170.00
1208127-01	09/25/97	Pheonix Data, Inc.	20,318.40	5610-25	09/23/97	Tri-Mark Minerals Corp.	16,430.00
1222327-01	09/25/97	National Computer Systems, Inc.	272.28	5610-25	09/23/97	Tarmac America	2,500.00
5610-25	09/23/97	Porters Concrete Service, Inc.	99,755.00	5610-25	09/23/97	Lakeland Sand and Gravel	2,500.00
5610-25	09/23/97	Rhinehart Sand and Gravel, Inc.	269,947.00	5610-25	09/23/97	Lancaster Stone Products	2,500.00
5610-25	09/23/97	Pennsy Supply, Inc.	31,250.00	5610-25	09/23/97	J. Fulkroad & Sons	2,500.00
5610-25	09/23/97	South Bend Limestone Co.	70,705.00	5610-25	09/23/97	Jamico Materials	2,500.00
5610-25	09/23/97	Rohers Quarry, Inc.	2,500.00	5610-25	09/23/97	Huss Contracting, Inc.	2,500.00
5610-25	09/23/97	Penn/MD Materials	4,200.00	5610-25	09/23/97	York Building Products	2,500.00
5610-25	09/23/97	Russell Minerals, Inc.	188,815.00	5610-25	09/23/97	M & M Lime	2,500.00
5610-25	09/23/97	Small Mountain Quarry, Inc.	35,157.00	5610-25	09/23/97	Union Quarries	2,500.00
5610-25	09/23/97	Slippery Rock Materials, Inc.	116,030.00	5610-25	09/23/97	Pottstown Traprock Quarries	2,500.00
5610-25	09/23/97	Milestone Materials, Inc./ Montoursville	136,789.00	5610-25	09/23/97	Waste Management and Processors, Inc.	8,500.00
5610-25	09/23/97	Milestone Materials/ Bloomsburg	53,675.00	5610-25	09/23/97	Waylite Corp.	258,580.00
5610-25	09/23/97	Milestone Materials/ Boalsburg	216,222.70	5610-25	09/23/97	Wayne Gravel Products, Inc.	239,767.75
5610-25	09/23/97	State Aggregates, Inc.	319,445.00	5610-25	09/23/97	Milestone Materials, Inc./ Downingtown	4,495.00
5610-25	09/23/97	Milestone Materials, Inc./ Lake Ariel	96,075.00	5610-25	09/23/97	Valley Quarries, Inc.	8,280.60
5610-25	09/23/97	PBS Coal, Inc.	129,592.00	5610-25	09/23/97	Glacial Sand and Gravel	2,500.00
5610-25	09/23/97	P Stone, Inc.	56,350.00	5610-25	09/23/97	Gernatt Asphalt Products	2,500.00
5610-25	09/23/97	Milestone Materials/ Stroudsburg	20,050.00	5610-25	09/23/97	Wyoming Sand and Stone Co.	142,885.00
5610-25	09/23/97	New Enterprise Stone/ Lime Co., Inc.	580,725.00	5610-25	09/23/97	Cordorus Stone and Supply	2,500.00
				5610-25	09/23/97	Buffalo Limestone	2,500.00
				5610-25	09/23/97	Better Materials Corp.	44,840.00

STATE CONTRACTS INFORMATION

5337

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
5610-25	09/23/97	Meckley's Limestone Products, Inc.	12,300.00	5610-25	09/23/97	IA Construc- tion Corp.	203,879.00
5610-25	09/23/97	Dick Corpora- tion	21,775.00	5610-25	09/23/97	Hunlock Sand and Gravel Co.	3,387.50
5610-25	09/23/97	E. F. Lippert & Co., Inc.	242,297.00	5610-25	09/23/97	Keystone Lime Co., Inc.	11,220.00
5610-25	09/23/97	Davison Sand and Gravel Co.	131,199.50	5610-25	09/23/97	Martin Lime- stone, Inc.	5,000.00
5610-25	09/23/97	County Line Quarry, Inc.	7,000.00	5610-25	09/23/97	Latrobe Con- struction Co.	1,050.00
5610-25	09/23/97	Eastern Indus- tries, Inc.	44,140.00	5610-25	09/23/97	M & M Stone Co.	4,712.50
5610-25	09/23/97	Erie Aggre- gates, Inc.	46,150.50	5610-25	09/23/97	Grannas Bros. Stone and Asphalt Co.	22,500.00
5610-25	09/23/97	Eastern Indus- tries, Inc. West	20,013.00	5610-25	09/23/97	Global Stone PenRoc, Inc.	5,755.00
5610-25	09/23/97	Edwards G F	145,349.20	5610-25	09/23/97	Glasgow, Inc.	3,512.50
5610-25	09/23/97	American As- phalt Paving Co.	61,458.75	5610-25	09/23/97	Glenn O. Hawbaker, Inc.	325,810.00
5610-25	09/23/97	Atlantic States Materials of PA, Inc.	7,500.00	5610-25	09/23/97	H. B. Mellot Estates, Inc.	9,500.00
5610-25	09/23/97	Berks Prod- ucts Corp.	880.00	5610-25	09/23/97	Greer Lime- stone Co.	12,825.00
5610-25	09/23/97	Eureka Stone Quarry, Inc.	9,340.00	5610-25	09/23/97	Hasbrouck Sand and Gravel, Inc.	13,240.00
5610-25	09/23/97	Conneaut Lake Sand and Gravel	23,160.00	5610-25	09/23/97	Hempt Bros., Inc.	7,000.00
5610-25	09/23/97	Carbon Fuel Resources, Inc.	44,550.00	5610-25	09/23/97	H & H Mate- rial, Inc.	163,900.00
5610-25	09/23/97	Compass Quarries, Inc.	4,415.00	5610-49 RIP No. 1	10/06/97	Wades Coal and Con- crete, Inc.	5,000.00
5610-25	09/23/97	Commercial Stone Co., Inc.	13,567.50	5610-49 RIP No. 1	10/06/97	Wayne Con- crete Prod- ucts	5,000.00
5610-25	09/23/97	Common- wealth Stone, Inc.	46,070.00	5610-49 RIP No. 1	10/06/97	Porters Con- crete Ser- vice, Inc.	5,000.00
5610-25	09/23/97	Keystone Ce- ment Co.	9,610.00	6840-04	09/30/97	American Sanitary Products	50,000.00
5610-25	09/23/97	G. L. McKnight	8,700.00	6840-04	09/30/97	Airwick Pro- fessional Prod./Phila., Inc.	25,000.00
5610-25	09/23/97	International Mill Service, Inc.	29,102.00	7220-01	10/02/97	Galer & Hults, Inc.	39,916.30
5610-25	09/23/97	Martin Stone Quarries, Inc.	7,010.00	7220-01	10/02/97	Matworks	26,628.75
				7220-01	10/02/97	Century Fournier	30,557.20

STATE CONTRACTS INFORMATION

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
8139280-01	09/25/97	Somerset Welding and Steel Co.	34,826.00	8970650-01	09/25/97	Artco Equip- ment Sales, Inc.	83,649.00
8504030-01	09/25/97	Howells Glass Co., Inc.	9,966.00			GARY E. CROWELL, <i>Secretary</i>	
8970640-01	09/25/97	Somerset Welding and Steel, Inc.	99,940.00				

[Pa.B. Doc. No. 97-1652. Filed for public inspection October 10, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 245]

Storage Tank Technical Standards

The Environmental Quality Board (Board) by this order amends Chapter 245 (relating to administration of the storage tank and spill prevention program). The amendments revise, add and delete several definitions. The amendments also contain an incorporation of the Federal underground storage tank regulations, found at 40 CFR Part 280 (relating to technical standards for owners and operators of underground storage tanks), with minor changes and additions. Finally, the amendments create new subchapters to establish a permitting program for storage tanks as well as separate technical and operational standards for small and large aboveground storage tanks.

This order was adopted by the Board at its meeting of July 15, 1997.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Glenn H. Rider II, Chief, Storage Tank Technologies and Permitting Section, P. O. Box 8762, Rachel Carson State Office Building, Harrisburg, PA 17105-8762, (717) 772-5800; or Kurt E. Klappkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that they relay the call. This final rulemaking is available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

This final rulemaking is being made under the authority of section 106 of the Storage Tank and Spill Prevention Act (act) (35 P. S. § 6021.106), which authorizes the Board to adopt rules and regulations of the Department governing aboveground and underground storage tanks to accomplish the purposes and carry out the provisions of the act; section 301(a) of the act (35 P. S. § 6021.301(a)), which requires the Department to establish a regulatory program for aboveground storage tanks; section 301(b) of the act, which allows the Department to establish classes and categories of aboveground storage tanks; section 301(d) of the act, which requires the Department to develop a simplified regulatory program for small aboveground storage tanks; section 304 of the act (35 P. S. § 6021.304), which establishes permitting requirements for aboveground storage tanks; section 501(a) of the act (35 P. S. § 6021.501), which requires the Department to develop a regulatory program for underground storage tanks; section 501(b) of the act, which allows the Department to establish classes and categories of underground storage tanks; section 504 of the act (35 P. S. § 6021.504), which establishes permitting requirements for under-

ground storage tanks; section 1101 of the act (35 P. S. § 6021.1101), which establishes permitting requirements for new aboveground storage tank facilities; section 1102 of the act (35 P. S. § 6021.1102), which requires the Board to develop siting regulations for new aboveground storage tank facilities; section 5(b)(1) of The Clean Streams Law (35 P. S. § 691.5(b)(1)), which authorizes the Department to formulate, adopt and promulgate rules and regulations that are necessary to implement the provisions of The Clean Streams Law; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations that may be determined by the Board to be for the proper performance of the work of the Department.

D. *Background and Summary*

This rulemaking package represents the final major new rulemaking package for implementation of the Commonwealth's storage tank program. This final rulemaking package covers the last major areas identified by the act as required to be covered by regulation. Sections 301(a) and 501(a) of the act outline the regulatory program the Department is required to develop for aboveground and underground storage tanks, respectively. These sections of the act mandate a regulatory program that includes, at a minimum, standards for the following: registration and permitting of storage tanks; release detection; periodic inspections of facility operation; inventory control; records maintenance; construction, testing, operation, repair and reuse of storage tanks; corrosion and release prevention; removal of storage tanks from service and closure reporting requirements. These sections also grant the Department the authority to issue permits-by-rule to certain classifications of storage tanks.

The major new amendment in this package is the adoption of Subchapters F and G (relating to technical standards for aboveground storage tanks and facilities; and simplified program for small aboveground storage tanks), which contain a comprehensive regulatory program for large and small aboveground storage tanks, respectively. Because the Federal government adopted underground storage tank regulations in 1988, the focus of the Commonwealth's storage tank program has been almost exclusively on those storage tanks, both from regulatory and compliance standpoints. While much work remains to be done in the underground storage tank arena, the Environmental Protection Agency's (EPA) 1998 deadline for the upgrading or closure of underground storage tanks is fast approaching.

It should be recalled that the major impetus for the passage of the act in 1989 was the collapse of a large Ashland Oil aboveground storage tank on the Monongahela River in western Pennsylvania. These new subchapters represent an attempt to have standards of performance in place for the time when program priorities are able to shift more to the aboveground side of the storage tank equation. It should also be noted that many owners/operators are switching from underground to aboveground storage of regulated substances. The Department is concerned that this switch not take place in a vacuum but be carried out in an environmentally safe manner. As discussed as follows, these amendments mainly require owners/operators to follow existing, Nationally recognized industry standards. These standards

are already acknowledged by the regulated community as sound business practice, from both environmental and economic perspectives.

Subchapter E (relating to technical standards for underground storage tanks) represents the Department's attempt to address Statewide concerns about the Commonwealth's underground storage tank program. The Commonwealth incorporated portions of the Federal underground storage tank regulations in 40 CFR Part 280 by reference at 21 Pa.B. 4345 (September 20, 1991). Since that time, the interaction between the Commonwealth's storage tank program and the Federal regulations has been a source of confusion for both the Department and the regulated community.

In addition, more than 8 years have passed since 40 CFR Part 280 became effective, and changes are required to keep the program current. An example of this would be statistical inventory reconciliation (SIR). SIR represents an alternative method, developed in the last several years, for meeting EPA's inventory control requirements. Although EPA has developed an SIR protocol, there are no Federal regulatory requirements yet for SIR. By developing formal SIR rules modeled on the EPA policy, vendors of these services and their customers (the owners and operators of underground storage tanks in this Commonwealth) will have assurances regarding what is acceptable.

For these reasons, the Department believes that having all underground storage tank requirements in one place (Chapter 245), as well as updating the underground storage tank regulations when necessary, is appropriate at this time. For the most part, the Federal regulations are codified unchanged. When they have been altered, the change is noted and discussed in this section of the Preamble.

Finally, the Department believes that the permitting provisions of the act are confusing and overly burdensome on tank owners and operators. Therefore, the Department has adopted Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities), which contains regulations which will ensure that all storage tank facilities will be covered by an operating permit. Operating permits can either be a permit-by-rule or a general operating permit. In addition to operating permits, a small segment of the tank population may need to obtain a site specific installation permit before they install new large aboveground storage tanks, field constructed underground storage tanks and highly hazardous underground storage tanks. Permit fees apply to all new storage tanks covered by operating and site-specific permits. Permit fees are established by the act. These amendments should clarify when a permit is required, when the permit is no longer valid and how an owner/operator goes about obtaining the required permits. These amendments also implement the requirements of Chapter 11 of the act (35 P. S. §§ 6021.1101 and 6021.1102).

The Department worked closely with informal technical advisory committees, as well as the Storage Tank Advisory Committee (STAC), during development of this rulemaking. STAC, established by section 105 of the act (35 P. S. § 6021.105), consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. A listing of members of STAC may be obtained from Glenn Rider, whose address appears in Section B of this Preamble.

The draft proposed regulations were reviewed by STAC at meetings held in April, June, August and October 1995. At the October meeting, STAC prepared a written report on the proposed amendments which was presented to the Board. As required by section 105 of the act, STAC has been given the opportunity to review and comment on this final rulemaking. At its meetings on February 4, 1997, and June 12, 1997, STAC reviewed and discussed the final amendments. STAC prepared a written report approving the regulations as written. Copies of the STAC report on this rulemaking was presented to the Board with this final rulemaking. Copies of the STAC report may be obtained from Glenn Rider, whose address appears in Section B of this Preamble.

A brief description of the amendments is as follows:

Subchapter A. General Provisions

1. Section 245.1. Definitions.

Section 245.1 is amended by adding definitions, adopting definitions from 40 CFR Part 280 with minor changes and by modifying existing definitions used in this rulemaking. The terms added are: "change-in-service," "coax vapor recovery," "combination of tanks," "corrosion protection," "de minimis," "emergency containment," "highly hazardous substance tank," "in-service inspection," "large aboveground storage tank," "large aboveground storage tank facility," "out-of-service inspection," "reconstruction" and "underground vault." The definition of "highly hazardous substance tank" is based on reportable quantities of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) substances found in 40 CFR 302.4 (relating to designation of hazardous substances). The reasons for adding these definitions are outlined in the appropriate substantive discussions in this section of the Preamble and in Section E of this Preamble.

The definitions adopted from 40 CFR Part 280 with minor changes are: "beneath the surface of the ground," "CERCLA," "cathodic protection tester," "compatible," "connected piping," "consumptive use," "corrosion expert," "dielectric material," "electrical equipment," "excavation zone," "existing underground storage tank system," "gathering lines," "hazardous substance storage tank system," "heating oil," "hydraulic lift tank," "liquid trap," "motor fuel," "new underground storage tank system," "noncommercial purposes," "on the premises where stored," "operational life," "overflow," "petroleum system," "pipe or piping," "pipeline facilities (including gathering lines)," "residential tank," "SARA," "septic tank," "stormwater or wastewater collection system," "surface impoundment," "tank," "underground area," "upgrade," "underground storage tank system" and "wastewater treatment tank."

The existing definitions in this section that were amended or modified are: "aboveground storage tank," "removal from service" and "underground storage tank." The "aboveground storage tank" definition is amended to deregulate certain categories of tanks. The definition of "underground storage tank" is amended to follow the Federal definition more closely. The definition of "removal from service" is amended to provide more clarification.

2. Section 245.2. General.

Section 245.2 is amended to remove the reference incorporating the Federal regulations governing underground storage tank systems contained in 40 CFR Part 280. These technical requirements are codified in Subchapter E.

Section 245.2 is further amended to adopt, by reference, Federal regulations at 40 CFR Part 280, Subpart I

(relating to lender liability). By adopting this rule by reference, the Department will have regulations in place that provide clear protection to lending institutions who hold a financial interest in underground storage tanks. This rule clearly defines what represents a financial versus control interest for lending institutions. It complements Act 3 of 1995 and works in concert with the goals of Act 2 of 1995. Through this rule, lending institutions should be more willing to take possession of forfeited underground storage tank sites, loan money for upgrades and invest in the development of new sites.

3. *Section 245.31. Underground storage tank testing requirements.*

This section is amended to acknowledge the use of tank tightness testing in conjunction with cathodic protection upgrading and in testing tanks which were repaired as a result of a release. This section is further amended to require that tank tightness testers provide, as a part of their test report, a certification that the test meets the requirements of these regulations.

Subchapter C. Permitting of underground and above-ground storage tank systems and facilities

1. *Section 245.201. Scope.*

This section outlines the scope of Subchapter C. Section 304(a) of the act states that a person may not install, construct, erect, modify, operate or remove from service, all or part of an aboveground storage tank unless the person has first obtained a permit from the Department. Similar language is found in section 504(a) of the act for underground storage tanks.

Aboveground storage tanks and underground storage tanks (unless specifically regulated by Federal law) storing heating oil for consumptive use on the premises where stored are exempt from all provisions of this rulemaking.

2. *Section 245.202. Public records and confidential information.*

This section contains standard boilerplate language regarding public availability of permitting information and establishes rules for confidentiality of certain portions of a permit application. Specifically, unless the application contains trade secrets, processes, operations, styles of work or apparatus of a person or is otherwise confidential business information, information shall be made available for public inspection or copying during regular business hours of the Department.

3. *Section 245.203. General requirements for permits.*

As a matter of rule, a person may not operate an aboveground or underground storage tank system unless the person has first applied for and received a permit for the activity from the Department.

Subsection (b) excludes permitting applications for those storage tank systems that qualify for a permit-by-rule if the person maintains and operates the system in compliance with applicable rules, regulations and laws of the Department. Failure to do so may result in administrative or other Departmental actions against the owner/operator.

Subsection (c) allows existing storage tank systems to continue to operate until the Department may request a permit application or permitting information, if the system is operated in compliance with applicable rules, regulations and laws of the Department.

Subsection (d) allows continued operation until the Department takes a final action on the permit application.

Finally, subsection (e) states that operating permits will be renewed on an annual basis concurrent with registration, with no additional paperwork or fee beyond the registration requirements.

4. *Section 245.204. Form of the application.*

Permit applications must be submitted to the Department in writing, on forms provided by the Department. The information must be concise and supported by proper reference.

5. *Section 245.205. Verification of application.*

This section requires that the official who is responsible for the applicant's storage tanks sign the permit application form. It is up to the applicant to determine who that official should be.

Permits by Rule

1. *Section 245.211. Scope.*

All small aboveground storage tanks systems, except those systems storing highly hazardous substances, and all underground manufactured tank systems storing petroleum qualify for an operational permit-by-rule. To minimize paperwork, a permit-by-rule requires no additional information beyond that submitted as part of the annual registration form.

2. *Section 245.212. Minimum requirements for obtaining a permit-by-rule.*

This section describes the operational permit requirements for permit-by-rule storage tanks. To receive and maintain a permit-by-rule, the owner/operator must annually register the tank; use certified individuals for inspections and tank handling activities; meet applicable technical, administrative and operational requirements; submit a current spill prevention and response plan where required; meet applicable financial responsibility requirements; and follow corrective action procedures where necessary. Failure to comply with these requirements could result in administrative or other Departmental actions to assure compliance.

General Permits

1. *Section 245.221. Scope.*

Storage tank systems not covered by a permit-by-rule for operation are subject to a general operating permit. Between those facilities receiving a permit-by-rule or a general operating permit, the full universe of regulated storage tanks in this Commonwealth will receive operating permits, thus eliminating burdensome paperwork for the regulated community.

2. *Section 245.222. Application requirements.*

An application containing a certification of compliance with the requirements for a general operating permit must be submitted on a form provided by the Department. Permitting requirements are the same as those for a permit-by-rule, with the exception that all large aboveground storage tanks are required to have a current Spill Prevention and Response Plan (SPRP) that is in conformance with Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904). In both the permit-by-rule and the general permit, the Department proposes that inspection reports, tank handling forms, SPRPs, registration forms and other routinely required paperwork become part of the permit. This information will serve to update and renew the permit as it is submitted.

*Site-Specific Installation Permits*1. *Section 245.231. Scope.*

This section establishes classes of new storage tank systems and facilities which must receive site-specific permits prior to installation. Chapter 11 of the act contemplates owners or operators of proposed new aboveground storage tank facilities in excess of 21,000 gallons, or new storage tanks in excess of 21,000 gallons at existing facilities, receiving a site-specific installation permit prior to construction. In addition, the Department believes it to be in the best interest of the citizens of this Commonwealth to require that newly proposed, highly hazardous substance tanks provide written notification prior to installation so that the potentially affected public has the opportunity to provide comment on the proposal to install a storage tank system.

2. *Section 245.232. General requirements.*

Applicants for a site-specific permit must provide certification that all required administrative, technical and operational requirements specified in Subchapters B and E—G will be met. Additionally, information on siting requirements, an environmental assessment, a current SPRP and proof of public notification are required. This information is consistent with Chapter 11 of the act. The permit must be approved by the Department before construction activities commence at the site.

3. *Section 245.233. Mapping requirements.*

Adequate technical review and compliance with siting requirements require the applicant to provide a map identifying certain features within and adjacent to the proposed new facility or the proposed location of the new large aboveground storage tank at an existing facility. The mapping requirements, to be plotted on a map of not less than a 1 inch to 400 feet scale, include the following: boundaries for the proposed facility, location of public roads or proposed monitoring wells, the municipality where the proposed facility is located, elevation and locations of test borings, as well as ownership and location of inactive or abandoned underground mine workings. The applicant must also provide information on location and ownership of public and private groundwater supplies and slope measurements. This information is consistent with that required to prepare an SPRP. The expanded map and location of test borings and monitoring well locations are informational requirements beyond those required in the SPRP but are necessary if the site is to be adequately assessed.

4. *Section 245.234. Siting requirements.*

Section 1102 of the act requires the Department to develop siting regulations for new aboveground facilities. Section 1102 of the act also requires that the Board hold at least one public hearing on the proposed siting requirements. A public hearing was held on the proposed regulations on August 7, 1996.

For public health and safety reasons, as well as the other requirements of section 1102 of the act, the Department believes that the public interest and environment can be best protected by requiring applicants for site-specific permits to address the location of wetlands, floodplains, limestone geology and previous underground mining operations. These criteria go directly to section 1102's mandate that the Department consider flooding, water quality, topography, hydrogeology and public health and safety.

Section 245.234(a)(1) limits the placement of new facilities on floodplains. Section 245.234(a)(2) limits the in-

stallation of new facilities or new tanks covered by site-specific installation permits in existing wetlands. New proposed facilities or tanks must consider sinkholes, solution tunnels and underground mining to assure stability of the site as well as the ability of the site to contain a spill in the event of a catastrophic release such as the Ashland Oil accident in 1989.

While assuring that new facilities site in safe and environmentally sound locations, the Department recognizes that many existing facilities are located on floodplains. This practice usually is the result of reliance upon barge or tanker transport of regulated petroleum substances. Accordingly, the amendments allow for new large aboveground storage tanks to be constructed where an industrial use already exists on a floodplain. For clarity, the Department is proposing to interpret the term "industrial use" in a manner that is consistent with the definition of "industrial activity" contained in section 103 of the Land Recycling and Environmental Remediation Standards Act (Act 2) (35 P. S. § 6026.103). As a result, siting of the tanks would not be exclusively limited to the same activity that existed prior to the adoption of these regulations.

