

# PENNSYLVANIA BULLETIN

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Lead Occupation Accreditation  
and Certification

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

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

*Bulletin* before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

## **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

## ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

## **How to Find Documents**

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# PENNSYLVANIA BULLETIN

Volume 27 Number 45  
Saturday, November 8, 1997 • Harrisburg, Pa.

## **Part II**

This part contains the  
Department of Labor and Industry's  
Lead Occupation Accreditation  
and Certification

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## PENNSYLVANIA

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Number 45

## **Part III**

This part contains the  
Environmental Quality Board's  
Administration of Sewage Facilities,  
Planning Program and Standards for  
Sewage Disposal Facilities (Act 149)

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# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL [234 PA.CODE CH. 1100] Trial

#### Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rule of Criminal Procedure 1107, and make correlative changes to Rules 1104 and 1106 to provide for the mandatory use of a standardized juror information questionnaire in all criminal cases.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P.O. Box 1325, Doylestown, PA 18901 no later than Wednesday, December 10, 1997.

*By the Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chairperson*

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE PART I. GENERAL CHAPTER 1100. TRIAL

**Rule 1104. Juror Qualification Form.** Lists of Trial Jurors, and Challenge to the Array.

**[(a)] (A)** The officials designated by law to select persons for jury service shall: **[prepare, publish and post such lists of the names of persons to serve as jurors as provided by law.]**

**(1) devise, distribute, and maintain juror qualification forms as provided by law;**

**(2) prepare, publish, and post lists of the names of persons to serve as jurors as provided by law; and**

**(3) upon the request of the attorney for the Commonwealth or the defendant's attorney, furnish a list containing the names of prospective jurors summoned to try the case together with copies of the juror qualification forms returned by such prospective jurors.**

**[(b)] (B)** Unless opportunity did not exist prior thereto, a challenge to the array shall be made not later than **[five] 5** days before the first day of the week the case is listed for trial of criminal cases for which the

jurors have been summoned and not thereafter, and shall be in writing, specifying the facts constituting the ground for the challenge.

**[(c)] (C)** A challenge to the array may be made only on the ground that the jurors were not selected, drawn or summoned substantially in accordance with law.

*Official Note:* Adopted January 24, 1968, effective August 1, 1968[ , ] ; **Comment revised January 28, 1983, effective July 1, 1983[ . ] ; amended September 15, 1993, effective January 1, 1994; September 15, 1993 amendments suspended December 17, 1993 until further order of the Court; the September 15, 1993 Order is superseded by the \_\_\_\_\_, 1997 Order, and rule amended \_\_\_\_\_, 1997, effective \_\_\_\_\_, 1998.**

#### Comment

The qualification, selection, and summoning of prospective jurors, as well as related matters, are generally dealt with in Chapter 45, Subchapters A-C, of the Judicial Code[ . ], 42 Pa.C.S. §§ 4501-4503, 4521-4526, 4531-4532 **[(1981)]**. "Law" as used in paragraph **[(c)] (C)** of this rule is intended to include these Judicial Code provisions. However, paragraphs **[(b)] (B)** and **[(c)] (C)** of this rule are intended to supersede the procedures set forth in Section 4526(a) of the Judicial Code and that provision is suspended as being inconsistent with this rule. See **[Pa. Const.] Pa. Const. [Art]art. V., § 10[:]; 42 Pa.C.S. § 4526(c)**. Sections 4526(b) and (d)-(f) of the Judicial Code are not affected by this rule.

**Paragraph (A) was amended in 1997 to require that the counties use the juror qualification forms provided for in Section 4521 of the Judicial Code, 42 Pa.C.S. § 4521. It is intended that the attorneys in a case may request and receive copies of the jury lists and the qualification forms for the prospective jurors summoned for their case. The information on the qualification forms is not to be disclosed except as provided by this rule or by statute. See also Rule 1107, which requires that jurors complete a standardized informational questionnaire for use during voir dire.**

*Committee Explanatory Reports:*

Report explaining the September 15, 1993 amendments published at 21 Pa.B. 150 (January 12, 1991).

**Report explaining the amendments published at 27 Pa.B. 5749 (November 8, 1997).**

**Rule 1106. Examination and Challenges of Trial Jurors.**

**(A)** Voir dire of prospective trial jurors and prospective alternate jurors shall be conducted, and the jurors shall be selected, in the presence of a judge, unless the judge's presence is waived by the attorney for the Commonwealth, the defense attorney, and the defendant, with the judge's consent.

**(B)** This oath shall be administered individually or collectively to the prospective jurors:

"You do solemnly swear by Almighty God (or do declare and affirm) that you will answer truthfully all questions that may be put to you concerning your qualifications for service as a juror."

(C) Voir dire, including the judge's ruling on all proposed questions, shall be recorded in full unless the recording is waived. The record will be transcribed only upon written request of either party or order of the judge.

(D) **Prior to voir dire, each prospective juror shall complete a confidential juror information questionnaire as provided in Rule 1107.** The judge may require the parties to submit in writing a list of proposed questions to be asked of the jurors regarding their qualifications. The judge may permit the defense and the prosecution to conduct the examination of prospective jurors or the judge may conduct the examination. In the latter event, the judge shall permit the defense and the prosecution to supplement the examination by such further inquiry as the judge deems proper.

(E) In capital cases, the individual voir dire method must be used, unless the defendant waives that alternative. In non-capital cases, the trial judge shall select one of the following alternative methods of voir dire, which shall apply to the selection of both jurors and alternates:

(1) Individual Voir Dire and Challenge System.

(a) Voir dire of prospective jurors shall be conducted individually and may be conducted beyond the hearing and presence of other jurors.

(b) Challenges, both peremptory and for cause, shall be exercised alternately, beginning with the attorney for the Commonwealth, until all jurors are chosen. Challenges shall be exercised immediately after the prospective juror is examined. Once