"Industrial activity" is defined in Act 2 as "commercial, manufacturing, public utility, mining or any other activity done to further either the development, manufacturing or distribution of goods and services, intermediate and final products and solid waste created during the activities, including, but not limited to, administration of business activities, research and development, warehousing, shipping, transport, remanufacturing, stockpiling of raw materials, storage, repair and maintenance of commercial machinery and equipment and solid waste management."

Finally, the applicant must assure that minerals providing surface support will not be mined as long as the facility stores regulated substances.

The information needed to meet the siting requirements should be readily available. Additional site-specific investigations are required where the site has been previously undermined and the applicant needs to develop a stability plan. The additional requirements are not expected to be overly burdensome and are the same kinds of activities performed for any large surface construction project.

5. *Section 245.235. Environmental assessment.*

This section requires the applicant to provide information on several other environmental amenities which are regulated under other State and Federal laws; for example, wild and scenic rivers, threatened or endangered species and special protection watersheds. The facilities and tank systems covered by these installation permits are large enough, or store the substances, as to potentially have a serious impact on these important resources. For the purposes of the assessment, the Department will coordinate any necessary reviews with the appropriate State or Federal agencies and will work with the applicant to minimize or mitigate any identified adverse environmental impacts.

6. *Section 245.236. Public notice.*

In addition to the notification requirements in § 245.232(b)(2), prior to filing a permit application, the owner of a proposed new large aboveground storage tank facility or aboveground storage tank system with greater than 21,000 gallons capacity or a proposed new highly hazardous substance tank must give written notice to the local municipality and county. This requirement is based on the mandate of section 1101(a) of the act.

The Department believes that it is in the best interest of public health and safety that a notice is served, given the size of the tank system or facility and the potential toxicity of regulated highly hazardous substances. This requirement is also similar to Federal requirements found at 40 CFR Part 370 (relating to hazardous chemical reporting: community right-to-know).

7. *Section 245.237. Public hearings.*

This section implements the commands of section 1101(b) of the act. After submission of a permit application to construct a new large aboveground storage tank facility or highly hazardous substance storage tank system, the Department may hold a public hearing on the application in the municipality or county where the aboveground storage tank facility or highly hazardous tank system is proposed to be located.

Subchapter E. Technical Standards for Underground Storage Tanks and Facilities

The purpose of this subchapter is to codify Federal requirements found in 40 CFR Part 280. Subchapter E establishes general, inspection, underground storage tank system design and construction, general operating, release detection and out-of-service underground storage tank system and closure requirements for storage tank facilities regulated under the act. Part 280 was previously incorporated by reference, with minor exceptions, at 21 Pa.B. 4345 (September 20, 1991). By codifying the Federal technical standards in Chapter 245, the regulatory requirements will be fully detailed in one document. The Department believes that this will lead to greater clarity and simplicity, assisting the public and the regulated community in understanding the requirements for underground storage tank systems in this Commonwealth.

1. *Section 245.401. Purpose.*

This section states the purpose of Subchapter E, which sets forth the operational and technical requirements for underground storage tanks and underground storage tank facilities.

2. *Section 245.402. Scope.*

This section establishes that this subchapter applies to underground storage tanks regulated under the act and Chapter 245.

3. *Section 245.403. Applicability.*

This section clarifies that this subchapter applies to all owners and operators of underground storage tank systems, as well as installers and inspectors of those systems.

4. *Section 245.404. Variances.*

This section establishes a procedure for owners/operators to apply for a variance from the requirements of this subchapter when unique or peculiar circumstances make compliance technically infeasible or unsafe and alternate methods fully protect human health and the environment. Similar procedures and allowances are contained within the individual sections of 40 CFR Part 280 (for example, see 40 CFR 280.21(a)(2)(iv) (relating to upgrading of existing UST systems). The Department believes that having a general section dealing with these alternative methods of meeting the performance standards for underground storage tank systems is preferable for meeting the goals of clarity and ease of understanding.

5. *Section 245.405. Codes and standards.*

This section specifies that underground storage tank systems must comply with applicable industry codes and establishes a mechanism for recognizing additional codes. A list of codes for complying with this subchapter is available from the Department.

6. *Section 245.411. Inspection frequency.*

This section establishes operations inspection criteria consistent with the act and provides a phase-in period to begin the operations inspection process at existing underground storage tank facilities.

7. *Sections 245.421 and 245.422. Performance standards for new underground storage tank systems, and upgrading of existing underground storage tank systems.*

These sections codify the current Federal requirements for performance and installation requirements for new underground storage tank systems and the December 22, 1998, upgrade requirements for existing systems. Section 245.422 clarifies that all underground storage tank systems which do not meet corrosion protection and spill and overflow prevention standards by the December 22, 1998, deadline, shall be closed in accordance with the closure requirements.

8. *Section 245.423. Registration requirements.*

This section specifies the registration requirements for underground storage tanks, including when registration must be amended.

9. *Sections 245.424 and 245.425. Standards for new field constructed tank systems and reuse of removed tanks.*

These sections clarify the technical requirements for new field constructed tank systems and used tanks that will be reused. These sections provide standards for both groups of tanks equivalent to manufactured tank standards contained in 40 CFR 280.20 (relating to performance standards for new UST systems).

10. *Sections 245.431—245.435. Spill and overflow control, operation and maintenance including corrosion protection, compatibility, repairs allowed, and reporting and recordkeeping.*

These sections address the general operating requirements for spill and overflow control, corrosion protection, system compatibility, system repairs, reporting and recordkeeping. These sections are consistent with Federal technical requirements in 40 CFR Part 280. Section 245.434 does go beyond the Federal requirements by requiring the use of certified installers to conduct tank handling activities on underground storage tank systems, in accordance with section 501(c)(2) of the act.

The Department wants to clarify that, in § 245.434 (relating to repairs allowed), repairs involving tank handling activities need not be completed by a Department certified installer. Repairs may be completed by other competent individuals such as a manufacturer's representative as long as that person is under the direct, onsite supervision and control of a Department certified installer.

11. *Sections 245.441—245.446. General requirements for all underground storage tank systems, requirements for petroleum underground storage tank systems, requirements for hazardous substance underground storage tank systems, methods of release detection for tanks, methods of release detection for piping and release detection recordkeeping.*

These sections specify the piping and tank release detection requirements for petroleum and hazardous substance systems and release detection recordkeeping re-

quirements. Specific requirements set forth in subsection 245.444(8) (relating to methods of release detection for tanks) are consistent with the EPA proposed recommendations, although specific regulations dealing with SIR do not currently exist in 40 CFR Part 280. The Federal requirements allow other release detection methods provided that the method can effectively detect a release; when conducted properly SIR provides such an option. Section 245.441(a)(3) (relating to general requirements for underground storage tank system) shows SIR in the leak detection table.

The requirements in § 245.441(a)(3)(i) and (ii) comply with the recommendations concerning SIR of the state/Federal workgroup assembled by the EPA to consider leak detection issues. The workgroup is comprised of members from seven states, several EPA regions and EPA's Office of Underground Storage Tanks in Washington, D.C. The Department believes that independent evaluation of SIR performance claims and reevaluation when National standards change are necessary to ensure that Pennsylvania's owners/operators receive valid tests results from SIR vendors.

12. Sections 245.451—245.455. Temporary closure, permanent closure and change-in-service, assessing the site at closure or change-in-service, applicability to previously closed underground storage tank systems, and closure records.

These sections specify requirements for temporary closure and changes-in-service for a tank system, site assessment requirements, initiating corrective action when contamination is discovered, site assessment requirements of underground storage tank systems closed prior to December 22, 1988, and closure record requirements. Section 245.452(c) specifies replacement of system piping as a closure activity. Although this provision is not explicitly contained in the Federal regulations, the Department believes that this provision is consistent with the intent of those regulations, which require measurement of the portions of the underground storage tank site where releases are most likely to be present when closure takes place (40 CFR 280.72(a) (relating to assessing the site at closure or change-in-service)). There is also a compelling public interest in assessing sites where piping-only closures take place. In many release situations, it is the piping holding regulated substances that leaks rather than the underground storage tank itself ("piping releases occur twice as often as tank releases; . . . When piping systems fail, pressurized systems pose a significant added threat of sudden, large releases." 53 FR 37088). In the latest report of the Underground Storage Tank Indemnification Fund, over 22% of all claims investigated over the past 2 years involved a release from piping runs. For these reasons, the Department believes that piping-only closures should be conducted in a manner that actively determines whether or not that piping run had a release while it was operating.

While § 245.455 requires owners and operators to maintain the excavation zone assessment for a minimum of 3 years, the Department recommends that the entire closure report be maintained for an indefinite period. Proof of proper closure and verification of site conditions at the time of closure could be very important in the future particularly if the property is sold.

Subchapter F. Technical Standards for Aboveground Storage Tanks and Facilities

This subchapter is necessary to establish minimum technical standards for aboveground storage tanks under

section 301(a) of the act. There are no corresponding comprehensive Federal aboveground storage tank regulations.

The technical and operational standards established by this subchapter and Subchapter G generally must be met by both "operators" and "owners" (as defined by section 103 of the act) of aboveground storage tanks. The Department recognizes that business arrangements may exist where a person might own a storage tank but leases the tank to a separate facility owner or operator. In these arrangements, the tank owner may not have the ability to access the storage tank in a manner necessary to ensure that the Department's technical and operational requirements are met. When a violation of those standards occurs, the Department may take these circumstances into account when considering options to achieve compliance with the standards.

In addition, the Department recognizes that arrangements between tank owners and operators for meeting the Department's technical and operational standards exist. The Department may take these agreements into account as well if violations occur and compliance options are considered.

It is very important to note, however, that the underlying statutory liability remains, in most cases, with the tank owner as well as the tank operator. The Department does not limit its right to enforce the act and the regulations promulgated under the act against any person defined as a responsible party by the act.

1. Section 245.501. Purpose.

This section states the purpose of Subchapter F, which is to set forth technical standards and requirements for large aboveground storage tanks regulated under the act.

2. Section 245.502. Scope.

This section requires adherence to current industry codes of practice, manufacturer's specifications and sound engineering practices for compliance with the standards and requirements set forth in this proposed subchapter. This section also establishes how this subchapter relates to other regulatory and jurisdictional requirements.

3. Section 245.503. Variances.

This section establishes a procedure for owners/operators to apply for a variance or waiver from the requirements of this proposed subchapter when unique or peculiar circumstances make compliance technically infeasible or unsafe and alternate methods fully protect human health and the environment.

4. Section 245.504. Referenced organizations.

This section provides a listing of Nationally recognized associations which are referenced throughout this subchapter, and whose codes, standards and practices may be used to comply with this subchapter. The Department could have included these specific codes in this rulemaking. However, given the fairly rapid change in technology and the continuing revisions of current industry standards, the Department believes that a technical guidance document offers more flexibility and would allow response to changes more easily than the current rulemaking process.

As noted, the Department maintains a technical manual for installers and inspectors that provides more detailed information and diagrams from industry codes of practice which may be used to satisfy the requirements of this subchapter. The Department intends to expand this manual, update it as necessary and make it available to

owner/operators, as well as installers and inspectors, to assist them in determining which codes and practices are applicable to their specific requirements.

5. *Section 245.511. General operations and maintenance.*

This section provides the requirement that storage tank facility owner/operators must establish a formal operations and maintenance program.

6. *Section 245.512. Facility operations and spill response plan.*

This section addresses the requirement to establish a Spill Prevention Response Plan (SPR Plan) as described in Chapter 9 of the act, and this chapter. The Department has published a technical document which provides detailed guidelines on how to develop and implement the plans. It is not the intention of the Department to require individuals to prepare a separate SPR Plan if all the required information needed in the SPR Plan is part of an existing Plan developed for another purpose. Submission of an existing Plan, an existing Plan with any additional addendum needed to satisfy the SPR Plan requirements, or a new SPR Plan would be satisfactory to the Department. The Department is concerned that the required information and notifications are addressed in the Plan, that the Plan is kept current, and that the Plan when implemented, adequately addresses a spill.

7. *Section 245.513. Preventive maintenance and housekeeping requirements.*

This section provides for preventive maintenance and housekeeping requirements. It establishes owner/operator routine maintenance inspection procedures which include: daily checks of the facility during routine operations, or electronic surveillance during nonroutine operating hours or for unmanned facilities when product transfers are taking place. This section also establishes monthly maintenance inspection requirements that correlate with current industry practices.

8. *Section 245.514. Security.*

This section provides the requirement that owner/operators are to establish appropriate security measures and procedures. While several key considerations are addressed, specific requirements will vary considerably based on facility design, location, substances stored and fire marshal or local jurisdictional requirements. Therefore, meeting this performance standard in the most efficient manner is a choice left to the owner/operator.

9. *Section 245.515. Labeling/marking of aboveground tank systems.*

This section provides a performance standard for labeling or marking of aboveground storage tank systems and allows for flexibility for owners/operators to develop a suitable means for identifying substance flow and control points when transfer of regulated substance is taking place. Facilities with existing methods that comply with current industry practices and jurisdictional requirements should satisfy requirements of this subchapter.

10. *Section 245.516. Recordkeeping requirements.*

This section establishes recordkeeping requirements, identifies specific documentation to be retained and the retention periods.

11. *Section 245.521. Performance standards for aboveground storage tanks.*

This section outlines performance requirements and identifies specific sections of the design, construction and

installation portion of this subchapter which must be adhered to in order to comply with performance requirements.

12. *Section 245.522. New aboveground tank installations and reconstructions.*

This section provides the requirements for design, construction, reconstruction, relocation and the associated testing and inspection of aboveground storage tanks according to current industry codes of practice and manufacturer's specifications. Field constructed storage tanks and reconstructed storage tanks must be hydrostatically tested (following American Petroleum Institute recommendations in API Standard 653) unless other suitable testing methods are approved by the Department.

13. *Section 245.523. Aboveground storage tanks in underground vaults.*

This section provides requirements for when an owner/operator chooses to install an aboveground storage tank in an underground vault. These requirements are consistent with State Fire Marshal requirements in 37 Pa. Code Chapter 14 (relating to vaults for the storage of flammable and combustible liquids—statement of policy).

14. *Section 245.524. Aboveground tank modifications.*

This section provides requirements for modifying existing aboveground storage tanks and the associated testing and inspection of the completed modification. These requirements follow current industry standards and manufacturer's specifications.

15. *Section 245.525. Ancillary equipment for aboveground storage tanks.*

This section addresses design, installation and maintenance requirements for ancillary equipment, including vents and control valves.

16. *Section 245.526. Piping for aboveground storage tanks.*

This section provides design, construction and testing requirements for new and replacement piping. Piping shall be tested and inspected in accordance with current industry practices. As a result of the passage of Act 34, regulated piping associated with an aboveground storage tank is that piping which is within the emergency containment area surrounding the aboveground storage tank.

17. *Sections 245.531—245.533. Corrosion and deterioration prevention.*

These sections provide requirements for general corrosion and deterioration prevention and describes what is required for cathodic protection systems if needed for corrosion protection.

18. *Section 245.534. Interior linings and coatings.*

This section provides requirements for coating or lining systems used to protect tank interiors and tank bottoms from corrosion. These requirements are consistent with current industry practices.

19. *Sections 245.541—245.543. Release prevention and leak detection.*

These sections establish requirements for overflow prevention, emergency containment, secondary containment and leak detection. Containment permeability standards for secondary containment and new emergency containment structures are consistent with Department technical guidance and current industry practice. A professional engineer must verify that existing emergency contain-

ment structures coupled with tank monitoring equipment and the facility response plan are designed to prevent contamination of the waters of this Commonwealth. In addition, all transfers of regulated substances to a tank within the emergency containment must be monitored for the duration of the transfer. Usage of the term "emergency containment" is consistent with the definition in Subchapter A of this rulemaking package. This definition correlates with industry use of the term "secondary containment." "Secondary containment" is currently defined by section 103 of the act, however, and the Department is bound by that definition.

Phase-in periods are established for existing tank systems. Double walled tanks, double bottom tanks, dikes, berms, retaining walls, vaults, curbing, retention basins, holding tanks, sumps and other containment structures of sufficient impermeability may be used to achieve compliance with containment requirements.

20. *Sections 245.551—245.554. Aboveground storage tank inspections.*

These sections establish inspection criteria consistent with section 301(a)(2) and (c) of the act and § 245.21 (relating to tank handling and inspection requirements). Department certified third-party inspectors must be used to inspect storage tank installation and major modification activities and to perform in-service inspection and out-of-service inspection of storage tank systems at specific intervals. These intervals are based on corrosion rates determined in a manner that is consistent with current industry practices. Phase-in periods are provided for beginning in-service inspections and out-of-service inspections at existing storage tank facilities.

21. *Sections 245.561 and 245.562. Closure and removal from service requirements.*

These sections provide procedures for permanent closure (removal and decommissioning) of storage tank systems, procedures for change-in-service to an unregulated substance or unregulated use and procedures for temporary removal from service of storage tank systems. The amendments allow storage tank systems to be temporarily taken out-of-service for up to 5 years; however, corrosion and deterioration requirements, leak detection requirements, maintenance requirements and inspection requirements must be adhered to during the temporary out-of-service period.

Subchapter G. Simplified Program for Small Aboveground Storage Tanks

This new subchapter is necessary to establish minimum requirements to regulate small aboveground storage tanks under section 301(d) of the act. There are no corresponding Federal regulations for small aboveground storage tanks.

1. *Section 245.601. Purpose.*

This section states the purpose of Subchapter G, which is to set forth technical standards and requirements for small aboveground storage tanks having a capacity equal to or less than 21,000 gallons and regulated under the act.

2. *Section 245.602. Scope.*

This section establishes the Department's intent to apply current industry codes of practice, manufacturer's specifications and sound engineering practices for compliance with the performance standards and requirements set forth in this subchapter. Adherence to manufacturer's specifications is especially important for this class of

storage tanks, as small aboveground storage tanks are almost exclusively shop-built tanks. This section also establishes how this subchapter relates to other regulatory and jurisdictional requirements.

3. *Section 245.603. General storage tank facility requirements.*

This section provides that owner/operators of facilities, with an aggregate storage capacity greater than 21,000 gallons, must establish a SPR Plan as described in Chapter 9 of the act. The Department has published a technical document which provides detailed guidance on how to develop and implement the Plans.

This section also provides that owner/operators are to establish appropriate security measures and procedures. Several key considerations are addressed. Specific requirements at each site will vary considerably based on facility design, location, substances stored, fire marshal requirements and local jurisdictions.

4. *Section 245.604. Referenced organizations.*

This section provides a listing of Nationally recognized associations which are referenced throughout this subchapter, and whose codes, standards and practices may be used to comply with this subchapter. The Department could have included these specific codes in this rulemaking. However, given the fairly rapid change in technology and the continuing revisions of current industry standards, the Department believes that a technical guidance document offers more flexibility and would allow response to changes more easily than the current rulemaking process.

As noted, the Department maintains a technical manual for installers and inspectors that provides more detailed information and diagrams from industry codes of practice which may be used to satisfy the requirements of this subchapter. The Department intends to expand this manual, update it as necessary and make it available to owner/operators, as well as installers and inspectors, to assist them in determining which codes and practices are applicable to their specific situations.

5. *Section 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.*

This section provides requirements for testing new storage tanks at installation and for testing existing storage tanks that receive major modifications to the tank shell or the tank bottom. Testing must be consistent with a current industry code of practice and manufacturer's specifications.

6. *Section 245.612. Performance and design standards.*

This section provides performance standards for the design and construction of new storage tank systems and modification or upgrading of existing storage tank systems, or both. These standards are consistent with current industry standards, manufacturer's specifications and sound engineering practices. This section refers to the standards in Subchapter F for aboveground storage tanks installed in underground vaults and used for dispensing Class I and Class II motor fuels (see discussion of § 245.523) and for tanks which are internally lined (see discussion of § 245.534).

This section also establishes requirements for secondary containment in, around or under tanks to provide monitoring capability to meet leak detection requirements. In most situations, stationary foundations for horizontal and saddle mounted tanks will satisfy this requirement. Emergency containment requirements are

also addressed. Emergency containment is required to contain releases from overfills, leaks and spills and may also suffice as secondary containment for monitoring and leak detection requirements. Emergency containment must be sufficiently impermeable to contain any potential release until the release can be detected and expeditiously removed (see discussions of §§ 245.541—245.543).

A variety of containment structures may be used to satisfy secondary containment and emergency containment performance standards. These include double walled tanks, double walled piping, double bottom tanks, dikes, berms, retaining walls, vaults, curbing, retention basins, holding tanks, sumps and other containment structures of sufficient impermeability. In the case of tanks, the containment structure must also have sufficient capacity to retain 110% of the capacity of the largest tank in the containment area.

7. Section 245.613. Monitoring standards.

This section establishes performance standards for leak detection and owner/operator maintenance procedures. Any appropriate form of leak detection, including visual examination, may be used to satisfy leak detection requirements. Maintenance and general operations must be checked at least once a month. The Department will provide a sample monthly maintenance checklist in the updated technical manual, which may be used by owner/operators to satisfy the requirement of documenting monthly maintenance checks. Owners may establish written agreements with operators or with a third-party to conduct and record monthly maintenance checks. It is very important to note, however, that the underlying statutory liability remains, in most cases, with the tank owner as well as the tank operator. The Department does not limit its right to enforce the act and the regulations promulgated under the act against any person defined as a responsible party by the act.

8. Section 245.614. Requirements for closure.

This section provides for closure (removal or decommissioning) of existing storage tanks. Owners/operators must document closures or changes in the service status of each tank, or both, on the Tank Registration Form provided by the Department. Documentation shall be provided to the Department within 30 days after completing a permanent closure or change in service status of a small aboveground storage tank, or both. Until the Department receives notification that a tank is temporarily removed from service, a tank is considered to be in-service and must comply with all regulatory requirements.

9. Section 245.615. Recordkeeping requirements.

This section establishes recordkeeping requirements, identifies specific documents to be retained and the retention periods.

10. Section 245.616. Inspection requirements.

This section establishes inspection criteria consistent with sections 301(a)(2) and (c) of the act and § 245.21. Department certified third-party inspectors must be used to perform in-service inspections of small aboveground storage tank systems at specific intervals as well as inspecting the installation, reconstruction, relocation and major modification activities performed on all field constructed storage tanks. Because almost all small aboveground storage tanks are shop-built, this latter requirement is not expected to have much impact on owners/operators of these storage tanks. Phase-in periods are provided to begin in-service inspections at existing storage tank facilities.

E. Summary of Comments and Responses on the Proposed Rulemaking

The Department received comments from 23 individuals as a result of a public hearing held on August 7, 1996, and a 60-day public comment period that followed publication of the proposed rulemaking at 26 Pa.B. 3073 (June 29, 1996). The Independent Regulatory Review Commission (IRRC) submitted written comments to the Department on September 25, 1996. Additionally, STAC reviewed the proposed rulemaking and submitted a written report to the Board.

Several sections of the proposed rulemaking are modified in the final rulemaking based upon these comments. A list of commentators, a detailed summary of their comments and the Department's responses are available from the contact persons listed in Section B of this Preamble. In addition, between the time the Board approved the proposed amendments and their publication, Act 34 became effective. A number of modifications to Chapter 245 and the proposed amendments have been made based upon Act 34. A summary of the significant comments is provided as follows:

Subchapter A. General Provisions

1. Section 245.1. Definitions.

One commentator was unsure as to whether the terms defined in this section applied to both underground and aboveground storage tank systems. The Department has placed all definitions in this section so that they apply to all storage tank systems unless specifically indicated otherwise in the substantive portions of these regulations.

Several commentators noticed that the definition of "aboveground storage tank" had not been changed to reflect the most recent revisions to the act. The publication of the proposed amendments occurred prior to the passage of Act 34 which amended the act. The final rulemaking has been amended to incorporate changes to the definition of "aboveground storage tank" as well as all other changes which resulted from the passage of Act 34.

Several commentators expressed concern that the Department's definition of "de minimis" is too restrictive if based on Material Safety Data Sheet (MSDS) information and that the use of the MSDS as a basis does not consider the relative hazards of a particular substance and may over or understate the risk if a substance is released. The commentators suggested that the definition should be based on CERCLA reportable release quantities or relative risk of the substance stored. The commentators stated that if the MSDS approach is retained, the Department should provide specific listing criteria (for example, 1% concentration standard for noncarcinogens and .1% standard for carcinogens).

The Department believes that the definition of "de minimis" takes into consideration the concentrations of hazardous substances. The reference to 1% and 0.1% is precisely what is reported on the MSDS. The use of the MSDS does not create any new testing or reporting requirements on the part of the tank owner or operator. Conversely, the use of CERCLA reportable release quantities can be onerous in that the tank owner or operator would be required to frequently quantify the contents of the tank to see if the contents were within CERCLA reportable quantities. Additional unnecessary and burdensome costs and requirements would follow where risk assessments would need to be performed, especially where the tank contents varied frequently over time. For these reasons, the Department has retained the proposed definition of "de minimis" in the final rulemaking.

Confusion between the terms "secondary containment" and "emergency containment" was expressed by some commentators. The Department realizes that common use of the term "secondary containment" in industry applies to a structure that contains a release. Section 103 of the act, however, defines "secondary containment" as an additional layer of impervious material creating a space in which a release can be detected (release detection). Since the Department cannot change the statutory definition, the term "emergency containment" has been defined in this final rulemaking to be a containment structure which serves to convey, capture and contain the total volume of an anticipated release from an aboveground storage tank or an underground storage tank. As they relate to these regulations, the term "secondary containment" applies to release detection, and the term "emergency containment" applies to containment of a release.

Several commentators thought that the definition of "highly hazardous substance tank" should be tied to CERCLA substances that are regulated for accidental release prevention and that the 10 pound reportable release quantity limit is too restrictive. The Federal underground storage tank regulations recognize that tanks containing hazardous substances constitute an additional environmental threat. The 1998 upgrade standards for underground storage tanks containing hazardous substances requires the use of double walled tanks. The Department, therefore, believes that the definition of "highly hazardous substance tank" is appropriate and the proposed definition is retained in this final rulemaking.

Some commentators suggested defining several additional terms to clarify certain portions of the regulations. While the Department does not want to lengthen the regulations with definitions of terms which have clear and widely understood meanings, the Department does agree that some additional definitions will provide clarity in interpreting the regulations. The following terms have been added and defined in this final rulemaking:

"Change in service" was defined in the proposed § 245.452(d). The Department has moved this definition to § 245.1 for the sake of clarity.

"In-service inspection" is a scheduled aboveground storage tank external inspection to determine tank system serviceability and compliance with requirements in this chapter and applicable industry standards. This inspection shall be conducted by a Department certified aboveground storage tank inspector. The tank system may be in operation during this inspection.

"Large aboveground storage tank" is any aboveground storage tank with a capacity greater than 21,000 gallons.

"Out-of-service inspection" is a scheduled aboveground storage tank inspection that encompasses both internal and external examination to determine tank system serviceability and compliance with requirements in this chapter and applicable industry standards. This inspection shall be conducted by a Department certified aboveground storage tank inspector. The tank system may not be in operation during this inspection.

"Underground vault" is a structure which is entirely beneath the surface of the ground and is designed specifically to contain one or more aboveground storage tanks.

2. Section 245.2. General.

Subsection (b) of the proposed amendments outlined requirements whenever industry codes are specified in Chapter 245. For the sake of clarity and to avoid future

confusion, the Department has added language to this subsection noting that the requirements of Chapter 245 govern in the event of a conflict between the requirements of Chapter 245 and the requirements of an applicable industry code.

3. Section 245.31. Underground storage tank tightness testing requirements.

This section outlines the requirements for tightness testing of underground storage tank systems. This section was not adopted until September 28, 1996 (26 Pa.B. 4743), and so could not be included in this rulemaking when it was originally proposed. Because Subchapter E of this rulemaking codifies regulations formerly incorporated by reference in § 245.2, several citations had to be changed in this section as a part of this final rulemaking.

Subchapter C. Permitting of Underground and Aboveground Storage Tank Systems and Facilities

1. Section 245.201. Scope.

A sentence has been added to this section to clarify that compliance with the permitting requirements of this subchapter does not relieve a permittee of the obligation to comply with other Federal, State or local requirements.

2. Section 245.203. General requirements for a permit.

Several commentators expressed a concern that the annual renewal of a permit was too burdensome and that the renewal should be tied to the standards in section 304(h) of the act. The commentators' suggestion would result in paperwork beyond that proposed in this regulation. Under the Department's renewal process, the permit review is simplified and streamlined, with no additional paperwork. By relying upon the existing annual registration form and process as the vehicle for permitting, a separate and distinct permit renewal application is unnecessary. Inclusion of the concept in section 304(h) of the act would place additional and unnecessary paperwork requirements on the regulated community.

There were several concerns expressed that the Department had not specified a permit review time in the proposed regulations. Since the review times for permit applications are specified in the act in sections 304(g) and 504(g), the Department believes it is unnecessary to repeat those statutory requirements in the final rulemaking.

3. Section 245.205. Right of entry.

Several commentators stated that the language in this section is burdensome and inconsistent with the Department's powers under section 107(c) of the act (35 P.S. § 6021.107(c)) and therefore should be amended to conform with section 107(c) of the act. The Department agrees and has removed proposed § 245.205 from the final rulemaking. Instead, the Department will rely upon the statutory right of entry provision found in section 107(c)(2) of the act. In addition, other sections of the proposed regulations that referred to the proposed § 245.205 have been deleted. Deletions included proposed § 245.212(a)(5), proposed § 245.222(1)(iv) and proposed § 245.232(a)(3).

4. Section 245.207. Permit fees.

Concerns were expressed that permit fees for site-specific permits are unspecified and they allow the Department to charge for open-ended "administrative review costs." Some commentators suggested a sliding scale for permit reviews that takes into account, up front, the

Department's costs. The Department has removed this section and will rely upon the fees established in sections 304 and 504 of the act.

5. *Section 245.212. Minimum requirements for obtaining a permit by rule.*

In preparing this final rulemaking, the Department noted unnecessary language in § 245.212(a)(1) relating to registration. A properly registered storage tank system includes the payment of registration fees as established in the act. The phrase "... including payment of registration fees if necessary" has been deleted in this final rulemaking.

6. *Section 245.222. Application requirements.* In preparing this final rulemaking, the Department noted unnecessary language in 245.222(1)(i) relating to registration. A properly registered storage tank system includes the payment of registration fees as established in the act. The phrase "... including payment of registration fees if necessary" has been deleted in this final rulemaking.

7. *Section 245.231. Scope.*

One commentator suggested that the requirement to receive a site-specific permit prior to installation should be deferred for 6 months after promulgation of the regulations to avoid a negative impact on owners and operators planning to install new tanks at this time. The Department agrees that some transition time is needed at the time the regulations become final. Accordingly, when § 245.231 has been amended to allow a window from permitting when the facility owner has already signed contracts or has begun actual construction.

The Department also changed the proposed section so that owners of underground field constructed and highly hazardous substance storage tanks need only comply with §§ 245.232(a) and (b) and 245.236 when applying for a site-specific installation permit.

8. *Section 245.232. General requirements.*

Several commentators were concerned that the Department was requiring an entirely new Plan for all site specific installation permits. The Department agrees that an entire new SPR Plan need not be filed for each new site-specific installation. However, the facility must update the existing plan to reflect the new aboveground storage tank and modify the existing SPR Plan accordingly.

Concerns were also expressed about what the Department will accept for proof of notification to a municipality of a site-specific permit application. Proof of notification can be as simple as a copy of the letter sent to the municipality announcing the project. Other acceptable vehicles include legal notices in a newspaper of general circulation in the area of the project. The Department does not require public notices which go beyond those routinely used in the agency's many other existing permitting programs. For clarity, the Department has added language to § 245.232(b)(2) which reflects these options for proof of notification.

9. *Section 245.233. Mapping requirements.*

One commentator suggested that while many of the items listed in this section are required by the act, several of these items could be scaled back, including subsection (a)(6), (8) and (9). The Department agrees with the commentator with respect to subsection (a)(9). This information has been removed from the mapping requirements and will continue to be required as part of the SPR

Plan. The Department believes that the information requested in subsections (6) and (8) is necessary.

Several commentators expressed concern that the use of registered Pennsylvania geologists, engineers, and land surveyors in subsection (b) is not authorized by the act and is too burdensome. The Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2), requires that an individual be licensed by and registered with the Commonwealth in order to practice engineering, land surveying or geology in this Commonwealth. See 63 P. S. § 150. Any report not prepared in accordance with this statute could not be considered reliable proof that the requirements of this chapter had been met when the Department is considering a permit application. For this reason, the Department disagrees with the commentators and has retained this subsection in the final rulemaking.

10. *Section 245.234. Siting requirements.*

The Department received several comments expressing concerns about limiting placement of aboveground storage tanks in a 100-year floodplain. Commentators suggested that the limitations in subsection (a)(1) are inconsistent with requirements in 40 CFR 280.43(g)(2)(v) (relating to methods of release detection for tanks) which only considers 25-year floodplains and recommended changing the rulemaking from the 100-year to the 25-year floodplain, as is contemplated in § 245.444(7)(ii)(E). Additional concerns were expressed by the electrical utilities operating within this Commonwealth, both with regard to limitations on siting near water (needed for cooling and other processes) and siting near coal mines (fuel source).

Section 1102 of the act requires the Department to develop siting regulations to protect public health and safety, water supply sources, water quality, air quality and flooding. The siting requirements in this rulemaking are for large aboveground tanks and new aboveground facilities in excess of 21,000 gallons storage capacity. Accordingly, the requirements in 40 CFR 280.43(g)(2)(v) are not comparable since they relate to underground storage tanks. The Department believes that large aboveground storage tanks on floodplains are more vulnerable to damage due to floating debris or breaching than underground storage tanks.

The Department also believes that the primary concerns raised by the electrical industry have been adequately addressed in the recent changes to this chapter which deregulated the large, onsite, consumptive use heating oil tanks normally found at electric generating stations. The Department disagrees, however, with the notion that coal fired plants are obligated to site near coal fields. A review of the location of many of these facilities will confirm that they are located well away from the coal measures. The regulations do not exclude new facilities from locating on or near coal measures; the Department simply is concerned that large, regulated storage tanks are placed on a stable foundation. These are standard industry practice and do not place undue hardships on facilities proposing to locate near previously mined areas.

11. *Section 245.235. Environmental assessment.*

Several commentators stated that the environmental assessment requirements in subsection (b) are not mandated by the act and would be extremely burdensome and unnecessary. One commentator also noted that the Federal regulations governing underground storage tanks contain no comparable provisions.

The siting requirements and environmental assessment requirements are intended to implement section 1102 of the act, which applies to large aboveground storage tanks

and aboveground storage tank facilities. Further, the environmental assessment is intended to summarize the other environmental rules and laws which must be considered when a new facility or aboveground storage tank is constructed. For example, when a new aboveground storage tank facility is proposed, it must consider stormwater runoff, may require an NPDES permit, must consider wetlands, endangered species and associated habitats, nearby water supplies, and the like. The environmental assessment is intended to summarize those requirements and considerations to assure that the activity is consistent with section 1102 of the act. The Federal underground storage tank regulations are not intended to address aboveground storage tanks. The Department is, however, directed by the act to develop and implement a program to regulate the siting of aboveground storage tanks.

12. *Section 245.236. Public notice.*

Several commentators expressed concern with the public notice requirements by noting that subsection (a) appeared to be inconsistent with section 1101 of the act. The Department agrees and has revised subsection (a) by removing the 90-day requirement for written notice and stating that written notice shall be given prior to filing a permit application. In addition, the Department has deleted subsection (b) and included highly hazardous substance tanks in the notification requirements in the final version of subsection (a).

Subchapter E. Technical Standards for Underground Storage Tanks and Facilities

1. *Section 245.411. Inspection frequency.*

The Department received comments suggesting that the 5-year inspection frequency for underground storage tanks was not needed. One commentator stated that compliance with performance standards would be sufficient to ensure proper operation.

Section 501(c)(3) of the act requires inspection of underground storage tanks prior to permitting and at a frequency thereafter determined by the Department. The Department believes that the 5-year inspection cycle is appropriate for underground storage tanks. Further, the Department feels that the inspection frequency is necessary to confirm compliance with operational requirements and performance standards. Facility inspections have been successful in promoting good operating procedures and recordkeeping through the technical assistance provided by the certified inspector. The Department acknowledges that for tank systems which have secondary containment, the environmental risk is reduced and a longer inspection frequency is appropriate. It is for this reason that the inspection frequency for these tank systems is 10 years.

2. *Sections 245.421 and 245.422. Performance standards for new underground storage tank systems, and upgrading of existing underground storage tank systems.*

Several commentators stated that the certification required in § 245.421(5) may go beyond the knowledge and expertise of an owner or operator. The Department agrees and has amended this section to read: "Owners and operators shall ensure that a certified installer has installed the tank system by providing a certification of compliance on an appropriate form provided by the Department."

STAC suggested that the Department should make provisions in § 245.421 to allow for the use of piping constructed of other noncorrosive materials besides fiber-

glass. The Department agrees and has added to § 245.421(2)(i) the language: "... or other non-corrosive materials."

3. *Sections 245.424 and 245.425. Standards for new field constructed tank systems and reuse of removed tanks.*

One commentator pointed out that when an underground storage tank is reinstalled, that it should be reinstalled in a manner that is consistent with the manufacturer's requirements. The Department agrees and has amended this section to read: "Either the manufacturer, a person certified by the manufacturer, or a registered professional engineer warrants that the tank meets the requirements of § 245.421(1) (relating to performance standards for new underground storage tank systems)." It should also be noted that the option of secondary containment has been deleted from the final rulemaking based on the same rationale.

4. *Sections 245.431—245.435. Spill and overflow control, operation and maintenance including corrosion protection, compatibility, repairs allowed, and reporting and recordkeeping.*

Two commentators expressed concern that § 245.434 (relating to repairs allowed) was unclear as to who is allowed to make repairs. The Department wants to clarify that repairs involving tank handling activities need not be completed by a Department certified installer. Repairs may be completed by other competent individuals such as a manufacturer's representative; that person must be under the direct, onsite supervision and control of a Department certified installer.

5. *Section 245.443. Requirements for hazardous substance underground storage tank systems.*

In preparing the final-form regulation the Department corrected a typographical error in § 245.443(2)(iv) relating to secondary containment of underground piping.

6. *Section 245.452. Permanent closure and changes-in-service.*

In comments regarding changes-in-service to aboveground storage tanks (see following discussion of § 245.562), two commentators noted that "change-in-service" was not defined. For clarity and ease of understanding, the Department has deleted the substantive definition of the term in § 245.452(d) and added a definition for "change-in-service" to § 245.1. A reference to § 245.452(d) in § 245.452(f) has been deleted as a result of this change.

7. *Section 245.453. Assessing the site at closure or change-in-service.*

Two commentators suggested that the title of the Department's technical document for closure of underground storage tank systems be added to § 245.453(a). This section has been amended to include the title of that technical document which is "Closure requirements for underground storage tank systems."

8. *Section 245.455. Closure records.*

One commentator recommended that records retention be required for a 10-year period. While § 245.455 requires owners and operators to maintain the excavation zone assessment for a minimum of 3 years, the Department recommends that the entire closure document be maintained for an indefinite period. Proof of proper closure and verification of site conditions at the time of closure could be very important in the future, particularly if the property is sold.

Subchapter F Technical Standards for Aboveground Storage Tanks and Facilities

1. *General.*

Several commentators expressed concern that Subchapter F goes beyond Federal requirements for aboveground storage tanks. Chapter 3 of the act specifically mandates the Department to establish technical standards for aboveground storage tanks and further describes what the Department should include in those standards. The Department believes that Subchapters F and G meet the full intent of the statutory requirements in Chapter 3 of the act in the most flexible manner possible.

Two commentators indicated that some existing Federal regulations are limited in applicability to aboveground storage tanks of 42,000 gallons or greater capacity and question if the Department intends to stay with the current applicability of aboveground storage tanks greater than 21,000 gallons capacity. The act establishes the capacity limits for regulation of aboveground storage tanks in this Commonwealth. With certain exclusions, these include all aboveground storage tanks with greater than 250 gallons capacity. The act also defines small aboveground storage tanks as having a capacity of equal to or less than 21,000 gallons. While relevant to this subchapter, the 21,000 gallon capacity limit is not the cutoff for regulation by the act. Current Federal regulations cover all aboveground storage tanks containing "oil" greater than 660 gallons (40 CFR Part 112) (relating to oil pollution prevention) and certain hazardous substance aboveground storage tanks (29 CFR 1910.106 and 1910.119 (relating to flammable and combustible liquids; and process safety management of highly hazardous chemicals)).

The STAC expressed concern regarding liability of owners and operators of aboveground storage tanks and agreements between these parties. The Department recognizes that arrangements between tank owners and operators for meeting the Department's technical and operational standards exist. The Department may take these agreements into account as well if violations occur and compliance options are considered. It is very important to note, however, that the underlying statutory liability remains, in most cases, with the tank owner as well as the tank operator. The Department does not limit its right to enforce the act and the regulations promulgated under the act against any person defined as a responsible party by the act.

2. *Section 245.512. Facility operations and spill response plan.*

Several commentators were concerned that the SPR Plan requirements in this section would require the development and submission of a new plan that was not previously required. SPR Plans, as described in Chapter 9 of the act, have been required to be submitted to the Department for over 6 years. In fact, the Department published a technical document in 1993 which provided detailed guidelines on how to develop and implement the Plans. It is not the intention of the Department to require individuals to prepare a separate SPRP if all the required information needed in the SPRP is part of an existing plan developed for another purpose. Submission of the existing plan, an existing plan with any additional addendum needed to satisfy the SPRP requirements, or a new SPRP would be satisfactory to the Department. The Department is concerned that the required information

and notifications are addressed in the plan, that the plan is kept current, and that the plan, when implemented, adequately addresses a spill.

One commentator expressed concern that this section did not address updates to SPRPs. The Department agrees and has added language to require the submission of an initial plan and any future updates, which address the requirements described in Chapter 9 of the act and this chapter, to the Department.

3. *Section 245.513. Preventive maintenance and house-keeping requirements.*

Some commentators wanted the term "excessive accumulation" defined so that owners and operators will know what is required by § 245.513(b)(1)(ii). One commentator discussed NFPA 30 and 40 CFR Part 112 and stated that only water which reduces capacity of the emergency containment below 110% capacity or could cause corrosion should be considered "excessive."

The Department agrees that water which comes in contact with the tank or piping could cause corrosion concerns and water which decreases the containment area by 10% or more would be excessive. The Department believes that this substantive requirement is adequately addressed in § 245.542(f) and that establishing a corresponding definition is not necessary.

Commentators also suggested that the overall concept of requiring a preventive maintenance program does add value in protecting the environment; however, the proposed rulemaking was too prescriptive and would increase the cost of doing business. The commentators stated that the requirements of this section should be amended to allow more flexibility for each individual aboveground storage tank owner or operator to determine what is needed, per API Standard 653.

The Department believes that a preventive maintenance program not only adds value but is the fundamental first step in protecting the environment. The requirements in § 245.513 are consistent with industry practices such as API Standard 653's routine in-service inspection, which is performed by the owner/operator.

Several commentators suggested that daily visual inspections of all aboveground storage tank facilities are burdensome and unnecessary. It was stated that owners and operators should be allowed to substitute a plan for regular and routine visual inspections of remote facilities in lieu of the daily inspection requirement.

The Department has revised § 245.513(b)(1) to require visual inspections at least every 72 hours. The Department recognizes that remote unmanned facilities may have special needs and believes those needs can be handled through applying for a variance as described in § 245.503.

4. *Section 245.516. Recordkeeping requirements.*

Some commentators indicated that because corrosion rate measurements are based on out-of-service inspection reports, this section should require maintenance of all out-of-service inspection reports, rather than simply the last out-of-service inspection. The Department agrees and has amended this section to require retention of all out-of-service inspection reports. The Department has also included the retention of applicable manufacturer's documentation for the tank and any ancillary equipment.

Also, the Department has made four clarifications to subsection (b). First, subsection (b)(2) requires that any § 245.503 variance issued for the tank system be kept for

the operational life of the tank, rather than maintenance of all site specific Department correspondence and documentation. Second, subsection (b)(3) has been amended to require maintenance only of those permits issued under Subchapter C, rather than all Federal and State permits issued for the facility or storage tank system. Third, subsection (b)(4) has been rewritten to include maintenance of relocation and reconstruction inspection reports. Fourth, subsection (b)(5) has been rewritten to more accurately reflect the requirement that notices of reportable releases must be kept for the operational life of the tank system.

Finally, as a result of changes to § 245.561(3) (see following discussion), the regulations no longer contain a requirement for submission of closure reports to the Department. The requirement to conduct a site assessment still to measure for the presence of a release remains. A new subsection (c)(6) has been added to this section to reflect the fact that results of this assessment need only be maintained for 3 years, although the Department recommends that the entire closure document be maintained for an indefinite period. Proof of proper closure and verification of site conditions at the time of closure could be very important in the future, particularly if the property is sold.

5. Section 245.523. Aboveground storage tanks in underground vaults.

One commentator stated that this section was vague and ambiguous, and seemed to require an underground vault for secondary containment of all aboveground storage tank systems.

The intent of this section is not to require the use of underground vaults for secondary containment for all aboveground storage tanks; rather, the section is intended to outline the requirements that must be met when an owner or operator chooses to install an aboveground storage tank in an underground vault. The Department has added additional language clarifying this intent. In addition, a definition of "underground vault" has been added to § 245.1 to provide more clarity to this issue.

6. Section 245.526. Piping for aboveground storage tanks.

Several concerns were raised by commentators about testing, technical standards, and corrosion protection for piping associated with aboveground storage tanks. Most felt the requirements for secondary containment and tightness testing were excessive. As a result of the passage of Act 34, regulated piping associated with an aboveground storage tank is that piping which is within the emergency containment surrounding the aboveground storage tank. Since most underground piping associated with aboveground storage tanks (ASTs) is outside the containment area, the Department has deleted the specific references to underground piping in the final-form regulations. The Department agrees with those commentators who felt that secondary containment with leak detection for regulated piping, which lies within emergency containment, is unnecessary as long as the piping is installed, tested and maintained according to industry standards. In addition, the piping must be inspected in accordance with the standards for in-service and out-of-service inspections in §§ 245.552 and 245.553. Section 245.526 has been revised by deleting requirements for secondary containment for new or replacement piping, and testing and upgrade requirements for existing piping in contact with the soil.

7. Section 245.534. Interior linings and coatings.

One commentator suggested that one of the most important steps in the process of lining the interior of a storage tank is the preparation of the steel for lining (as noted in API Standard 652 and SSPC) and further stated that inspection of the prepared surface should be required before coating is allowed. The Department agrees and has revised this section by adding § 245.534(b)(3) which states that the surface shall be prepared and inspected in accordance with current applicable codes of industry practice.

8. Sections 245.541—245.543. Release prevention and leak detection.

Several commentators expressed concern that the secondary containment permeability requirements in § 245.542(c) and (d) would be difficult to test and verify compliance and therefore suggested that these requirements be eliminated from the regulations. One commentator noted that these standards would require the use of expensive, unreliable and difficult to maintain liners. The commentator stated that the technical standards contained in Subchapter F should make the threat of a release highly unlikely and therefore the permeability requirements were unnecessary. Finally, the commentator stated that retaining these requirements would place Commonwealth aboveground storage tank owners at a competitive disadvantage with aboveground storage tank owners in neighboring states.

The Department believes that minimum permeability requirements for secondary containment are necessary to protect the environment and ensure that a release is captured and directed to a monitoring point without contaminating the environment.

Minimum permeability requirements for emergency containment structures will protect the environment and limit the amount of contaminated debris resulting from a release. However, the Department believes that meeting these minimum permeability requirements for new emergency containment structures may be more feasible than retrofitting existing emergency containment structures to meet a permeability standard. The final-form regulations reflect the Department's sensitivity to the commentators concerns over the cost and reliability of retrofitting existing containment structures. The final-form regulations are amended to require that new emergency containment structures meet a minimum permeability standard upon installation. Existing emergency containment structures are provided a phase-in period for either upgrading the containment structure to meet the permeability standard for new emergency containment structures or having a professional engineer verify that the emergency containment structure coupled with the tank monitoring system and response plan is designed to prevent contamination of the waters of this Commonwealth. The phase-in period is based on when the tank is taken out of service for relocation or replacement of the tank bottom or an out-of-service inspection. The out-of-service inspection interval is based on industry standard API 653 and allows a maximum inspection interval of up to 20 years. By tying the upgrade or verification requirements for existing containment areas with the time the tank is out of service, the Department has provided a flexible phase-in period. In addition, all transfers of regulated substances to a tank within the emergency containment must be monitored for the duration of the transfer. For additional clarity, the Department has added a cross reference to § 245.553(d) which describes the out-of-service inspection frequency.

One commentator stated that the permeability requirements for emergency containment in § 245.542(d) are unnecessary for product loading areas and should be deleted. The Department agrees and has deleted the reference to loading areas to comply with recent amendments contained in Act 34. Only loading areas located within the emergency containment area will be required to meet the standards in this rulemaking.

One commentator suggested that the Department clarify that the permeability upgrades for existing facilities in § 245.542(d) are to be phased in consistent with the out-of-service inspection frequency. The Department agrees and has added a cross-reference to § 245.553(d) which describes the out-of-service inspection frequencies.

Several commentators suggested that § 245.542 should be amended to ensure consistency with Fire Marshal and EPA requirements by deleting rainwater removal requirements, 72-hour release holding time and the 110 percent containment capacity requirement. The Department believes that the 110% capacity requirement in subsection 245.542(e) is not significantly different from other requirements which call for a capacity of 100 percent capacity plus freeboard (see, for example, 40 CFR 112.7(e)(2)(ii) (relating to guidelines for the preparation and implementation of a Spill Prevention Control and Countermeasure Plan)). The margin of safety provided by the additional 10% is needed primarily to compensate for rainwater and is a commonly used industry practice. It is critical to remove rainwater when accumulations approach 10% of the capacity.

Several commentators suggested that § 245.543(b) is unnecessary, especially given the daily visual inspections and monthly preventative maintenance requirements in this subchapter. One commentator suggested that if this provision is retained, add "Monthly visual inspections shall be an acceptable method of leak detection for this type of installation." Another commentator suggested that retrofitting thousands of existing aboveground storage tanks with electronic monitoring devices would be very expensive and redundant. The Department agrees and has revised this section to delete the monthly leak detection requirements for tanks which do not have secondary containment.

Some commentators stated that they wanted the Department to clarify that visual leak monitoring in § 245.543 is not required for aboveground storage tanks directly installed on top of secondary containment. The Department believes that monitoring by some means is required. Secondary containment captures and directs any potential release to an area which can be monitored, and monitoring is generally accomplished by visual means. However, monitoring could be accomplished by other means, such as mechanical or electronic devices.

9. Sections 245.551—245.554. Aboveground storage tank inspections.

One commentator suggested as a matter of clarity, that the Department delete the phrase "...by the Department" in § 245.551(a) and replace it with the phrase "...in this subchapter." The Department agrees and has amended this final rulemaking accordingly.

Many commentators stated that the out-of-service inspection requirements in this section were inconsistent with and more stringent than the act after amendments were made by Act 34.

The Department agrees and has revised § 245.553 as well as all other applicable sections of this rulemaking to reflect the changes to the act resulting from the passage

of Act 34. As noted in the Preamble to the proposed rulemaking (*Editor's Note*, see 26 Pa.B. 3083—3084), due to timing issues the proposed rulemaking did not reflect the changes made to the act by Act 34.

One commentator stated that inspection reports, as contemplated by § 245.553, were sometimes voluminous in nature, yet the proposed subsection (g) required submission of the completed inspection report to the Department. The commentator went on to say that the Department should consider requiring submission of the report only if necessary, or submission of something less than the complete inspection report. The Department agrees that submission of the entire out-of-service inspection report may not be necessary. The Department does require inspectors to submit the results of their inspection to the Department. Due to the voluminous nature of these reports, the Department will develop an inspection summary report form for use by the inspector.

10. Sections 245.561 and 245.562. Closure and removal from service requirements.

Two commentators noted that the term "change-in-service," although referenced in § 245.561, was not defined and therefore the section was vague and ambiguous as to the situations it applied to. The Department agrees and has added a definition for the term in § 245.1

Several commentators suggested that § 245.561(3) should be deleted. They stated that since existing regulations require reporting of confirmed releases from regulated tanks and closures must also be carried out by a certified remover, the Department would be notified by that individual if any problems were observed. Another commentator noted that the Department should provide better justification for the requirements of this section and clarify the requirements for site assessments and for what closure reports should contain.

The Department believes that submission of site assessment and closure reports should only be required when evidence of a release is present and has revised this section to reflect this position.

Subchapter G. Simplified Program for Small Aboveground Storage Tanks

1. Section 245.604. Referenced organizations.

The National Fire Protection Association (NFPA) has been added as a Nationally recognized association.

2. Section 245.612. Performance and design standards.

Several concerns were raised by commentators about testing, technical standards and corrosion protection for piping associated with aboveground storage tanks. Most felt the requirements for secondary containment and tightness testing were excessive. As a result of the passage of Act 34, regulated piping associated with an aboveground storage tank is that piping which is within the emergency containment surrounding the aboveground storage tank. Since the regulated piping lies within emergency containment, the Department agrees with those commentators who feel secondary containment with leak detection for this piping is unnecessary as long as the piping is installed, tested and maintained according to industry standards. Section 245.612(c) has been revised by deleting requirements for secondary containment for new or replacement piping, and testing and upgrade requirements for existing piping in contact with the soil.

3. Section 245.613. Monitoring standards.

Two commentators suggested that the monthly leak detection monitoring requirement in subsection (b) was

redundant, given the requirement for secondary containment contained in § 245.612. They suggested that, if the aboveground storage tank owner installs an active monitoring system and meets the requirements of "emergency containment," a deferral from the requirements of this subsection should be provided. The Department does not agree that the monthly check is redundant. Industry practices recommend monthly inspections, which include the observation of containment areas. An active monitoring system that is checked monthly for operational functions meets the requirement in this section. Therefore, the proposed § 245.613 has been retained in the final rulemaking.

4. *Section 245.614. Requirements for closure.*

Commentators stated that subsection (d)(1) should be altered to allow for temporary closure for up to 10 years, rather than the 3 year limit in the proposed rulemaking.

The Department agrees that a change is appropriate but does not believe that temporary closure should be extended to 10 years. The Department has revised this section to reflect an allowance for up to 5 years of temporary closure, which is consistent with provisions contained in Subchapter F for large aboveground tanks.

5. *Section 245.615. Recordkeeping requirements.*

Two commentators expressed a concern that the original design and installation specifications were not available for all existing aboveground storage tanks and suggested that the Department clarify its intent that the recordkeeping requirement applies only to new aboveground storage tanks installed after October 1, 1997.

The Department's intent is to require design and specification records for all new tanks installed after October 1, 1997. Records which are currently available for tanks installed prior to October 1, 1997 must also be maintained. Obviously, records which are no longer available for previously installed tanks cannot be maintained.

Because of the importance of third-party inspection reports, the Department has changed the requirement to maintain inspection reports in subsection (b)(6) from only the last inspection report to all third-party inspection reports.

Finally, the Department has clarified subsection (b)(3) to require maintenance only of those permits issued under Subchapter C, rather than all Federal and State permits issued for the facility or storage tank system.

6. *Section 245.616. Inspection requirements.*

Several commentators stated that the Department should change the requirement for in-service inspections for aboveground storage tanks storing hazardous substances from 1,100 gallons to 5,000 gallons. They further stated that if this requirement is retained, the Department should justify the additional burden based on the relative risks of different products stored in small ASTs.

The Department has amended § 245.616(c) to require in-service inspections of tanks with a capacity greater than 1,100 gallons only when the tank contains a highly hazardous substance. All small aboveground storage tanks with greater than 5,000 gallons capacity containing a regulated substance shall also be inspected. Small aboveground storage tanks that do not fall into either category need not have an operations inspection.

Two commentators expressed concern that all regulated aboveground storage tanks greater than 1,100 gallons should be required to have in-service inspections, regard-

less of the product stored. One of the commentators expressed knowledge of four failures of the small aboveground storage tanks in the last year.

The Department believes that its requirements for secondary and emergency containment adequately protect the environment and public health without the additional expense of in-service inspections for all hazardous substance aboveground storage tanks of 5,000 gallons or less capacity. Because of the higher risk associated with tanks storing highly hazardous substances, the Department is requiring storage tanks in excess of 1,100 gallons holding the substances to have in-service inspections.

STAC expressed concern that the phase-in periods for inspections of existing small aboveground storage tanks were too short. The Department agrees and has changed the phase-in periods in § 245.616(c)(2) and (3) from 5 years and 3 years to 6 years and 5 years, respectively.

F. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulations. Because four new separate subchapters, along with amendments to two existing subchapters, are included in this final rulemaking package, they will be addressed individually in each category.

Benefits

Subchapter A: By adopting the Federal Lender Liability rule by reference, the Department will have regulations in place that provide clear protection to lending institutions who hold a financial interest in underground storage tanks. This rule clearly defines what represents a financial versus control interest for lending institutions. It compliments Act 3 of 1995 and works in concert with the goals of Act 2 of 1995. Through this rule, lending institutions should be more willing to take possession of forfeited underground storage tank sites, loan money for upgrades and invest in the development of new sites.

Subchapter C: Given the size of the regulated universe of underground and aboveground tanks in this Commonwealth, a "traditional" permitting program for the operation or installation of tanks could never succeed, as processing so many forms in a timely manner would be extremely cumbersome. Therefore, this subchapter focuses only on those storage tanks determined by the General Assembly to be of the most concern from a permitting perspective, the installation of aboveground storage tanks with greater than 21,000 gallons capacity at a new or existing facility. These storage tanks can be quite large, reaching millions of gallons of capacity. If designed correctly and placed in a safe location, they can also be quite safe. The focus of this subchapter is to ensure that these tanks are sited and constructed properly.

Subchapter E: This subchapter primarily codifies existing regulations, so new benefits as a result will be limited. The major benefit of taking this action is that all regulations for underground storage tanks will be contained in one place, allowing owners and operators to understand what is required without having to turn to 40 CFR Part 280.

There are smaller benefits to this part of the package as well. With the promulgation of SIR regulations, owners and operators who use these methods to meet release detection requirements will be assured that they are receiving valid results. Underground tank owners/operators are also put on notice that use of a coax vapor recovery system will nullify overfill protection provided by flow vent valves, thereby reducing money spent on equip-

ment that will not meet the established performance standards. Finally, several issues that were left unclear by 40 CFR Part 280 (for example, when a removed underground storage tank can be reused) are answered by this subchapter, eliminating confusion.

Subchapters F and G: With the promulgation of these subchapters, the Commonwealth will finally have a comprehensive regulatory program for aboveground storage tanks. These subchapters are designed to reduce the likelihood of the Commonwealth seeing another release of the magnitude that occurred in Ashland Oil's 1989 tank collapse. By relying on industry standards as the basis for performance standards in the various areas of aboveground storage tank installation, operation and closure, these regulations reward those who have been following the industry-set rules and requires persons who are operating below those standards to catch up. Aboveground storage tanks generally do not pose the same release hazards as underground tanks (as one can see most releases rather readily) but do represent a greater catastrophic hazard. These subchapters represent an attempt to eliminate or reduce both the slow release hazard (due, for example, to a lack of corrosion prevention) as well as the catastrophic hazards.

Compliance Costs

Subchapter C: In general, the Department has attempted to minimize costs in the permitting area by requiring little or no new information for operating permits-by-rule or general permits. Costs will be incurred with the site-specific installation permits required by Chapter 11 of the act. The Department has attempted to limit its requirements for the information that must be included in a permit application. The information requested under this rulemaking is either readily available, or is the sort of information that normally should be compiled when a large construction project is being proposed.

Although this final rulemaking did not retain a specific section of permit fees, the requirement to submit permit applications will trigger the permit fee requirements in sections 304 and 504 of the act. Based on averages for installation of new storage tank systems over the past 6 years in this Commonwealth, the Department estimate that approximately \$100,000 of permit fees per year will be assessed to the regulated community.

Subchapter E: The Department does not anticipate any new compliance costs associated with this subchapter, as almost all of the requirements already exist in current law. The Department does establish a schedule for the inspection of underground storage tank facilities by certified inspectors. At the present time, the Department is requiring these inspections for a limited segment of the underground storage tank universe. Because tank owners/operators must pay for these third-party inspections, the establishment of a schedule may lead to these costs being incurred sooner than they would be without a formal schedule. The periodic inspection requirement itself is mandated by the act, however, and is not a new obligation.

Vendors of SIR test methods must have their method's performance claims verified by an independent third-party using leak rates that are unknown to the tester. While this will involve some expense for the vendors, the underground storage tank owner/operator who is relying on the method for release detection will have the assur-

ance that the SIR system they have chosen will meet the regulatory requirements.

Finally, this rulemaking requires owners/operators who close only the piping part of an underground storage tank system to prepare a closure report describing that action. Because the closure report includes a site assessment, this will involve soil sampling and corrective action if contamination above action levels is discovered. Although sampling in piping runs will be fairly limited, it will still involve some additional expense. It is difficult to say exactly how much more this will cost because the sampling protocol for closure is fairly site-specific.

Subchapters F and G: These two subchapters represent the creation of a comprehensive program to regulate aboveground storage of regulated substances. For the most part, however, an owner/operator of an aboveground storage tank who has been following the State Fire Marshal's requirements (37 Pa. Code Part I, Subpart B (relating to flammable and combustible liquids)) and recommended industry codes of practice should not notice any overwhelming changes as a result of this rulemaking. In general, the Department tried to follow industry standards when establishing these aboveground storage tank standards of performance.

Costs to the Commonwealth: The two new programs established by this rulemaking package are permitting and aboveground tank regulations. Generally, the addition of new responsibilities would lead to increased costs to the Commonwealth for running the program. Many of the requirements in the aboveground tank regulations have phase-in periods measured in years, so the workload should not be overwhelming right at the start. It is believed, therefore, that it will be possible to shift resources and time currently being spent in the underground program to focus on implementation of the aboveground regulations. Finally, the Department does not anticipate new resource expenditures as a result of Subchapter E.

Compliance Assistance Plan

As of this time, there is only a small amount of public financial assistance available to owners and operators of storage tanks. The Small Business First Fund, managed by the Department of Community and Economic Development, does have low-interest loans available. Tank owners and operators may apply for these loans to bring their facilities into compliance with the requirements of Chapter 245. By addressing underground storage tank lender liability in this rulemaking, the Department hopes that more private funding sources will develop to assist owners and operators in meeting the costs of compliance.

The Department currently operates a fairly extensive program of outreach activities designed to assist owners and operators of storage tanks as well as certified individuals. This program includes the *Storage Tank Monitor*, a quarterly newsletter; a series of detailed factsheets that focus on single issues in the storage tank program (for example, release reporting); seminars featuring a Nationally-recognized storage tank technology expert (to date, leak detection training and closure training); and training sessions presented by regional and central office training teams on a variety of issues. It also includes guidance documents on preparing SPR Plans and correct closure procedures. The Department also presents general program seminars jointly with the regulated community and consults with the STAC on regulation and policy development.

The Department expects these efforts to continue and be intensified, especially as the EPA's 1998 underground storage tank upgrade deadline approaches. In addition, new efforts will be made to educate the regulated community about those requirements that will appear in Commonwealth regulations for the first time. Aboveground storage tank requirements will be covered in much greater detail in outreach activities after these amendments become effective. As noted in Section D of this Preamble, technical guidance manuals will be prepared for both the underground and aboveground storage tank programs outlining what industry codes of practice may be followed to meet the performance standards contained in these amendments.

Paperwork Requirements

Subchapter C: By covering the operation of storage tanks by either permits-by-rule or general permits, the Department has attempted to limit the paperwork required under this subchapter. When application for a site-specific installation permit is required by Chapter 11 of the act, however, a full permit application will need to be submitted. The information in the application is limited to that which is necessary for the Department to make an informed decision on the application. In addition, the Department believes that much of the information required by this subchapter will be readily available to owners/operators. Finally, when coordination with other State or Federal agencies is necessary, the Department will take the lead in ensuring that the information is available and coordinating the necessary reviews.

Subchapter E: Because the requirements of Subchapter E are already in effect in this Commonwealth under § 245.2, few new paperwork requirements are contained in this subchapter. In fact, § 245.455 will actually reduce current reporting requirements, as closure reports for underground storage tanks will no longer have to be submitted to the Department (although closure reports still must be completed).

One new paperwork requirement is found in § 245.452(c), which requires a closure report to be completed when only the piping run of an underground storage tank system is closed. Because of persistent problems with leaking piping, however, the Department believes that assessment of the piping areas when piping is closed is appropriate.

Subchapter F: Because Subchapter F is being added as a new comprehensive regulatory program for aboveground storage tanks, almost all of the paperwork requirements are new. Currently, the only forms required to be filed in relation to aboveground storage tanks are storage tank registration forms and tank handling activity and inspection report forms. The Department has attempted to minimize the need for new forms and limit the use of new forms to those areas where forms and recordkeeping are absolutely necessary. Section 245.516 (relating to recordkeeping requirements) outlines the recordkeeping and reporting requirements under this subchapter. Paperwork not required under the existing aboveground storage tank program includes: leak detection records, cathodic protection monitoring results, monthly maintenance inspection records and closure reports. All of this information is important in sound tank management and is consistent with Nationally recognized standards.

Subchapter G: Subchapter G represents the addition of a simplified yet comprehensive regulatory program for small aboveground storage tanks. As a result, there will be new paperwork required from owners/operators of

these tanks. Because this subchapter represents a simplified program, the Department has attempted to reduce paperwork on these aboveground storage tanks to only those documents that are essential.

Section 245.615 (relating to recordkeeping requirements) outlines the recordkeeping and reporting requirements for this subchapter. Generally, the Department has tried to limit the paperwork required to those records that should otherwise be kept as a sound business practice. An example would be the original tank and system installation record and design specifications. In addition, the Department is not requiring the submission of these records to the Department in most instances. The owner/operator need only maintain the records at the facility site. Finally, closure reports are not required for this class of storage tanks. Only an amended registration form need be submitted.

G. Pollution Prevention

Generally speaking, the term "pollution prevention" refers to the minimization of the wastes generated in a commercial process by altering that process. The storage tank program has a slightly different approach. The goal is to keep substances that are harmful to the public and the environment from being released at all. The programs set out in this rulemaking package are designed to halt the release and spread of regulated substances from storage tanks located in this Commonwealth. These regulations create a cradle-to-grave program with the goal of making sure that the storage tank is installed, maintained, operated, closed and removed in a manner that will minimize the likelihood of a release. If a release does occur, these amendments and the regulations that currently exist in Chapter 245 are designed to detect the release quickly, contain it if possible, and make sure that corrective action is carried out expeditiously, thus minimizing exposure to the public and the environment.

In this final rulemaking, the Department is attempting to reach these goals through a combination of performance standards, with built-in flexibility (including the possibility of a variance) as to how the regulated community achieves the goals, and reliance on industry standards. By taking this approach, the Department hopes to reduce pollution, protect human health and the environment, lower the number of corrective actions that must eventually be commenced, decrease the amounts of contaminated soil and groundwater that must be dealt with and do so in a manner that is flexible and reasonable.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 11, 1996, the Board submitted a copy of the notice of proposed rulemaking to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for their review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

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

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on August 25, 1997. IRRC met on September 4, 1997, and approved the regulation in accordance with section 5(c) of the Regulatory Review Act.

J. Findings

The Board finds that:

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

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

(3) These amendments do not enlarge the purpose of the proposal published at 26 Pa.B. 3073 (June 29, 1996).

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

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 245, are amended by amending §§ 245.1, 245.2 and 245.31; and by adding §§ 245.201—245.205, 245.211, 245.212, 245.221, 245.222, 245.231—245.237, 245.401—245.405, 245.411, 245.421—245.425, 245.431—245.435, 245.441—245.446, 245.451—245.455, 245.501—245.504, 245.511—245.516, 245.521—245.526, 245.531—245.534, 245.541—245.543, 245.551—245.554, 245.561, 245.562, 245.601—245.604 and 245.611—245.616 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(e) This order shall take effect immediately.

JAMES M. SEIF,
Chairperson

(Editor's Note: The amendment of § 245.31 was not included in the proposal at 26 Pa.B. 3073. The proposal to add §§ 245.206 and 245.207, included in the proposal at 26 Pa.B. 3073, has been withdrawn by the Board.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4879 (September 20, 1997).)

Fiscal Note: Fiscal Note 7-296 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY

CHAPTER 245. ADMINISTRATION OF THE STORAGE TANK AND SPILL PREVENTION PROGRAM

**Subchapter A. GENERAL PROVISIONS
GENERAL**

§ 245.1. Definitions.

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

* * * * *

Aboveground storage tank—One or a combination of stationary tanks with a capacity in excess of 250 gallons, including underground pipes and dispensing systems connected thereto within the emergency containment area, which is or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes tanks which can be visually inspected, from the exterior, in an underground area. The term does not include the following, or pipes connected thereto:

(i) A tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes or motor oil.

(ii) A tank used for storing heating oil for consumptive use on the premises where stored.

(iii) A pipeline facility, including gathering lines, regulated under:

(A) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. App. §§ 1671—1687).

(B) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A. §§ 2001—2015).

(C) An interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (A) or (B).

(iv) A surface impoundment, pit, pond or lagoon.

(v) A stormwater or wastewater collection system.

(vi) A flow-through process tank, including, but not limited to, a pressure vessel and oil and water separators.

(vii) A nonstationary tank liquid trap or associated gathering lines directly related to oil and gas production or gathering operations.

(viii) Tanks which are used to store brines, crude oil, drilling or frac fluids and similar substances or materials and are directly related to the exploration, development or production of crude oil or natural gas regulated under the Oil and Gas Act (58 P. S. §§ 601.101—601.605).

(ix) Tanks regulated under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31).

(x) Tanks used for the storage of products which are regulated under the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. §§ 301—392).

(xi) Tanks regulated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

(xii) A tank of 1,100 gallons or less in capacity located on a farm used solely to store or contain substances that are used to facilitate the production of crops, livestock and livestock products on the farm.

(xiii) Tanks which are used to store propane gas.

(xiv) Tanks containing radioactive materials or coolants that are regulated under the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2297).

(xv) Tanks regulated under the act of May 2, 1929 (P. L. 1513, No. 451), known as the Boiler Regulation Law (35 P. S. §§ 1301—1500).

(xvi) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(xvii) A tank that contains a de minimis concentration of regulated substances.

(xviii) An emergency spill or overflow containment tank that is expeditiously emptied after use.

(xix) Other tanks excluded by regulations promulgated under the act.

* * * * *

Beneath the surface of the ground—Beneath the ground surface or otherwise covered with earthen materials.

* * * * *

CERCLA—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §§ 9601—9675).

* * * * *

Cathodic protection tester—A person who can demonstrate an understanding of the principles and measurements of common type of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, the person shall have education and experience in soil resistivity, stray current, structure to soil potential and component electrical isolation measurements of buried metal piping and tank systems.

Change-in-service—One of the following:

(i) Continued use of a storage tank system to store an unregulated substance.

(ii) Continued use of a storage tank system in a manner which would exempt the system from the definition of aboveground storage tank or underground storage tank.

* * * * *

Coax vapor recovery—The use of a coaxial fitting to provide Stage I vapor recovery; one orifice for the conveyance of the product to the tank and a second, concentric orifice for venting the tank to the delivery vehicle.

Combination of tanks—Tanks connected together at a manifold in a manner that they act as a single unit; tank capacity for a combination of tanks is the sum of the individual tank capacities.

Compatible—The ability of two or more substances to maintain their respective physical and chemical proper-

ties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the tank system.

Connected piping—All piping including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual tank system, the piping that joins two regulated systems should be allocated equally between them.

Consumptive use—the term means, with respect to heating oil, that which is consumed on the premises.

* * * * *

Corrosion expert—A person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

Corrosion protection—The protection of metal from deterioration. The deterioration may be due to a natural electrochemical reaction between the metal and the soil or other electrolyte, or because of stray direct currents.

De minimis—With regard to products containing regulated substances, the term applies when the regulated substance is of insufficient concentration to be required to appear on a Material Safety Data Sheet (MSDS). The term does not apply to section 507 of the act (35 P. S. § 6021.507) as it pertains to site contamination.

Dielectric material—A material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate tank systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the tank system for example, tank from piping.

Electrical equipment—Equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

Emergency containment—A containment structure which serves to convey, capture and contain the total volume of an anticipated release of regulated substance from an aboveground or underground storage tank system and which is expeditiously emptied.

* * * * *

Excavation zone—The volume containing the tank system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the underground storage tank system is placed at the time of installation.

* * * * *

Existing underground storage tank system—An underground storage tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if the following apply:

(i) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction of the site or installation of the tank system.

(ii) One of the following apply:

(A) A continuous onsite physical construction or installation program has begun.

(B) The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

* * * * *

Gathering lines—A pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

* * * * *

Hazardous substance storage tank system—A storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (42 U.S.C.A. § 101(14)). The term does not include a storage tank system that contains a substance regulated as a hazardous waste under Subtitle C of CERCLA, or mixture of the substances and petroleum, and which is not a petroleum system.

Heating oil—Petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

Highly hazardous substance tank—A storage tank of greater than 1,100 gallons capacity which contains reportable quantities of substances with CERCLA reportable release quantity of 10 pounds or less, as identified by 40 CFR Part 302 (relating to designation, reportable quantities, and notification).

Hydraulic lift tank—A tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators and other similar devices.

In-service inspection—A scheduled aboveground storage tank external inspection to determine tank system serviceability and compliance with requirements in this chapter and applicable industry standards. This inspection shall be conducted by a Department-certified aboveground storage tank inspector. The tank system may be in operation during this inspection.

* * * * *

Large aboveground storage tank—An aboveground storage tank having a capacity greater than 21,000 gallons.

Large aboveground storage tank facility—An aboveground storage tank facility with greater than 21,000 gallons total aboveground storage capacity.

Liquid trap—Sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquids. The liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

* * * * *

Motor fuel—Petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2

diesel fuel or any grade of gasohol, and is typically used in the operation of an internal combustion engine.

* * * * *

New underground storage tank system—An underground storage tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See the definition of "existing underground storage tank system.")

Noncommercial purposes—The term means, with respect to motor fuel, motor fuel not for resale.

* * * * *

On the premises where stored—With respect to heating oil, the term means tank systems located on the same property where the stored heating oil is used.

Operational life—The period beginning when installation of the tank system has commenced until the time the tank system is properly closed.

* * * * *

Out-of-service inspection—A scheduled aboveground storage tank inspection that encompasses both internal and external examination to determine tank system serviceability and compliance with requirements in this chapter and applicable industry standards. This inspection shall be conducted by a Department-certified aboveground storage tank inspector. The tank system may not be in operation during this inspection.

Overfill—A release that occurs when a tank is filled beyond its capacity.

* * * * *

Petroleum system—A storage tank system that primarily contains petroleum, and may contain additives or other regulated substances. The term includes systems containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

Pipe or piping—A hollow cylinder or tubular conduit that is constructed of nonearthen materials. The terms include the associated fittings such as unions, elbows, tees and flexible joints.

Pipeline facilities (including gathering lines)—New and existing pipe rights-of-way and associated equipment, facilities or buildings.

* * * * *

Reconstruction—The work necessary to reassemble a storage tank that has been dismantled and relocated to a new site.

* * * * *

Removal from service—The term includes the following:

(i) Activities related to rendering an underground storage tank system permanently unserviceable. Activities include the oversight of the proper draining and cleaning of the storage tank system of product liquids, vapors, accumulated sludges or solids, and completing one of the following:

* * * * *

(ii) Discontinued use, abandonment, closure in place and permanent closure but does not include temporary closure as those terms are used in the act.

(iii) Site assessment activities required under Subchapter E (relating to technical standards for under-

ground storage tanks) and applicable State law, which are the responsibility of owners and operators, but are not conducted by certified installers or inspectors.

* * * * *

Residential tank—A tank located on property used primarily for dwelling purposes.

* * * * *

SARA—The Superfund Amendments and Reauthorization Act of 1986, the act of October 17, 1986 (Pub.L. No. 99-499, 101 Stat. 1613).

* * * * *

Septic tank—A watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer.

* * * * *

Stormwater or wastewater collection system—Piping, pumps, conduits and other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or the areas where treatment is designated to occur. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.

* * * * *

Surface impoundment—A natural topographic depression, manmade excavation or diked area formed primarily of earthen materials, although it may be lined with man-made materials, that is not an injection well.

* * * * *

Tank—A stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials, for example, concrete, steel or plastic that provide structural support.

* * * * *

Underground area—An underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

* * * * *

Underground storage tank—One or a combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term does not include:

- (i) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (ii) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.
- (iii) A septic or other subsurface sewage treatment tank.
- (iv) A pipeline facility (including gathering lines) regulated under:
 - (A) The Natural Gas Pipeline Safety Act of 1968.
 - (B) The Hazardous Liquid Pipeline Safety Act of 1979.

(v) An interstate or intrastate pipeline facility regulated under State laws comparable to the provisions of law in subparagraph (iv).

(vi) Surface impoundments, pits, ponds or lagoons.

(vii) Stormwater or wastewater collection systems.

(viii) Flow-through process tanks.

(ix) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(x) Storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the tank is situated upon or above the surface of the floor.

(xi) Tanks regulated under the Solid Waste Management Act, including, but not limited to, piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management, except for tanks subject to 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)).

(xii) An underground storage tank system with capacity of 110 gallons or less.

(xiii) Tanks containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2297).

(xiv) A wastewater treatment tank system.

(xv) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(xvi) An underground storage tank system that contains a de minimis concentration of regulated substances.

(xvii) An emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.

(xviii) An underground storage tank system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50, Appendix A (relating to general design criteria for nuclear power plants).

(xix) Other tanks excluded by policy or regulations promulgated under the act.

Underground storage tank system—An underground storage tank, connected piping and ancillary equipment and containment system.

Underground vault—A structure which is beneath the surface of the ground and is designed specifically to contain an aboveground storage tank.

* * * * *

Upgrade—The addition or retrofit of some systems such as cathodic protection, lining or spill and overflow controls to improve the ability of a storage tank system to prevent the release of product.

Wastewater treatment tank—A tank that is designed to receive and treat an influent wastewater through physical, chemical or biological methods.

* * * * *

§ 245.2. General.

(a) A person may not install, construct, erect, modify, operate or remove from service all or part of a storage tank system or storage tank facility in a manner that violates the act, this part or applicable Federal regula-

tions adopted under the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6901—6987). This chapter incorporates by reference the Federal regulations in 40 CFR Part 280, Subpart I (relating to lender liability).

(b) Whenever industry codes are specified in this chapter, the latest edition shall be used. When industry codes are updated, facilities installed to previously existing standards prior to the update will not automatically be required to be upgraded to meet the new standard. The requirements of this chapter shall govern in the event of a conflict between the requirements of this chapter and an applicable industry standard.

(c) A person may not install a storage tank system regulated under the act unless the system does the following:

(1) Will prevent releases due to corrosion or structural failure for the operational life of the system.

(2) Is protected against corrosion and designed in a manner to prevent the release or threatened release of any stored substance.

(3) Is constructed or lined with material that is compatible with the stored substance.

TIGHTNESS TESTING ACTIVITIES

§ 245.31. Underground storage tank tightness testing requirements.

(a) Tightness testing activities shall be conducted by a Department certified underground tightness testing (UTT) installer, except when performed by an owner or operator using installed automatic tank gauging or monitoring equipment.

(b) Tightness testing is required to be conducted when it is:

(1) Used as a method of release (leak) detection as prescribed in §§ 245.442(1) and 245.443(1) (relating to requirements for petroleum underground storage tank system; and requirements for hazardous substance underground storage tank systems).

(2) Used to complete the installation of a new single wall constructed underground storage tank. The testing is an integral part of the installation process.

(3) Used in conjunction with cathodic protection upgrading as prescribed in § 245.422(b)(2)(iii) or (v) (relating to upgrading of existing underground storage tank systems).

(4) Used to test tanks repaired in response to a release as prescribed in § 245.434(5) (relating to repairs allowed).

(5) Otherwise required by the Department.

(c) Tightness testing shall be conducted in accordance with equipment manufacturer's written instructions and using the recommended written practices, procedures and established test method protocols developed by the sources in § 245.132(a)(1) (relating to standards of performance).

(d) A failed valid tightness test will, regardless of the test method, constitute a suspected release, except as provided in § 245.304(b) (relating to investigation of suspected releases). A failed valid tightness test conducted as part of an investigation of a suspected release constitutes a confirmed release.

(e) A written test report shall be provided to the tank owner as documentation of test results. The test methodology, a certification that the test meets the requirements

of § 245.444(3) (relating to methods of release detection for tanks) and sufficient test data, which were used to conclude that the tank passed or failed the tightness test, shall be included in the test report.

Subchapter C. PERMITTING OF UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEMS AND FACILITIES

GENERAL

- Sec.
- 245.201. Scope.
- 245.202. Public records and confidential information.
- 245.203. General requirements for permits.
- 245.204. Form of application.
- 245.205. Verification of application.

PERMITS-BY-RULE

- 245.211. Scope.
- 245.212. Minimum requirements for obtaining a permit-by-rule.

GENERAL OPERATING PERMITS

- 245.221. Scope.
- 245.222. Application requirements.

SITE SPECIFIC INSTALLATION PERMITS

- 245.231. Scope.
- 245.232. General requirements.
- 245.233. Mapping requirements.
- 245.234. Siting requirements.
- 245.235. Environmental assessment.
- 245.236. Public notice.
- 245.237. Public hearings.

GENERAL

§ 245.201. Scope.

This subchapter specifies procedures and rules for the permitting of aboveground and underground storage tank systems and facilities. Compliance with the permitting requirements in this subchapter does not relieve a permittee from the obligation to comply with other Federal, State or local requirements.

§ 245.202. Public records and confidential information.

(a) Except as provided in subsection (b), records, reports or other information submitted to the Department under this subchapter will be made available to the public for inspection or copying during regular business hours.

(b) The Department may, upon request, designate records, reports or other information as confidential when the person providing the information demonstrates the following:

(1) The information contains trade secret processes, operations, style of work or apparatus of a person or is otherwise confidential business information.

(2) The information is not emission, discharge or testing data or other information that relates to public health, safety, welfare or the environment.

(c) When submitting information under this subchapter, a person shall designate the information which the person believes is confidential or shall submit that information separately from other information being submitted.

(d) Information which the Department determines to be confidential under this section will not be made available to the public.

(e) This section does not prevent the disclosure of information submitted to the Department as part of a general or site specific permit application which meets one of the following:

(1) The Department is required to make the information available to the public as part of the permit application information.

(2) The Department determines that it is necessary to disclose the information during any comment period necessary to obtain informed public comment on the permit application.

§ 245.203. General requirements for permits.

(a) Except as provided in subsections (b)—(d), a person may not operate an aboveground or underground storage tank system or storage tank facility, or install a storage tank system or facility covered by § 245.231 (relating to scope), unless the person has first applied for and obtained a permit for the activity from the Department under this subchapter.

(b) A person is not required to submit an application for a permit if the storage tank system is subject to a permit-by-rule, if the person maintains and operates the storage tank system in compliance with the standards and requirements of the Department under the act and this chapter. Failure to comply with standards could result in administrative or other Departmental actions against the storage tank owner/operator.

(c) A person may continue to operate an existing storage tank system for its intended use until the Department notifies the person to submit a permit application under this subchapter, if the person maintains and operates the storage tank system in compliance with the act and this chapter.

(d) Operation of existing storage tank systems will be allowed to continue until the Department takes final action on the permit application requested in subsection (c).

(e) Operating permits will be renewed automatically on an annual basis concurrent with registration. There will be no additional fee or paperwork required beyond the registration requirements.

§ 245.204. Form of application.

(a) Applications for a permit under this subchapter shall be submitted to the Department in writing, on forms provided by the Department.

(b) The information in the application shall be current, presented concisely and supported by appropriate references to technical and other written material available to the Department.

§ 245.205. Verification of application.

An application for a general or site specific permit shall be verified by a responsible official of the applicant with a statement that the information contained in the application is true and correct to the best of the official's information and belief.

PERMITS-BY-RULE

§ 245.211. Scope.

The following storage tank systems are subject to permit-by-rule for operation:

(1) Aboveground storage tank systems with a capacity less than or equal to 21,000 gallons, except highly hazardous substance storage tank systems.

(2) Underground manufactured storage tank systems storing petroleum.

§ 245.212. Minimum requirements for obtaining a permit-by-rule.

(a) A storage tank system listed in § 245.211 (relating to scope) shall be deemed to have a permit-by-rule for operation if the following conditions are met:

(1) The storage tank system is properly registered.

(2) Tank handling and inspection activities are performed by Department certified individuals, as specified in Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(3) If necessary, the corrective action process regulations in Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) are followed.

(4) The storage tank system meets the applicable technical, administrative and operational requirements for underground tank systems specified in Subchapter E (relating to technical standards for underground storage tanks) or for aboveground tank systems specified in Subchapter G (relating to simplified program for small aboveground storage tanks).

(5) The owner of an underground storage tank system has met the applicable financial responsibility requirements of Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(6) If required, the owner submits a current Spill Prevention and Response Plan that meets the Department's requirement under Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904).

(b) The owner/operator of a storage tank system who causes or allows violations of the act, regulations thereunder, an order of the Department, or a condition of a permit issued under the act is subject to administrative or other actions including suspension, modification or revocation of the permit.

GENERAL OPERATING PERMITS

§ 245.221. Scope.

Storage tank systems not covered by § 245.211 (relating to scope) are subject to general operating permits.

§ 245.222. Application requirements.

Applications for a general operating permit shall be submitted on a Department form. The application shall certify the following:

(1) General requirements for all storage tank systems are as follows:

(i) The storage tank system is properly registered.

(ii) Tank handling and inspection activities are performed by Department certified individuals, as specified in Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(iii) The storage tank system is in compliance with applicable administrative, technical and operational requirements as specified in Subchapter E or Subchapter F (relating to technical standards for underground storage tanks; and technical standards for aboveground storage tanks and facilities).

(2) In addition to the requirements of paragraph (1), an owner of an underground storage tank system shall meet

the applicable financial responsibility requirements of Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(3) In addition to the requirements of paragraph (1), an owner of an aboveground storage tank system shall meet the following requirements:

(i) A current Spill Prevention Response Plan, that is in compliance with Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904), is filed with the Department.

(ii) For new tanks, proof that an appropriate tightness test of the aboveground tank system has been completed.

SITE SPECIFIC INSTALLATION PERMITS

§ 245.231. Scope.

(a) Site specific installation permits are required prior to the construction, reconstruction or installation of one or more of the following:

(1) New aboveground storage tank systems with a capacity greater than 21,000 gallons at an existing large aboveground storage tank facility.

(2) New large aboveground storage tank facilities.

(b) Site specific installation permits meeting the requirements in §§ 245.232(a)(1) and (2) and 245.236 (relating to general requirements; and public notice) are required prior to the construction, reconstruction or installation of one or more of the following:

(1) New underground field constructed storage tank systems.

(2) New underground highly hazardous substance tanks.

(3) New small aboveground highly hazardous substance tanks.

(c) If the facility owner or operator can demonstrate that, on October 11, 1997, either construction has commenced or the owner/operator has entered into contractual agreements for construction of a new storage tank or facility covered by this section, the requirements of this section will not apply.

§ 245.232. General requirements.

(a) Applicants for site-specific permits shall provide the following:

(1) Certification that the tank handling and inspection activities will be performed by Department certified individuals, as specified in Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(2) Certification that the storage tank system will be in compliance with applicable administrative, technical and operational requirements as specified in Subchapters E—G (relating to technical standards for underground storage tanks; technical standards for aboveground storage tanks and facilities; and simplified program for small aboveground storage tanks).

(3) The information required by §§ 245.233 and 245.234 (relating to mapping requirements; and siting requirements).

(4) The environmental assessment required by § 245.235 (relating to environmental assessment).

(b) In addition to the items required by subsection (a), owners of aboveground storage tank systems or facilities required to apply for a site specific permit shall include:

(1) A current Spill Prevention Response Plan that is in compliance with Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904).

(2) Proof of notification to the municipality and county prior to submitting the application for a site specific installation permit under section 1101(a) of the act (35 P. S. § 6021.1101(a)) and § 245.236 (relating to public notice). Acceptable proof of notification includes, but is not limited to, copies of letters sent to the affected municipality and county and legal notices published in a newspaper of general circulation in the area where the project is proposed.

§ 245.233. Mapping requirements.

(a) A site-specific permit application shall contain maps and plans of the proposed storage tank system or facility site showing the following:

(1) The boundaries for the proposed facility site.

(2) The location and names of public roads within or adjacent to the proposed facility site.

(3) The location of proposed monitoring wells.

(4) The municipality and county.

(5) The elevation and location of test borings and core samples.

(6) The ownership, if known, location and extent of known workings of active, inactive and abandoned underground mines including mine openings within the proposed permit site.

(7) Streams, lakes or surface watercourses located on or adjacent to the proposed permit site.

(8) The location and ownership of public or private groundwater supplies within 2,500 feet of the proposed permit site.

(9) Sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit site.

(b) Maps, plans and cross sections required by this section shall be accurately surveyed and on a scale satisfactory to the Department, not less than 1 inch to 400 feet and in a manner satisfactory to the Department. The maps, plans and cross sections shall be prepared by a Pennsylvania registered professional engineer, Pennsylvania registered land surveyor or Pennsylvania registered professional geologist with assistance from experts in related fields.

§ 245.234. Siting requirements.

(a) The Department will not issue a site specific storage tank system or facility installation permit if:

(1) The installation of tank systems and facilities is proposed on 100-year floodplains or a larger area that the flood of record has inundated unless the industrial use on the proposed site was in existence as of August 5, 1989.

(2) The installation of tank systems and facilities is proposed in wetlands in a manner inconsistent with Chapter 105 (relating to dam safety and waterway management).

(b) The applicant shall provide the following additional information if appropriate:

(1) Over areas underlain by carbonate bedrock, the applicant shall provide information and analysis to the Department which assesses the prevalence of solution channels and the potential for sinkholes at the facility site.

(2) If any part of a proposed facility has been previously mined by deep mining methods, the applicant shall provide the results of an engineering study of the proposed site by a Pennsylvania registered professional engineer or Pennsylvania registered professional geologist. The study shall be detailed enough to assess the potential for and degree of surface subsidence. The study shall also include methods which have been used or will be used to stabilize the surface. The applicant shall provide assurance that minerals providing surface support will not be mined as long as the facility stores regulated substances.

§ 245.235. Environmental assessment.

(a) An application for a site specific permit shall include an environmental assessment on a form prescribed by the Department.

(b) An environmental assessment in a permit application shall include detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including air quality, water quality, threatened or endangered species and water uses. The applicant shall consider environmental features such as recreational river corridors, State and Federal parks, historic and archaeological sites, National wildlife refuges, State and Federal natural areas, prime farmland, wetlands, special protection watersheds designated under Chapter 93 (relating to water quality standards), public water supplies and other features deemed appropriate by the Department or the applicant.

(c) The Department, after consultation with appropriate governmental agencies and potentially affected persons, will evaluate the assessment provided under subsection (a) to determine whether the proposed operation has the potential to cause environmental harm. If the Department determines that the proposed operation has that potential, it will notify the applicant in writing.

(d) If the Department or the applicant determines that the proposed operation may cause environmental harm, the applicant shall provide the Department with a written explanation of how it plans to mitigate the potential harm.

§ 245.236. Public notice.

The owner of a proposed new large aboveground storage tank facility or proposed aboveground storage tank system with greater than 21,000 gallons capacity or proposed new highly hazardous substance tank shall provide written notice to the local municipality and county in which the proposed aboveground system or facility is to be located prior to submitting a permit application.

§ 245.237. Public hearings.

Upon submission to the Department of a permit application to construct a new large aboveground storage tank facility or a new highly hazardous substance storage tank system, the Department may hold a public hearing in the municipality or county in which the aboveground storage tank facility or highly hazardous substance tank system is proposed to be located.

Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS

GENERAL

Sec.

- 245.401. Purpose.
245.402. Scope.
245.403. Applicability.

- 245.404. Variances.
245.405. Codes and standards.

FACILITY INSPECTIONS

- 245.411. Inspection frequency.

UNDERGROUND STORAGE TANK SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION

- 245.421. Performance standards for new underground storage tank systems.
245.422. Upgrading of existing underground storage tank systems.
245.423. Registration requirements.
245.424. Standards for new field constructed tank systems.
245.425. Reuse of removed tanks.

GENERAL OPERATING REQUIREMENTS

- 245.431. Spill and overfill control.
245.432. Operation and maintenance including corrosion protection.
245.433. Compatibility.
245.434. Repairs allowed.
245.435. Reporting and recordkeeping.

RELEASE DETECTION

- 245.441. General requirements for underground storage tank systems.
245.442. Requirements for petroleum underground storage tank systems.
245.443. Requirements for hazardous substance underground storage tank systems.
245.444. Methods of release detection for tanks.
245.445. Methods of release detection for piping.
245.446. Release detection recordkeeping.

OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE

- 245.451. Temporary closure.
245.452. Permanent closure and changes-in-service.
245.453. Assessing the site at closure or change-in-service.
245.454. Applicability to previously closed underground storage tank systems.
245.455. Closure records.

GENERAL

§ 245.401. Purpose.

This subchapter establishes the operational and technical requirements for underground storage tanks and underground storage tank facilities.

§ 245.402. Scope.

This subchapter applies to underground storage tanks regulated under the act and this chapter.

§ 245.403. Applicability.

(a) *General.* The requirements of this subchapter apply to owners and operators, as well as installers and inspectors of underground storage tank systems as defined in § 245.1 (relating to definitions), except as otherwise provided in subsection (b).

(b) *Deferrals.* Sections 245.441—245.446 (relating to release detection) do not apply to an underground storage tank system that stores fuel solely for use by emergency power generators.

§ 245.404. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter:

(1) A variance may only be granted when the storage tank system meets alternative technical standards that fully protect human health and the environment.

(2) A written application for a variance shall be submitted to the Department and provide the following information:

(i) The facility name and identification number for which the variance is sought.

(ii) The specific sections of this subchapter from which a variance is sought.

(iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically infeasible or unsafe.

(iv) Evidence, including plans, specifications and test results, which supports an alternative design, practice, schedule or method as being no less protective of human health and the environment than the requirements of the sections identified in subparagraph (ii).

(3) When granting the variance, the Department may impose specific conditions necessary to ensure the adequate protection of human health and the environment.

(4) The Department will provide to the applicant a written notice of approval, approval with additional conditions or denial. Granted variances will be published in the *Pennsylvania Bulletin*.

(5) The Department may not grant any variance which would result in regulatory controls less stringent than other applicable Federal or State regulations.

§ 245.405. Codes and standards.

All regulated underground storage tank systems shall comply with applicable industry codes. By policy, the Department can recognize industry codes and practices which can be used to comply with this chapter. A list of industry codes and practices which may be used to comply with this subchapter may be obtained from the Department.

FACILITY INSPECTIONS

§ 245.411. Inspection frequency.

(a) *Inspection of tanks.* Underground storage tank owners or operators shall have their underground storage tank facility inspected by a certified inspector at the frequency established in subsections (b)—(d). The inspection shall include, but not be limited to, leak detection, assessment of the underground tank system and ancillary equipment, and release prevention measures.

(b) *Initial inspections.*

(1) Tank facilities with tank systems installed prior to December 1989, shall be inspected prior to October 11, 1999, whichever date is later.

(2) Tank systems installed after October 11, 1997, shall be inspected within 12 months of installation. If the facility ownership changes, an inspection of the facility shall be completed within the first 12 months of operation.

(3) Tank facilities not inspected in accordance with paragraph (1) or (2) shall have an initial inspection by October 11, 2002.

(c) *Subsequent facility inspections.*

(1) Subsequent facility inspections shall be conducted at least once every 5 years commencing after the last inspection, except as provided in paragraph (2).

(2) Facilities with total secondary containment of both piping and the tank shall be inspected at least once every 10 years commencing from the date of the last inspection.

(d) *Additional inspections.* Inspections in addition to those in subsections (b) and (c) may be requested in writing by the Department when the Department determines the inspections are necessary to verify compliance with this subchapter.

**UNDERGROUND STORAGE TANK SYSTEMS:
DESIGN, CONSTRUCTION, INSTALLATION AND
NOTIFICATION**

§ 245.421. Performance standards for new underground storage tank systems.

To prevent releases due to structural failure, corrosion or spills and overfills for as long as the underground storage tank system is used to store regulated substances, owners and operators of new underground storage tank systems shall ensure that the system meets the following requirements:

(1) *Tanks.* A tank shall be properly designed and constructed. A tank or portion of a tank that is underground and routinely contains product shall be protected from corrosion in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory, using one of the following methods:

(i) The tank is constructed of fiberglass-reinforced plastic.

(ii) The tank is constructed of steel and cathodically protected in the following manner:

(A) The tank is coated with a suitable dielectric material.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed to allow determination of current operating status as required in § 245.432(3) (relating to operation and maintenance including corrosion protection).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) The tank is constructed of a steel-fiberglass-reinforced-plastic composite.

(iv) The tank is constructed of metal without additional corrosion protection measures if:

(A) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the tank.

(2) *Piping.* The piping that routinely contains regulated substances shall be protected from deterioration. Piping that is in contact with the ground shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory using one of the following methods:

(i) The piping is constructed of fiberglass reinforced plastic or other noncorrodible material.

(ii) The piping is constructed of steel and cathodically protected in the following manner:

(A) The piping is coated with a suitable dielectric material.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed to allow determination of current operating status as required in § 245.432(3).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) The piping is constructed of metal without additional corrosion protection measures if:

(A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the piping.

(3) *Spill and overflow prevention equipment.*

(i) Except as provided in subparagraph (iii), to prevent spilling and overflowing associated with product transfer to the underground storage tank system, owners and operators shall ensure that their systems have the following spill and overflow prevention equipment:

(A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe—for example, a spill catchment basin.

(B) Overflow prevention equipment that will do one or more of the following:

(I) Automatically shut off flow into the tank when the tank is no more than 95% full.

(II) Alert the transfer operator when the tank is no more more than 90% full by restricting the flow into the tank or triggering a high-level alarm.

(III) Restrict flow 30 minutes prior to overflowing, alert the operator with a high level alarm 1 minute before overflowing, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overflowing.

(ii) Bypassing overflow protection is prohibited for example, bypassing the flow vent valve with coax vapor recovery or a spill bucket drain valve is prohibited.

(iii) Owners and operators are not required to use the spill and overflow prevention equipment specified in subparagraph (i) if the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

(4) *Installation.* Tanks and piping shall be properly installed and system integrity tested in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory such as API 1615 and PEI RP100, and in accordance with the manufacturer's instructions.

(5) *Certification of installation.* Owners and operators shall ensure that a certified installer has installed the tank system by providing a certification of compliance on an appropriate form provided by the Department.

§ 245.422. Upgrading of existing underground storage tank systems.

(a) *Alternatives allowed.* By December 22, 1998, existing underground storage tank systems shall comply with one of the following requirements:

(1) New underground storage tank system performance standards under § 245.421 (relating to performance standards for new underground storage tank systems).

(2) The upgrading requirements in subsections (b)—(d).

(3) Closure requirements under §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure), including applicable requirements for

corrective action under Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

(b) *Tank upgrading requirements.* Steel tanks shall be upgraded to meet one of the following requirements in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory:

(1) *Interior lining.* A tank may be upgraded by internal lining if the following conditions are met:

(i) The lining is installed in accordance with § 245.434 (relating to repairs allowed).

(ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

(2) *Cathodic protection.* A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of § 245.421(1)(ii)(B)—(D) and the integrity of the tank is ensured using one or more of the following methods:

(i) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system.

(ii) The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with § 245.444(4)—(9) (relating to methods of release detection for tanks).

(iii) The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of § 245.444(3). The first tightness test shall be conducted prior to installing the cathodic protection system. The second tightness test shall be conducted between 3 and 6 months following the first operation of the cathodic protection system.

(iv) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators shall maintain records that demonstrate compliance with this requirement for the remaining life of the tank.

(v) The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than subparagraphs (i)—(iii).

(3) *Internal lining combined with cathodic protection.* A tank may be upgraded by both internal lining and cathodic protection if the following apply:

(i) The lining is installed in accordance with the requirements of § 245.434.

(ii) The cathodic protection system meets § 245.421(1)(ii)(B)—(D).

(c) *Piping upgrading requirements.* Metal piping and fittings that routinely contain regulated substances and are in contact with the ground shall be one or more of the following:

(1) Replaced with piping meeting the requirements of new piping in § 245.421(2)(i) and (ii).

(2) Cathodically protected in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory and meets the requirements of § 245.421(2)(ii)(B)—(D).

(3) Installed at a site that is determined to not be corrosive enough to cause a release due to corrosion for the remaining operating life of the piping under § 245.421(2)(iii).

(d) *Spill and overflow prevention equipment.* To prevent spilling and overflowing associated with product transfer to the underground storage tank system, existing underground storage tank systems shall comply with new underground storage tank system spill and overflow prevention equipment requirements in § 245.421(3).

§ 245.423. Registration requirements.

(a) An underground storage tank shall be registered with the Department prior to adding a regulated substance. The owner of a tank that was in use after May 8, 1986, shall have notified the Department of the system's existence.

(b) Owners required to submit notices under subsection (a) shall provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one registration form, but owners who own tanks located at more than one facility shall file a separate registration form for each separate facility.

(c) Notices required to be submitted under subsection (a) shall provide all of the requested information on the registration form for each tank for which notice is required to be given.

(d) Owners and operators of new underground storage tank systems shall certify compliance with the following requirements in the registration form provided by the Department:

(1) Installation of tanks and piping under § 245.421(5) (relating to performance standards for new underground storage tank systems).

(2) Cathodic protection of steel tanks and piping under § 245.421(1) and (2).

(3) Financial responsibility under Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(4) Release detection under §§ 245.442 and 245.443 (relating to requirements for petroleum underground storage tank systems; and requirements for hazardous substance underground storage tank systems).

(5) Use of a Department certified installer under § 245.21 (relating to tank handling and inspection requirements).

(e) Beginning October 24, 1988, a person who sells a tank intended to be used as an underground storage tank or a property containing an existing tank system shall notify the purchaser, in writing, of an owner's obligations under subsection (a). The following form may be used to comply with this requirement:

Federal law (the Resource Conservation and Recovery Act) and Commonwealth law (the Storage Tank and Spill Prevention Act) require that the owner of a regulated underground storage tank notify the Pennsylvania Department of Environmental Protection of the existence of its tank.

Notification for tanks brought into service after August 5, 1989, must be made prior to placing the tank

system into service. Consult EPA 40 CFR Part 280 and PA Code Title 25 Chapter 245 to determine if you are affected by these laws.

(f) Every owner, including a new owner of an existing tank system, shall complete an amended registration form, provided by the Department, when one or more of the following conditions occur:

(1) Change of tank ownership—new owner only.

(2) Installation of a new tank.

(3) Closure of a tank system or component.

(4) Change in tank system service such as, but not limited to, temporary closure or change to an unregulated substance.

§ 245.424. Standards for new field constructed tank systems.

Field constructed tanks shall meet or exceed the technical requirements of a manufactured tank containing the same regulated substance. The system shall also:

(1) Be designed by a professional engineer having training and experience in the construction of underground storage tank systems.

(2) Meet the permitting requirements of Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities).

§ 245.425. Reuse of removed tanks.

A storage tank removed from the ground may be reused as a regulated underground storage tank under the following circumstances:

(1) The tank is installed by a certified installer.

(2) The tank has been properly closed in accordance with § 245.452 (relating to permanent closure and changes-in-service).

(3) The installation meets the requirements of § 245.422 (relating to the upgrading of existing underground storage tank systems).

(4) The tank is compatible with the substance to be stored in accordance with §§ 245.2(c) and 245.433 (relating to general; and compatibility).

(5) Either the manufacturer, a person certified by the manufacturer or a registered professional engineer warrants that the tank meets the requirements of § 245.421(1) (relating to performance standards for new underground storage tank systems).

GENERAL OPERATING REQUIREMENTS

§ 245.431. Spill and overflow control.

(a) Owners and operators shall ensure that releases due to spilling or overflowing do not occur. The owner and operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overflowing and spilling.

(b) The owner and operator shall report, investigate and clean up spills and overfills in accordance with Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

§ 245.432. Operation and maintenance including corrosion protection.

Owners and operators of steel underground storage tank systems with corrosion protection shall comply with

the following requirements to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances:

(1) Corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances.

(2) Underground storage tank systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) *Frequency.* Cathodic protection systems shall be tested within 6 months of installation and at least every 3 years thereafter.

(ii) *Inspection criteria.* The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with a code of practice developed by a Nationally recognized association.

(3) Underground storage tank systems with impressed current cathodic protection systems shall be inspected every 60 days to ensure the equipment is running properly.

(4) For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection shall be maintained, in accordance with § 245.435 (relating to reporting and recordkeeping) to demonstrate compliance with the performance standards in this section. These records shall provide the following:

(i) The results of the last three inspections required in paragraph (3).

(ii) The results of testing from the last two inspections required in paragraph (2).

(5) Monitoring and observation wells shall be clearly identified using industry codes and standards, and caps shall be secured to prevent unauthorized or accidental access.

(6) Line leak detectors, sumps, measuring devices (including gauge sticks), gauges, corrosion protection, spill prevention, overflow prevention and other appurtenances whose failure could contribute to a release of product, shall be maintained in a good state of repair and shall function as designed.

§ 245.433. Compatibility.

Owners and operators shall use an underground storage tank system, made of or lined with materials, that is compatible with the substance stored in the underground storage tank system. Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:

(1) American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations."

(2) American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."

§ 245.434. Repairs allowed.

Owners and operators of underground storage tank systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store regulated substances. The repairs shall meet the following requirements:

(1) Repairs involving a tank handling activity shall be performed by or under the direct, onsite supervision and control of a certified installer.

(2) Repairs to underground storage tank systems shall be properly conducted in accordance with a code of practice developed by a Nationally recognized association or an independent testing laboratory.

(3) Repairs to fiberglass reinforced plastic tanks may be made by the manufacturer's authorized representatives, and shall be made in accordance with a code of practice developed by a Nationally recognized association or an independent testing laboratory.

(4) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings may be repaired; repairs shall be made in accordance with the manufacturer's specifications.

(5) Tanks and piping repaired in response to a release shall be tightness tested in accordance with §§ 245.444(3) and 245.445(2) (relating to methods of release detection for tanks; and methods of release detection for piping) prior to placing the system back into service except as provided as follows:

(i) The repaired tank is internally inspected in accordance with a code of practice developed by a Nationally recognized association or an independent testing laboratory.

(ii) The repaired portion of the underground storage tank system is monitored monthly for releases in accordance with a method specified in § 245.444(4)—(9).

(iii) Another test method is used that is determined by the Department to be at least as protective of human health and the environment as those listed in subparagraphs (i) and (ii).

(6) Within 6 months following the repair of a cathodically protected underground storage tank system, the cathodic protection system shall be tested in accordance with § 245.432(2) and (3) (relating to operation and maintenance including corrosion protection) to ensure that it is operating properly.

(7) Underground storage tank system owners and operators shall maintain records of each repair in response to a release for the remaining operating life of the underground storage tank system that demonstrate compliance with this section.

§ 245.435. Reporting and recordkeeping.

Owners and operators of underground storage tank systems shall cooperate fully with inspections, monitoring and testing conducted by the Department, certified installers or certified inspectors, as well as requests for document submission, testing and monitoring by the owner or operator under section 107(c) of the act (35 P. S. § 6201.107(c)).

(1) *Reporting.* Owners and operators shall submit the following applicable information to the Department:

(i) Notification for underground storage tank systems (§ 245.423 (relating to registration requirements)), which includes certification of installation for new underground storage tank systems (§ 245.421(5) (relating to performance standards for new underground storage tank systems)).

(ii) Reports of confirmed, reportable releases (§ 245.305(d) (relating to reporting releases)).

(iii) A site characterization report (§ 245.310 (relating to site characterization report)).

(iv) Remedial action plans (§ 245.311 (relating to remedial action plan)), remedial action progress reports (§ 245.312 (relating to remedial action)) and remedial action completion reports (§ 245.313 (relating to remedial action completion report)).

(v) A notification before permanent closure or change-in-service (§ 245.452(a) (relating to permanent closure and changes-in-service)).

(vi) In the case of permanent closure, closure records to the Department when requested.

(2) *Recordkeeping.* Owners and operators shall maintain the following information:

(i) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (§ 245.421(1)(iv) and (2)(iii)).

(ii) Documentation of operation of corrosion protection equipment (§ 245.432 (relating to operation and maintenance including corrosion protection)).

(iii) Documentation of underground storage tank system repairs in response to a release (§ 245.434(6) (relating to repairs allowed)).

(iv) Current compliance with release detection requirements (§ 245.446 (relating to release detection recordkeeping)).

(v) Results of the site investigation conducted at permanent closure or change-in-service (§ 245.455 (relating to closure records)).

(vi) A properly completed closure report (§ 245.452(f)).

(3) *Availability of records.* Owners and operators shall keep the records required at one of the following:

(i) At the underground storage tank site and immediately available for inspection by the Department and certified inspectors.

(ii) At a readily available alternative site and be provided for inspection to the Department upon request.

RELEASE DETECTION

§ 245.441. General requirements for underground storage tank systems.

(a) Owners and operators of new and existing underground storage tank systems shall provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product.

(2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

(3) Meets the performance requirements in § 245.444 or § 245.445 (relating to methods of release detection for tanks; and methods of release detection for piping), with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after the date shown in the following table corresponding with the specified method except for methods permanently installed prior to that date, shall be capable of detecting the leak rate or quantity specified for that method in the corresponding section of this subchapter, also shown in the table, with a probability of detection (Pd) of 0.95 and a probability of false alarm (Pfa) of 0.05.

<i>Method</i>	<i>Section</i>	<i>Date After Which Pd/Pfa Must be Characterized</i>
Manual Tank Gauging	245.444(2)	December 22, 1990
Tank Tightness Testing	245.444(3)	December 22, 1990
Automatic Tank Gauging	245.444(4)	December 22, 1990
Statistical Inventory Reconciliation	245.444(8)	December 22, 1990
Automatic Line Leak Detectors	245.445(1)	September 22, 1991
Line Tightness Testing	245.445(2)	December 22, 1990

(i) Test method performance claims shall be verified by an independent third party using leak rates that are unknown to the tester.

(ii) When the EPA evaluation protocol for a method changes, the manufacturer shall reevaluate the method within 24 months of the new protocol's effective date for its continued use in this Commonwealth.

(b) When a release detection method operated in accordance with the performance standards in §§ 245.444

and § 245.445 indicates a release may have occurred, owners and operators shall investigate the suspected release in accordance with Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

(c) Owners and operators of underground storage tank systems shall comply with the release detection requirements of this subpart by December 22 of the year listed in the following table:

SCHEDULE FOR PHASE -IN RELEASE DETECTION

Year System Was Installed	<i>Year When Release Detection is Required (by December 22 of the year indicated)</i>				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		

Year System Was Installed	Year When Release Detection is Required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1975-79		P		RD	
1980-88		P			RD
New tanks (after December 22, 1988) immediately upon installation.					

P = Shall begin release detection for all pressurized piping in accordance with § 245.442(2)(i) (relating to requirements for petroleum underground storage tank systems).

RD = Shall begin release detection for tanks and suction piping in accordance with §§ 245.442(1), (2)(ii) and 245.443 (relating to requirements for petroleum underground storage tank systems; and requirements for hazardous substance underground storage tank systems).

(d) An existing tank system that cannot apply a method of release detection that complies with the requirements of this subchapter shall complete the closure procedures in §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure) by the date on which release detection is required for that underground storage tank system under subsection (c).

§ 245.442. Requirements for petroleum underground storage tank systems.

Owners and operators of petroleum underground storage tank systems shall provide release detection for tanks and piping as follows:

(1) *Tanks.* Tanks shall be monitored at least every 30 days for releases using one of the methods listed in § 245.444(4)—(9) (relating to methods of release detection for tanks) except that:

(i) Underground storage tank systems that meet the performance standards in § 245.421 or § 245.422 (relating to performance standards for new underground storage tank systems; and upgrading of existing underground storage tank systems), and the monthly inventory control requirements in § 245.444(1) or (2), may use tank tightness testing (conducted in accordance with § 245.444(3)) at least every 5 years until December 22, 1998, or until 10 years after the tank is installed or upgraded under § 245.422(b), whichever is later.

(ii) Underground storage tank systems that do not meet the performance standards in § 245.421 or § 245.422 may use monthly inventory controls (conducted in accordance with § 245.444(1) or (2)) and annual tank tightness testing (conducted in accordance with § 245.444(3)) until December 22, 1998, when the tank shall be upgraded under § 245.422 or permanently closed under § 245.452 (relating to permanent closure and changes-in-service).

(iii) Tanks with a capacity of 550 gallons or less may use manual tank gauging, conducted in accordance with § 245.444(2).

(iv) Tanks with a capacity of 551 to 1,000 gallons using the longer test times specified may use manual tank gauging, conducted in accordance with § 245.444(2).

(2) *Piping.* Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements:

(i) *Pressurized piping.* Underground piping that conveys regulated substances under pressure shall meet the following requirements:

(A) Be equipped with an automatic line leak detector in accordance with § 245.445(1) (relating to methods of release detection for piping).

(B) Have an annual line tightness test conducted in accordance with § 245.445(2) or have monthly monitoring conducted in accordance with § 245.445(3).

(ii) *Suction piping.* Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every 3 years and in accordance with § 245.445(2), or use a monthly monitoring method conducted in accordance with § 245.445(3). Release detection is not required for suction piping that is designed and constructed to meet the following standards:

(A) The below grade piping operates at less than atmospheric pressure.

(B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.

(C) No more than one check valve is included in each suction line.

(D) Check valves are located directly below and as close as practical to or within the suction pump.

(E) A method is provided that allows compliance with clauses (B)—(D) to be readily determined.

§ 245.443. Requirements for hazardous substance underground storage tank systems.

Owners and operators of hazardous substance underground storage tank systems shall provide release detection that meets the following requirements:

(1) Release detection at existing underground storage tank systems shall meet the requirements for petroleum underground storage tank systems in § 245.442 (relating to requirements for petroleum underground storage tank systems). By December 22, 1998, all existing hazardous substance underground storage tank systems shall meet the release detection requirements for new systems in paragraph (2).

(2) Release detection at new hazardous substance underground storage tank systems shall meet the following requirements:

(i) Secondary containment systems.

(A) Secondary containment systems shall be designed, constructed and installed to:

(I) Contain regulated substances released from the tank system until they are detected and removed.

(II) Prevent the release of regulated substances to the environment at any time during the operational life of the underground storage tank system.

(III) Be checked for evidence of a release at least every 30 days.

(B) The provisions of § 264.193 (relating to secondary containment) may be used to comply with the requirements of this paragraph.

(ii) Double walled tanks shall be designed, constructed and installed to:

(A) Contain a release from any portion of the inner tank within the outer wall.

(B) Detect the failure of the inner wall.

(iii) External liners, including vaults, shall be designed, constructed and installed to:

(A) Contain 100% of the capacity of the largest tank within its boundary.

(B) Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances.

(C) Surround the tank completely making it capable of preventing lateral as well as vertical migration of regulated substances.

(iv) Underground piping shall be equipped with secondary containment that satisfies the requirements of subparagraph (i) for example, trench liners, jacketing or double-walled pipe. In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with § 245.445(1) (relating to methods of release detection for piping).

(v) Other methods of release detection may be used if owners and operators:

(A) Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in § 245.444(2) (9) can detect a release of petroleum.

(B) Provide information to the Department on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the underground storage tank site.

(C) Obtain approval from the Department to use the alternate release detection method before the installation and operation of the new underground storage tank system.

§ 245.444. Methods of release detection for tanks.

Each method of release detection for tanks used to meet the requirements of § 245.442 (relating to requirements

for petroleum underground storage tank systems) shall be conducted in accordance with the following:

(1) *Inventory control.* Product inventory control, or another test of equivalent performance, shall be conducted monthly to detect a release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

(i) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day.

(ii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.

(iii) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.

(iv) Deliveries are made through a drop tube that extends to within 1 foot of the tank bottom.

(v) Product dispensing is metered and recorded within an accuracy of at least 6 cubic inches for every 5 gallons of product withdrawn.

(vi) Dispenser meters shall be calibrated.

(vii) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch at least once a month.

(2) *Manual tank gauging.* Manual tank gauging shall meet the following requirements:

(i) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank.

(ii) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period.

(iii) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.

(iv) A leak is suspected and subject to Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

<i>Nominal Tank Capacity</i>	<i>Minimum Duration of Test</i>	<i>Weekly Standard (one test)</i>	<i>Monthly Standard (average of) four tests</i>	<i>Periodic Tightness Test Required</i>
550 gallons or less	36 hours	10 gallons	5 gallons	No
551—1,000 gallons: 64" diameter tank	44 hours	9 gallons	4 gallons	No
551—1,000 gallons: 48" diameter tank	58 hours	12 gallons	6 gallons	No
551—1,000 gallons	36 hours	13 gallons	7 gallons	Yes
1,001—2,000 gallons	36 hours	26 gallons	13 gallons	Yes

(v) Only tanks of 550 gallons or less nominal capacity may use this as the sole method of release detection. Tanks of 551 to 2,000 gallons may use the method in place of manual inventory control in paragraph (1). Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this section.

(3) *Tank tightness testing.* Tank tightness testing, or another test of equivalent performance, shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation,

evaporation or condensation, and the location of the water table.

(4) *Automatic tank gauging.* Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet one of the following requirements:

(i) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.

(ii) For tank gauges installed prior to December 22, 1990, that do not meet the requirements of subparagraph (i), inventory control, or another test of equivalent performance, shall also be conducted in accordance with paragraph (1).

(5) *Vapor monitoring.* Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:

(i) The materials used as backfill are sufficiently porous—for example, gravel, sand or crushed rock—to readily allow diffusion of vapors from releases into the excavation area.

(ii) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile for example, gasoline—to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank.

(iii) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall or soil moisture or other known interferences so that a release could go undetected for more than 30 days.

(iv) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank.

(v) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component of that substance or a tracer compound placed in the tank system.

(vi) In the underground storage tank excavation zone, the site is evaluated to ensure compliance with the requirements in subparagraphs (i)—(iv) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product.

(vii) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering in accordance with § 245.432(5) (relating to operation and maintenance including corrosion protection).

(6) *Groundwater monitoring.* Testing or monitoring for liquids on the groundwater shall meet the following requirements:

(i) The regulated substance stored is immiscible in water and has a specific gravity of less than one.

(ii) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soils between the underground storage tank system and the monitoring wells or devices is not less than 0.01 cm/sec—for example, the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials.

(iii) The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substances on the water table into the well under both high and low groundwater conditions.

(iv) Monitoring wells shall be sealed from the ground surface to the top of the filter pack.

(v) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible.

(vi) The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of an inch of free product on top of the groundwater in the monitoring wells.

(vii) Within and immediately below the underground storage tank system excavation zone, the site is evaluated to ensure compliance with subparagraphs (i)—(v) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product.

(viii) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering in accordance with § 245.432(5).

(7) *Interstitial monitoring.* Interstitial monitoring between the underground storage tank system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(i) For double-walled underground storage tank systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product.

(ii) For underground storage tank systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the underground storage tank system and the secondary barrier.

(A) The secondary barrier around or beneath the underground storage tank system consists of artificially constructed material that is sufficiently thick and impermeable, at least 10^{-6} cm/sec for the regulated substance stored, to direct a release to the monitoring point and permit its detection.

(B) The barrier is compatible with the regulated substance stored so that a release from the underground storage tank system will not cause a deterioration of the barrier allowing a release to pass through undetected.

(C) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system.

(D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days.

(E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year floodplain, unless the barrier and monitoring designs are for use under these conditions.

(F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering in accordance with § 245.432(5).

(iii) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

(8) *Statistical Inventory Reconciliation (SIR).* SIR shall meet the performance standards of paragraph (9)(i) for monthly monitoring.

(i) The owner or operator shall follow the instructions of the SIR manufacturer's protocol.

(ii) A separate report for each tank monitored shall be maintained by the owner/operator in accordance with § 245.446(2) (relating to release detection recordkeeping). Each report shall meet the following requirements:

(A) Owners and operators shall have reports available within 7 days of the end of the monitored period.

(B) A valid report shall include the calculated leak rate, positive for out of tank and negative for into tank, minimum detectable leak rate (MDL), leak detection threshold, probability of detection (Pd) and probability of false alarm (Pfa) which the supplied data supports.

(C) A valid report shall also include one of the following test results:

(I) If the calculated leak rate, absolute value, is less than the leak threshold and the MDL is less than or equal to the certified performance standard (paragraph (3), paragraph (9)(i) or § 245.445(2) (relating to methods of release detection for piping)), the test result is "pass."

(II) If the calculated leak rate, absolute value, is greater than the leak threshold, the test result is "fail."

(III) If the MDL exceeds the certified performance standard and the calculated leak rate is less than the leak threshold, the test result is "inconclusive." An inconclusive result is considered a suspected leak and shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

(9) *Other methods.* Other types of release detection methods, or a combination of methods, may be used if the owner or operator can demonstrate to the Department that one of the following exists:

(i) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(ii) It can detect a release as effectively as any of the methods allowed in paragraphs (3)—(8). In comparing methods, the Department will consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator shall comply with conditions imposed by the Department on its use to ensure the protection of human health and the environment.

§ 245.445. Methods of release detection for piping.

Each method of release detection for piping used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

(1) *Automatic line leak detectors.* Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.

(2) *Line tightness testing.* A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at 1 1/2 times the operating pressure.

(3) *Applicable tank methods.* The methods in § 245.444(5)—(9) (relating to methods of release detection

for tanks) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

§ 245.446. Release detection recordkeeping.

Underground storage tank system owners and operators shall maintain records in accordance with § 245.435 (relating to reporting and recordkeeping) demonstrating compliance with the applicable requirements of §§ 245.441—245.446 (relating to release detection). These records shall include the following:

(1) Written performance claims pertaining to a release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for the entire time the release detection system is in use at the facility.

(2) The results of any sampling, testing or monitoring shall be maintained for at least 1 year, except that the results of tank tightness testing conducted in accordance with § 245.444(3) (relating to methods of release detection for tanks) shall be retained until the next test is conducted.

(3) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located onsite shall be maintained for at least 1 year after the servicing work is completed. Schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for the entire time the equipment is in use at the facility.

OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE

§ 245.451. Temporary closure.

(a) When an underground storage tank system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with § 245.432 (relating to operation and maintenance including corrosion protection), and release detection in accordance with §§ 245.441—245.446 (relating to release detection). Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with if a release is suspected or confirmed. Release detection is not required as long as the underground storage tank system is empty. The underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3% by weight of the total capacity of the underground storage tank system, remain in the system.

(b) When an underground storage tank system is temporarily closed for 3 months or more, owners and operators shall also comply with the following requirements:

(1) Vent lines shall be open and functioning.

(2) All other lines, pumps, manways and ancillary equipment shall be capped and secure.

(c) When an underground storage tank system is temporarily closed for more than 12 months, owners and operators shall permanently close the underground storage tank system if it does not meet either performance standards in § 245.421 (relating to performance standards for new underground storage tank systems) for new underground storage tank systems or the upgrading requirements in § 245.422 (relating to upgrading of existing underground storage tank systems), except that the

spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close the substandard underground storage tank systems at the end of this 12 month period in accordance with §§ 245.452—245.455, unless the Department provides an extension of the 12-month temporary closure period. Owners and operators shall complete a site assessment in accordance with § 245.453 (relating to assessing the site at closure or change-in-service) before an extension may be applied for.

§ 245.452. Permanent closure and changes-in-service.

(a) At least 30 days before beginning either permanent closure or a change-in-service under subsections (b) (d), or within another reasonable time determined by the Department, owners and operators shall notify the Department on a form provided by the Department of their intent to permanently close or make the change-in-service, unless the action is in response to corrective action. The required assessment of the excavation zone under § 245.453 (relating to assessing the site at closure or change-in-service) shall be performed after notifying the Department but before completion of the permanent closure or a change-in-service.

(b) To permanently close a tank, owners and operators shall ensure that the tank is empty and clean in accordance with a Nationally recognized code of practice such as API 2015 by removing the liquids and accumulated sludges. Tanks taken out of service permanently shall also be either removed from the ground or filled with a nonshrinking, inert solid material.

(c) Replacement of the underground piping connected to a storage tank shall be considered a permanent closure of that part of the underground storage tank system. The requirements applicable to permanent closure of an underground storage tank system also apply to the permanent closure of system piping.

(d) Before a change-in-service, owners and operators shall ensure that the tank is empty and clean in accordance with a Nationally recognized code of practice such as API 2015 by removing the liquid and accumulated sludge, and conduct a site assessment in accordance with § 245.453 (relating to assessing the site at closure or change-in-service).

(e) An amended registration shall be submitted by the owner to the Department.

(f) A properly completed closure report is required to permanently close a site, including a change-in-service. A copy of the completed closure report shall be submitted to the Department when requested.

§ 245.453. Assessing the site at closure or change-in-service.

(a) Before permanent closure or a change-in-service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the underground storage tank site. Owners and operators shall sample for releases in a manner consistent with the Department, technical document entitled *Closure Requirements for Underground Storage Tank Systems*.

(b) If contaminated soils, contaminated groundwater or free product as a liquid or vapor is discovered under subsection (a), or by another manner, owners and operators shall begin corrective action in accordance with Subchapter D (relating to corrective action process for

owners and operators of storage tanks and storage tank facilities and other responsible parties).

§ 245.454. Applicability to previously closed underground storage tank systems.

When directed by the Department, the owner and operator of an underground storage tank system permanently closed before December 22, 1988, shall assess the excavation zone and close the underground storage tank system in accordance with this subchapter if the underground storage tank system is, in the judgment of the Department, posing a current or potential threat to human health and the environment.

§ 245.455. Closure records.

Owners and operators shall maintain records in accordance with § 245.435 (relating to reporting and recordkeeping) that are capable of demonstrating compliance with closure requirements under this subchapter. The results of the excavation zone assessment required in § 245.453 (relating to assessing the site at closure or change-in-service) shall be maintained for at least 3 years after completion of permanent closure or change-in-service in one of the following ways:

(1) By the owners and operators who took the underground storage tank system out of service.

(2) By the current owners and operators of the underground storage tank system site.

(3) By mailing these records to the Department if they cannot be maintained at the closed facility.

Subchapter F. TECHNICAL STANDARDS FOR ABOVEGROUND STORAGE TANKS AND FACILITIES

GENERAL

Sec.	
245.501.	Purpose.
245.502.	Scope.
245.503.	Variances.
245.504.	Referenced organizations.

OPERATIONS AND MAINTENANCE

245.511.	General operations and maintenance.
245.512.	Facility operations and spill response plan.
245.513.	Preventive maintenance and housekeeping requirements.
245.514.	Security.
245.515.	Labeling/marketing of aboveground tank systems.
245.516.	Recordkeeping requirements.

DESIGN, CONSTRUCTION AND INSTALLATION

245.521.	Performance standards for aboveground storage tanks.
245.522.	New aboveground tank installations and reconstructions.
245.523.	Aboveground storage tanks in underground vaults.
245.524.	Aboveground tank modifications.
245.525.	Ancillary equipment for aboveground storage tanks.
245.526.	Piping for aboveground storage tanks.

CORROSION AND DETERIORATION PREVENTION

245.531.	General corrosion and deterioration requirements.
245.532.	Cathodic protection systems.
245.533.	Coating exterior tank and piping surfaces.
245.534.	Interior linings and coatings.

RELEASE PREVENTION AND LEAK DETECTION

245.541.	Overfill prevention requirements.
245.542.	Containment requirements for aboveground storage tank systems.
245.543.	Leak detection requirements.

ABOVEGROUND STORAGE TANK INSPECTIONS

245.551.	General requirements for third party inspections.
245.552.	In-service inspections.

- 245.553. Out-of-service inspections.
- 245.554. Installation and modification inspections.

CLOSURE AND REMOVAL FROM SERVICE REQUIREMENTS

- 245.561. Permanent closure or change-in-service.
- 245.562. Temporary removal-from-service.

GENERAL

§ 245.501. Purpose.

This subchapter establishes technical standards and requirements for operations and maintenance, design, construction and installation, corrosion and deterioration prevention, release prevention and leak detection, inspection, and closure and removal from service requirements for large aboveground storage tanks and facilities regulated under the act. Regulated aboveground storage tanks are defined in § 245.1 (relating to definitions).

§ 245.502. Scope.

The standards and requirements established in this subchapter shall be applied through the use of appropriate current codes of practice developed by Nationally recognized associations such as, but not limited to, those referenced at § 245.504 (relating to referenced organizations) and through the use of manufacturer's specifications and sound engineering practices. This subchapter is not intended to supersede other State and Federal regulations or jurisdictional requirements when they are more restrictive than the requirements in this part. This subchapter does not apply to small aboveground storage tanks unless otherwise referenced in Subchapter G (relating to simplified program for small aboveground storage tanks).

§ 245.503. Variances.

When unique or peculiar circumstances make compliance with this subchapter technically infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter.

- (1) A variance may only be granted if the storage tank system meets alternative technical standards that fully protect human health and the environment.
- (2) A written application for a variance shall be submitted to the Department and provide the following information:
 - (i) The facility name and identification number for which the variance is sought.
 - (ii) Specific sections of this subchapter from which the variance is sought.
 - (iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically infeasible or unsafe.
 - (iv) Evidence, including data, plans, specifications and test results, which supports an alternative design, practice, schedule or method as being at least as protective of human health and the environment as the requirements of the sections identified in subparagraph (ii).
- (3) The Department will not grant a variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as 37 Pa. Code Part I, Subpart B (relating to flammable and combustible liquids) and 40 CFR Part 112 (relating to oil pollution prevention).
- (4) When granting the variance, the Department may impose specific conditions necessary to assure that the

variance will adequately protect the public health, safety or welfare and the environment.

(5) The Department will provide to the applicant a written notice of approval, approval with conditions or denial.

§ 245.504. Referenced organizations.

- (a) Nationally recognized associations which are referenced throughout this subchapter are as follows:
 - (1) American Concrete Institute (ACI).
 - (2) American National Standards Institute (ANSI).
 - (3) American Petroleum Institute (API).
 - (4) American Society of Mechanical Engineers (ASME).
 - (5) American Society for Nondestructive Testing (ASNT).
 - (6) American Society for Testing and Materials (ASTM).
 - (7) National Association of Corrosion Engineers (NACE).
 - (8) National Fire Protection Association (NFPA).
 - (9) Petroleum Equipment Institute (PEI).
 - (10) Steel Structures Painting Council (SSPC).
 - (11) Steel Tank Institute (STI).
 - (12) Underwriters Laboratory (UL).

(b) Nationally recognized codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter. When used to meet the technical standards and requirements of this subchapter, the most current or latest edition of the codes and standards shall be applied. Other Nationally recognized codes and standards, not referenced in this part, may also be used to comply with this subchapter, when appropriate.

(c) When Nationally recognized codes and standards are updated, facilities or storage tank systems installed to previously existing standards prior to the update, will not automatically be required to be upgraded to meet the new standard.

OPERATIONS AND MAINTENANCE

§ 245.511. General operations and maintenance.

An aboveground storage tank facility owner/operator shall implement and have onsite a written operations and maintenance plan which assures conformance with applicable safety and operational standards, compliance with applicable Federal and State regulations, and shall use appropriate work practices and procedures.

§ 245.512. Facility operations and spill response plan.

An initial Spill Prevention Response Plan (Plan) and any future updates, which address the requirements described in Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904) and this chapter, shall be submitted to the Department for aboveground storage tank facilities with an aggregate aboveground storage capacity greater than 21,000 gallons. A current copy of the Plan shall be readily available at the facility at all times.

§ 245.513. Preventive maintenance and housekeeping requirements.

(a) An aboveground storage tank facility owner/operator shall establish and implement a preventive maintenance and housekeeping program which protects

the integrity of the system from degradation and protects the public health and the environment.

(b) Routine maintenance inspection procedures shall be established and implemented at each storage tank facility.

(1) An owner/operator is responsible to assure that a visual inspection is performed once every 72 hours. The visual inspection may be accomplished by or supplemented with electronic surveillance and shall include:

(i) A check of the facility to ensure that no potential hazardous environmental conditions exist. This includes a check for evidence of a release for example, spill, overflow or leakage.

(ii) A check of the containment areas for accumulation of water and a confirmation that containment drain valves are secured in a closed position when not in use. If excessive water has accumulated, it shall be drained off and disposed of in accordance with applicable State and Federal requirements.

(2) An owner/operator is responsible to assure that a maintenance inspection of the facility and equipment is performed each month. The maintenance inspection shall include:

(i) An inspection of the tank system exterior surfaces for deterioration and maintenance deficiencies including a visual check for cracks, areas of wear, excessive settlement and deterioration of the foundation and supports.

(ii) Ancillary equipment and appurtenances shall be visually checked for operational malfunctions.

(iii) An inspection of containment and transfer areas for cracks, defects and fire hazards.

(iv) A check of overflow prevention equipment and monitoring of the leak detection system.

(v) The monthly maintenance inspection report shall be completed and signed by the individual who conducted the inspections and maintained for 1 year.

(3) An owner/operator is responsible to establish a process to assure that storage tank vents are operational and free of restrictions.

(c) Housekeeping practices shall be established and implemented in a manner that reduces the possibility of accidental spills and safety hazards to plant or facility personnel.

§ 245.514. Security.

An owner/operator is responsible to assure that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures and procedures may include, but are not limited to, fencing, lighting, access control, locked entrances and securing of valves and dispensers.

§ 245.515. Labeling/marketing of aboveground tank systems.

(a) An owner/operator is responsible to assure aboveground tank systems are labeled/marked in accordance with industry standards and in compliance with Federal and State requirements. Tank labels/marks shall be easily legible from outside the containment area and shall be capable of readily identifying the regulated substance stored.

(b) The owner/operator shall be capable of readily identifying the substances transferred in the regulated piping system and be able to determine flow control

points, including pumps, valves and dispensers through labeling or other suitable means.

§ 245.516. Recordkeeping requirements.

(a) Owners and operators of aboveground tank facilities shall maintain required records. If records are maintained offsite, the records shall be easily obtained and provided to the Department upon request.

(b) Permanent records for new systems and available records for existing systems shall be maintained for the operational life of the tank system and retained for a minimum of 1 year after the tank system has been removed. Permanent records include the following:

(1) Original installation and modification of tank system design specifications.

(2) Any variance issued for the tank system under § 245.503 (relating to variances).

(3) The permits issued under Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities).

(4) Tank handling activity installation, relocation, reconstruction and major modification inspection results.

(5) The notices of reportable releases submitted under § 245.305 (relating to reporting releases).

(6) Applicable manufacturer's documentation for the tank system and any ancillary equipment.

(7) Third party out-of-service inspection reports.

(c) Temporary records shall be maintained as follows:

(1) The current registration certificate.

(2) The leak detection records for the past 12 months.

(3) The last two results of cathodic protection monitoring, when a cathodic protection system is in use.

(4) The routine monthly maintenance inspections for the past 12 months.

(5) The last third party in-service inspection report.

(6) A properly completed closure report and results of the site assessment conducted at permanent closure or change-in-service under § 245.561 (relating to permanent closure or change-in-service).

DESIGN, CONSTRUCTION AND INSTALLATION

§ 245.521. Performance standards for aboveground storage tanks.

(a) Tank construction shall meet or exceed Nationally recognized industry association codes of practice. New tanks shall be installed in accordance with applicable codes of practice and consistent with manufacturer's or fabricator's specifications as specified in § 245.522 (relating to new aboveground tank installations and reconstructions).

(b) Tank modifications shall be in accordance with industry codes of practice as specified in § 245.524 (relating to aboveground tank modifications).

(c) Tanks shall be protected from corrosion and deterioration as specified in §§ 245.531—245.534 (relating to corrosion and deterioration prevention).

(d) A leak monitoring system shall be installed as specified in § 245.543 (relating to leak detection requirements).

(e) A release prevention system shall be installed as specified in §§ 245.541 and 245.542 (relating to overflow

prevention requirements; and containment requirements for aboveground storage tank systems).

(f) Tanks shall be tested according to industry standards before being placed in service as specified in §§ 245.522 and 245.524 (relating to new aboveground tank installations and reconstructions and aboveground tank modifications).

(g) Tanks shall be inspected at installation, reconstruction or relocation and when a major modification is performed on a tank as specified in § 245.554 (relating to installation and modification inspections).

§ 245.522. New aboveground tank installations and reconstructions.

(a) Tanks shall be designed and constructed in accordance with an appropriate current code of practice developed by Nationally recognized associations such as UL, ACI, API, ASME, ASTM or NACE.

(b) Tanks shall have a stable foundation, capable of supporting the total weight of the tank when full of product without movement, rolling or unacceptable settling. The foundation shall minimize corrosion of the tank bottom and meet or exceed the specifications of the tank manufacturer. The foundation design and construction shall be based on sound engineering practices.

(c) Tanks shall be tested for tightness in accordance with current codes of practice developed by Nationally recognized associations and manufacturer's specifications. If a pneumatic test is used for manufactured (shop built) tanks, the fittings, welds, joints and connections shall be coated with a soap solution and checked for leaks. Aboveground field constructed storage tanks shall be hydrostatically tested. Deficiencies shall be remedied prior to tanks being placed into service. Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(d) Reconstruction of tanks shall follow the current codes of practice developed by Nationally recognized associations. Reconstructed tanks shall be inspected and hydrostatically tested before being placed into service. Reconstructed tanks shall meet or exceed requirements specified in § 245.521 (relating to performance standards for aboveground storage tanks). Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(e) Aboveground manufactured storage tanks that are relocated to another service site shall meet the performance requirements for aboveground storage tanks and shall be tested according to industry standards and inspected before being put back in service.

§ 245.523. Aboveground storage tanks in underground vaults.

The following requirements shall be met when an owner or operator chooses to install an aboveground storage tank in an underground vault.

(1) The vault shall completely enclose the tank. There may be no openings in the vault enclosure except those necessary for access to, inspection of, and filling, emptying and venting of the tank. The walls and floor of the vault shall be constructed of reinforced concrete at least 6 inches thick. The top, walls and floor shall be designed to withstand the anticipated loading including loading from traffic, soil and groundwater.

(2) The vault shall be compatible with the stored substance and have a permeability of less than 1×10^{-7} cm/sec for substance stored and be water tight.

(3) A tank shall be in its own vault. Adjacent vaults may share a common wall.

(4) There may be no backfill around the tank and there shall be sufficient space between the tank and the vault to allow inspection of the tank and ancillary equipment.

(5) A vault and its tank shall be suitably anchored to withstand uplifting by either water or released substance, including when the tank is empty.

(6) Connections shall be provided to permit venting of each vault to dilute, disperse and remove vapors prior to personnel entering the vault.

(7) A vault shall be equipped with a continuous leak detection system capable of detecting vapors and liquids including water. The detection system shall activate an alarm that automatically shuts down the dispensing system if a release occurs.

(8) A vault shall have a means for personnel entry. The entry point shall have a warning sign indicating the need for procedures for safe entry into a confined space. An entry point shall be secured against unauthorized entry and vandalism.

(9) A suitable means to admit a fire suppression agent shall be provided for each vault.

(10) Tanks and ancillary equipment shall be installed, maintained and inspected in accordance with the requirements for aboveground storage tanks in this subchapter.

§ 245.524. Aboveground tank modifications.

(a) Modifications shall be designed and implemented in accordance with current codes of practice developed by Nationally recognized associations such as API, ACI, ASME, ASTM or UL.

(b) Modifications shall be performed in accordance with Nationally recognized codes and manufacturer's specifications or a professional engineer's design requirements.

(c) Aboveground tanks which are modified shall be inspected and tested according to industry standards before being put in service when a major modification has been performed on the tank shell, tank roof or tank bottom. Deficiencies shall be remedied before being returned to service.

§ 245.525. Ancillary equipment for aboveground storage tanks.

(a) Ancillary equipment shall be designed and installed in accordance with Nationally recognized codes of practice and manufacturer's specifications such as API, ASME, ASTM, UL, PEI or ANSI. Ancillary equipment shall be in good working order and maintained according to manufacturer's specifications and accepted industry practices. Ancillary equipment shall be compatible with the stored substance.

(b) Tanks shall be appropriately vented to protect the tank from over pressurization and excessive vacuums. Vents shall meet or exceed the appropriate codes of practice developed by Nationally recognized associations such as API and NFPA. Normal venting shall allow the tank to breath when transferring the stored product. Emergency venting shall ensure that the safe pressure for the tank is not exceeded.

(c) Tank connections through which regulated substance can flow shall be equipped with an operating valve adjacent to the tank to control flow of substance. Appropriate valves shall be installed to meet or exceed current

codes of practice and jurisdictional requirements. Valves shall be designed, installed and maintained according to current codes of practice.

§ 245.526. Piping for aboveground storage tanks.

(a) Piping shall be compatible with the substance stored and properly designed to resist internal and external wear, vibration and shock.

(b) New and replacement piping shall be designed, fabricated and tested in accordance with current codes of practice developed by Nationally recognized associations such as API, ASME, ANSI, NFPA, PEI or STI. Installation of piping shall meet or exceed current codes of practice and be in strict accordance with manufacturer's specifications. Piping shall be tested for tightness before being placed in service and all deficiencies remedied.

(c) Piping installed after October 11, 1997, and in contact with the soil or an electrolyte shall be adequately protected from corrosion in accordance with current codes of practice developed by Nationally recognized associations such as NACE or API.

(d) Piping shall be tested and inspected in accordance with current industry practices and §§ 245.552 and 245.553 (relating to in-service inspections; and out-of-service inspections).

(e) Aboveground piping shall be adequately supported and be protected from physical damage caused by freezing, frost heaving and vehicular traffic.

CORROSION AND DETERIORATION PREVENTION

§ 245.531. General corrosion and deterioration requirements.

(a) The tank system shall be maintained with corrosion and deterioration prevention measures.

(b) Metallic tank systems in direct contact with the soil or other electrolyte shall be evaluated by a corrosion expert to determine if cathodic protection is necessary or appropriate.

(c) Existing tank bottoms that do not meet the standards in subsection (b) shall be upgraded when the tank bottom is replaced.

§ 245.532. Cathodic protection systems.

(a) When required for corrosion prevention, on new, reconstructed or relocated tanks or the replacement of the tank bottom the cathodic protection system shall consist of one or more of the following:

- (1) Sacrificial anodes and dielectrical coating.
- (2) Impressed current.

(3) Another method specified in an appropriate Nationally recognized association code of practice such as API 651 or associations such as NACE.

(b) Cathodic protection systems shall be designed by a corrosion expert and maintained to provide protection against external corrosion for the operational life of the tank system.

(c) Each cathodic protection system shall have an access point which enables the owner or operator to check on the adequacy of cathodic protection. The cathodic protection systems shall be monitored periodically as determined by the corrosion system design.

(d) Tank and piping connections of two dissimilar metals which create a galvanic cell are prohibited.

§ 245.533. Coating exterior tank and piping surfaces.

The exterior surfaces of aboveground tanks and piping shall be protected by a suitable coating which prevents corrosion and deterioration. The coating system shall be maintained throughout the entire operational life of the tank.

§ 245.534. Interior linings and coatings.

(a) Coating or lining systems may be used to protect tank interiors from corrosion. The coating or lining system shall be designed in accordance with current codes of practices such as API 652 or associations such as NACE. Any appropriate coating which is bonded firmly to the interior surfaces may be used to protect a tank from corrosion.

(b) Specific requirements are as follows:

(1) Coatings and linings shall be chemically compatible with the substance to be stored.

(2) Coating material shall be applied and cured in strict accordance with manufacturer's specifications.

(3) Surfaces shall be prepared and inspected in accordance with applicable nationally recognized codes and standards.

(4) Coatings used to protect the bottom of a tank shall extend up the side of the tank a minimum of 18 inches, while some forms of lining may cover the entire tank interior.

(5) Coatings shall be examined for blisters and air pockets, and tested for pinholes. The coating thickness shall be checked to assure compliance with manufacturer's specifications.

(6) Defects in coating or lining systems shall be repaired or corrected prior to putting the tank or system into service.

RELEASE PREVENTION AND LEAK DETECTION

§ 245.541. Overfill prevention requirements.

(a) Owner/operators shall ensure that releases from overfills do not occur. Transfer of stored substance may not exceed the volume available in the receiving tank and the transfer shall be adequately monitored. Immediate action shall be taken to stop the flow of regulated substance prior to exceeding tank capacity or in the event that an equipment failure occurs.

(b) Tanks installed after October 11, 1997, shall be installed with the following:

(1) A gauge or monitoring device which accurately indicates the level or volume in the tank and is visible to the individual responsible for the transfer of product. The monitoring device shall be installed, calibrated and maintained in accordance with manufacturer's specifications.

(2) A high-level alarm and an automatic high-level cut-off device or a high-level alarm and a manned operator shutdown procedure in operation.

(c) Existing tanks shall have a gauge or monitoring device installed by October 11, 2000.

(d) An existing tank system which is taken out of service to perform a scheduled out-of-service inspection or a major modification to the tank shall be upgraded with a high-level alarm and cut-off device or a high-level alarm and a manned operator shutdown procedure prior to being put back in service.

§ 245.542. Containment requirements for above-ground storage tank systems.

(a) Containment structures shall be compatible with the substance stored and minimize deterioration to the storage tank system.

(b) Containment areas shall be designed, maintained and constructed in accordance with sound engineering practices adhering to Nationally recognized codes of practice such as NFPA, NACE, ACI or API and in compliance with State and Federal requirements.

(c) Secondary containment under the tank bottom and around underground piping shall be designed to direct any release to a monitoring point to meet leak detection requirements. Secondary containment shall be provided on a new tank at installation, and shall be provided on an existing tank at reconstruction or relocation of the tank or when the tank floor is replaced. Permeability of the secondary containment shall be less than 1×10^{-7} cm/sec at anticipated hydrostatic head and shall be verified at the time of installation.

(d) Aboveground tanks shall have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks and spills, when a new tank system is installed or at the next out-of-service inspection for existing tank systems as established in § 245.553(d) (relating to out-of-service inspections).

(1) Permeability of new emergency containment structures installed after October 11, 1997, shall be less than 1×10^{-6} cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released substance from penetrating the containment structure for a minimum of 72 hours, and until the release can be detected and recovered.

(2) Emergency containment structures for existing aboveground storage tanks shall meet one of the following standards at the next out-of-service inspection, prior to the tank being placed back into service.

(i) The standards for new emergency containment structures for aboveground storage tanks in paragraph (1).

(ii) Verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth.

(3) All transfers of regulated substances to a tank within the emergency containment shall be monitored by designated personnel for the duration of the transfer.

(e) Emergency containment areas, such as dike fields, shall be able to contain 110% of the capacity of the largest tank in the containment area.

(f) Stormwater shall be removed from the emergency containment area as soon as possible or when the water is in contact with the tank or piping and prior to the capacity of containment being reduced by 10% or more. Manually operated pumps or siphons and manually operated gravity drains may be used to empty the containment. If drain valves are used they shall be secured in the closed position when not in use. Discharge or disposal of substances from the containment structure shall comply with applicable State and Federal requirements.

§ 245.543. Leak detection requirements.

(a) Aboveground tank systems installed after October 11, 1997, shall provide a method of leak detection capable of detecting a release. The leak detection method shall be monitored at least monthly and shall be installed, calibrated, operated and maintained in accordance with industry practices and manufacturer's specifications.

(1) The area beneath the tank bottom shall be monitored for leakage by visual, mechanical or electronic leak detection methods.

(2) Observation wells outside of the secondary containment structure do not satisfy the leak detection requirements.

(b) Existing aboveground storage tank systems with secondary containment shall implement a monthly leak detection method as required by subsection (a). Monthly visual inspections shall be an acceptable method of leak detection.

(c) Existing aboveground storage tanks without secondary containment under the bottom of the tank that are in contact with the soil, such as vertical flat bottom tanks, and do not have cathodic protection or an internal lining shall be tested for tightness at the next scheduled service inspection after October 11, 1997, and continue testing for tightness at each service inspection thereafter, until the tank is upgraded.

(d) Aboveground piping shall be visually checked for leaks in accordance with the facility operations and maintenance plan.

ABOVEGROUND STORAGE TANK INSPECTIONS

§ 245.551. General requirements for third party inspections.

(a) Aboveground storage tank owners and operators shall have their storage tank systems inspected by a Department certified aboveground storage tank inspector at frequencies established in this subchapter. Inspections will check for compliance with State and Federal requirements and adherence to current codes of practice developed by Nationally recognized associations, tank manufacturer's instructions and design engineer's specifications.

(b) Only Department certified inspectors shall be used to satisfy requirements for:

- (1) In-service inspections.
- (2) Out-of-service inspections.
- (3) Installation and modification inspections.

§ 245.552. In-service inspections.

(a) The in-service inspection shall follow the guidelines of a Nationally recognized association such as API 653 and API 570.

(b) The in-service inspection shall evaluate the following:

- (1) Containment areas.
- (2) Foundation.
- (3) Tank shell.
- (4) Tank roof.
- (5) Appurtenances.
- (6) Ancillary equipment including piping.
- (7) Leak detection method.
- (8) Cathodic protection system, if installed.

(c) Inspection information shall be submitted to the Department on a form provided by the Department and shall include the results of the evaluation in subsection (b) and the following:

(1) A determination of the corrosion rate of the shell and piping.

(2) A calculation of the life of the tank shell and piping based on corrosion rate.

(3) The next inspection schedule based on 1/4 of the corrosion rate life with a maximum of 5 years.

(4) The recommendations for maintaining tank system integrity.

(d) Inspection intervals for in-service inspections are as follows:

(1) Aboveground tanks installed after October 11, 1997, shall be initially inspected within 5 years of installation.

(2) Existing tanks shall be initially inspected as follows:

(i) Tanks over 5 years old without a previous inspection shall be inspected by October 11, 1999.

(ii) Tanks with an inspection more than 3 years prior to October 11, 1997, shall be inspected by October 11, 2000.

(iii) Tanks with an inspection within 3 years prior to October 11, 1997, shall be inspected within 6 years of the previous inspection.

(3) Tanks shall have an in-service inspection within 1/4 of the corrosion rate life with a maximum of 5 years from the previous inspection or installation.

(4) An out-of-service inspection may replace an in-service inspection.

(e) Inspection recommendations shall be addressed.

(f) The complete inspection report shall be kept at the facility until the next out-of-service inspection is completed.

§ 245.553. Out-of-service inspections.

(a) Inspections shall follow the guidelines of a Nationally recognized association such as API 653, API 570 or ASME.

(b) The out-of-service inspection shall evaluate the following:

(1) Containment areas.

(2) Foundation and supports.

(3) Tank shell.

(4) Tank roof.

(5) Tank bottom.

(6) Appurtenances.

(7) Ancillary equipment including piping.

(8) Leak detection method.

(9) Cathodic protection system, if installed.

(10) Internal linings and coatings, if installed.

(c) Inspection information shall be submitted to the Department on a form provided by the Department and shall include the results of subsection (b) and the following:

(1) A determination of the corrosion rate for tank shell, bottom plates and piping.

(2) A calculation of the tank life and piping life based on the corrosion rate.

(3) The schedule for next out-of-service inspection, based on 1/2 of the corrosion rate life with a maximum of 20 years between inspections.

(4) The recommendations for maintaining tank system integrity and meeting performance standards.

(d) Inspection intervals for out-of-service inspections are as follows:

(1) Tanks installed after October 11, 1997, shall be initially inspected based on measured or similar service corrosion rates. When the corrosion rate is unknown the tanks actual bottom thickness shall be determined by inspection within 10 years of installation to determine the corrosion rate.

(2) Existing tanks shall be initially inspected as follows:

(i) If corrosion rates are not known, tanks shall be inspected within 10 years of installation or by October 11, 2000, whichever is later.

(ii) If corrosion rates can be determined or are known, tanks shall be inspected at 1/2 the corrosion rate life from installation or previous out-of-service inspection or by October 11, 2000, whichever is later.

(3) Tanks shall have an out-of-service inspection at 1/2 of the corrosion rate life with a maximum of 20 years from the last out-of-service inspection.

(e) Deficiencies shall be remedied before the tank is returned to service.

(f) Aboveground storage tanks which can be completely examined from the exterior are exempt from out-of-service inspections except for tanks that are internally lined.

(g) The completed inspection report for out-of-service inspections shall be kept with the facility records under § 245.516 (relating to recordkeeping requirements).

§ 245.554. Installation and modification inspections.

(a) Aboveground storage tank systems shall be inspected by a Department certified inspector at the time of installation in accordance with § 245.522 (relating to new aboveground tank installations and reconstructions), and current Nationally recognized association's code of practice and manufacturer's specifications. The inspection report shall be kept for the operational life of the tank.

(b) Major modifications shall be inspected by a Department certified inspector at the time of modification under § 245.524 (relating to aboveground tank modification) and a current codes of practice developed by Nationally recognized associations prior to being put back in service. The inspection report shall be kept for the operational life of the tank.

(c) Tanks which are relocated or reconstructed shall be inspected by a Department certified inspector and tested for tightness in accordance with § 245.522 (relating to new aboveground tank installations and reconstructions) and current codes of practice developed by Nationally recognized associations prior to being put in service. The inspection report shall be kept for the operational life of the tank.

CLOSURE AND REMOVAL FROM SERVICE REQUIREMENTS

§ 245.561. Permanent closure or change-in-service.

Before permanent closure or change-in-service is completed, owner/operator shall comply with the following:

(1) At least 30 days before beginning either a permanent closure or change-in-service to an unregulated tank, or within a lesser time as determined by the Department, owner/operator shall notify the Department of its intent to permanently close or change-in-service from a regulated tank to an unregulated tank, unless the action is in response to a corrective action or waived by the Department.

(2) The owner/operator shall submit an amended registration form to the Department indicating the change in tank status within 30 days after the change in tank status.

(3) The owner/operators shall complete a site assessment to measure for the presence of any release from the storage tank system and a closure report. The assessment of the site shall be made after the notification. The results of the site assessment and the closure report shall be retained for 3 years.

(4) If contaminated soil, sediment, surface water or groundwater, or free product is discovered or confirmed by either direct observation or indicated by the analytical results of sampling, the owner/operator shall proceed with the corrective action as required in Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) or, if applicable, in accordance with remedial action agreements.

(5) Regulated substance and contents removed from the tank system including piping shall be reused, treated or disposed of in a manner consistent with applicable State and Federal waste management requirements.

(6) Tank systems shall be cleaned, rendered free of hazardous vapors and ventilated if left onsite or tank systems shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Land Recycling and Waste Management requirements such as Chapters 263 and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste).

(7) Tanks to be permanently closed and left onsite shall be legibly marked with the date of permanent closure.

(8) The State Fire Marshal shall be notified if the tank is under a fire marshal permit.

(9) Tanks that are to be closed in place shall:

(i) Be rendered inoperable and incapable of storing liquid substance.

(ii) Be secured against unauthorized entry.

(iii) Meet the requirements specified in paragraphs (1)—(8).

§ 245.562. Temporary removal-from-service.

(a) The owner/operator shall complete and submit an amended registration form to the Department within 30 days after the change in tank status.

(b) A tank system shall be emptied and regulated substances and contents shall be reused, treated or

disposed of in accordance with State and Federal requirements.

(c) A tank shall be secured against unauthorized entry and all piping entering or exiting the tank, excluding vents, shall be capped or blinded.

(d) Tank integrity shall be maintained throughout the temporary removal-from-service time and the tank shall be protected against flotation.

(e) Inspection requirements shall be maintained as specified in §§ 245.551 245.554 (relating to aboveground storage tank inspections).

(f) Tanks which are temporarily removed-from-service for 5 years or longer shall meet the requirements for permanent closure.

Subchapter G. SIMPLIFIED PROGRAM FOR SMALL ABOVEGROUND STORAGE TANKS

GENERAL

- Sec. 245.601. Purpose.
- 245.602. Scope.
- 245.603. General storage tank facility requirements.
- 245.604. Referenced organizations.

TECHNICAL REQUIREMENTS

- Sec. 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.
- 245.612. Performance and design standards.
- 245.613. Monitoring standards.
- 245.614. Requirements for closure.
- 245.615. Recordkeeping requirements.
- 245.616. Inspection requirements.

GENERAL

§ 245.601. Purpose.

This subchapter establishes a simplified program of technical standards and requirements for small aboveground storage tanks not exceeding 21,000 gallons capacity and regulated under the act. Regulated aboveground storage tanks are defined in § 245.1 (relating to definitions).

§ 245.602. Scope.

The standards and requirements established in this subchapter shall be applied through the use of appropriate current codes of practice developed by Nationally recognized associations such as, but not limited to, those referenced in § 245.604 (relating to referenced organizations) and through the use of manufacturer's specifications and sound engineering practices. This subchapter is not intended to supersede other State and Federal regulations or jurisdictional requirements when they are more restrictive than the requirements in this part. For certain types of tanks this subchapter may make reference to the requirements for aboveground storage tanks in Subchapter F (relating to technical standards for aboveground storage tanks and facilities).

§ 245.603. General storage tank facility requirements.

(a) The owner/operator of aboveground storage tank facilities with an aggregate aboveground storage capacity greater than 21,000 gallons shall develop and adhere to a Spill Prevention Response Plan (Plan) which addresses the requirements described in Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904). The Plan shall be provided to the Department and updated as necessary. A current copy of the Plan shall be readily available at the storage tank facility at all times.

(b) The owner/operator of aboveground storage tank facilities is responsible to assure that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures may include, but are not limited to, fencing, lighting, access control, locked entrances and securing of valves, drains and dispensers.

§ 245.604. Referenced organizations.

(a) Nationally recognized associations which are referenced throughout this subchapter are as follows:

- (1) American National Standards Institute (ANSI).
- (2) American Petroleum Institute (API).
- (3) American Society of Mechanical Engineers (ASME).
- (4) American Society for Testing and Materials (ASTM).
- (5) National Association of Corrosion Engineers (NACE).
- (6) National Fire Protection Association (NFPA).
- (7) Petroleum Equipment Institute (PEI).
- (8) Steel Structures Painting Council (SSPC).
- (9) Steel Tank Institute (STI).
- (10) Underwriters Laboratory (UL).

(b) Nationally recognized codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter. When used to meet the technical standards and requirements of this subchapter, the most current or latest edition of the codes and standards shall be applied. Other Nationally recognized codes and standards, not referenced in this part, may also be used to comply with this subchapter, when appropriate.

(c) When Nationally recognized codes and standards are updated, facilities or storage tank systems installed to previously existing standards prior to the update will not automatically be required to be upgraded to meet the new standard.

TECHNICAL REQUIREMENTS

§ 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.

(a) Tanks installed after October 11, 1997, shall be tested for tightness in accordance with current codes of practice developed by Nationally recognized associations and manufacturer's specifications, except for manufactured, shop built tanks that meet the requirements of subsection (b). The testing shall be completed, as part of the installation process, prior to putting the tank in service.

(b) Manufactured, shop built tanks that are initially tested after full assembly at the plant do not require additional testing at installation if the manufacturer certifies that the tank was tested at the plant and the manufacturer's installation instructions do not specify additional testing.

(c) Tanks that receive major modifications to the tank shell or the tank bottom shall be tested for tightness, in accordance with current codes of practice developed by Nationally recognized associations or manufacturer's specifications, prior to being returned to service.

§ 245.612. Performance and design standards.

(a) Tanks shall be designed, constructed and installed or modified in accordance with current codes of practice developed by Nationally recognized associations such as API, ASME, ASTM, ANSI, STI and UL and the manufacturer's specifications.

(b) Tanks shall have a stable support or foundation capable of adequately supporting the total weight of the tank and its contents when in use. The support or foundation shall meet or exceed the specifications of the tank manufacturer and be designed and constructed in accordance with sound engineering practices.

(c) Ancillary equipment, including piping, shall be designed, installed and modified in accordance with current codes of practice developed by Nationally recognized associations such as API, SSPC, NACE, ASME, PEI and UL and the manufacturer's specifications. Ancillary equipment shall be compatible with the substance stored and shall be adequately protected from corrosion, excessive wear and deterioration. Protective coatings shall be maintained throughout the entire operational life of the storage tank system.

(d) Tanks installed after October 11, 1997, shall be installed with secondary containment in or under the tank bottom to provide monitoring capability to satisfy leak detection requirements in § 245.613 (relating to monitoring standards) and emergency containment to contain possible releases, such as overfills, leaks and spills. Emergency containment shall be sufficiently impermeable to contain any potential release for a minimum of 72 hours and until the release can be detected and fully recovered in an expeditious manner.

(e) Existing tanks which do not meet the requirements specified in subsection (d) shall be upgraded with secondary containment by October 11, 2007, and emergency containment by October 11, 2000.

(f) Tanks installed in underground vaults after October 11, 1997, and used for dispensing Class I and Class II motor fuels shall comply with § 245.523 (relating to aboveground storage tanks in underground vaults).

(g) The exterior of the tank system shall be protected by an appropriate coating or paint which shall be maintained throughout the entire operational life of the tank system.

(h) Tanks which are internally lined shall comply with § 245.534 (relating to interior linings and coatings).

(i) Tanks shall be labeled or marked in a manner consistent with industry standards and which provides for identifying the regulated substance stored from outside the containment area.

§ 245.613. Monitoring standards.

(a) By October 12, 1998, a method of leak detection shall be in use and monitored at least monthly. An automatic sensing device, mechanical device or other appropriate method may be used. This method, at a minimum, shall provide a visual examination of the storage tank system by the owner/operator or designated representative. If releases are detected, they shall be corrected and the provisions of Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with.

(b) The owner/operator shall assure that a maintenance and general operations check of the storage tank system is performed at least monthly. Deficiencies noted during the check shall be corrected. The small aboveground storage tank general operations and maintenance checklist provided by the owner/operator shall be used to document the monthly operations and maintenance check. The operations and maintenance check shall include:

- (1) A visual examination of the tank system for deterioration, including, but not limited to, the tank, piping, ancillary equipment, foundation and safety equipment.
- (2) A check of the containment areas for accumulation of water and removal of water as necessary.
- (3) Confirmation that containment drain valves are secured in the closed position when not in use.
- (4) Monitoring of the leak detection system.
- (5) A check of vents for restrictions.
- (6) A check of ancillary equipment for operational malfunctions.
- (7) An investigation of conditions that may be a fire or safety hazard, or pose an environmental hazard.
- (8) Observation for evidence of a release of regulated substance from the tank system.

§ 245.614. Requirements for closure.

(a) Tank systems shall be cleaned, rendered free from hazardous vapors and ventilated if left onsite or shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Land Recycling and Waste Management requirements such as Chapters 263 and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste).

(b) The owner shall conduct a visual examination of the surface, soil and area surrounding and underlying the storage tank system for obvious indications or evidence of a release of regulated substance.

(1) If a release is suspected, it shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

(2) If a release is confirmed, it shall be reported to the appropriate Department regional office responsible for the county in which the tank is located in accordance with § 245.305 (relating to reporting releases).

(c) The owner shall complete and submit an amended tank registration form to the Department within 30 days of:

- (1) The completion of permanent closure.
- (2) Change-in-service status of the tank.
- (3) Temporary removal from service.

(d) Temporary removal from service requires that the owner/operator empty the tank system of regulated substances and conduct a visual examination of the area surrounding the tank as required in subsection (b), excluding the surface and soil underlying any tank bottom in contact with the ground. A tank may be considered to be in a temporary removal from service status when the tank is emptied and intended to remain out of use for 1 year or more.

(1) Temporary removal from service may not exceed 5 years.

(2) Monitoring standards in § 245.613 (relating to monitoring standards) are not required when a tank is reported to the Department as temporarily removed from service.

(3) Inspection of tanks temporarily removed from service shall be performed in accordance with § 245.616 (relating to inspection requirements).

§ 245.615. Recordkeeping requirements.

(a) The owner/operator shall maintain required storage tank system records. If records are maintained offsite, the records shall be easily obtained and provided to the Department upon request.

(b) The following records shall be maintained for the operational life of the tank unless otherwise stated:

- (1) Original tank and system installation records and design specifications. This requirement is limited to records currently available for tank systems existing prior to October 11, 1997.
- (2) Records of modification to the tank or storage tank system.
- (3) The permits issued under Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities).
- (4) Current registration certificates.
- (5) Monthly leak detection records and maintenance checklists for the past 12 months.
- (6) Third-party inspection reports.

§ 245.616. Inspection requirements.

(a) Required inspections of small aboveground storage tanks shall be conducted by Department certified aboveground storage tank inspectors according to a current Nationally recognized association's code of practice such as API and ASME and according to manufacturer's specifications. Deficiencies noted during the inspection shall be addressed.

(b) After October 11, 1997, small aboveground field constructed storage tanks shall be inspected at installation, reconstruction or relocation and when a major modification activity is performed on the tank shell or the tank bottom plates.

(c) The owner/operator of small aboveground storage tanks storing regulated substances with a capacity greater than 5,000 gallons and owner/operator of small aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons shall have in-service inspections conducted every 10 years or at 1/4 of the corrosion rate life with a maximum of 10 years between inspections. Inspections shall be phased in for tanks without a previous inspection as follows:

- (1) New tanks shall be initially inspected within 10 years of installation.
- (2) Existing tanks, less than 10 years old without a previous inspection, shall be inspected by October 13, 2003, or 10 years from the date of installation, whichever is later.
- (3) Existing tanks over 10 years old, without a previous inspection, shall be inspected by October 11, 2002.

(d) In-service inspections shall evaluate the following:

- (1) Containment areas.
- (2) Foundation and tank supports.
- (3) Tank shell and tank roof, where a roof exists.
- (4) Appurtenances.
- (5) Ancillary equipment including piping.
- (6) Leak detection method, including monthly leak detection records and maintenance checklists.
- (7) Cathodic protection system, if installed.
- (8) Coatings and protections from deteriorations.

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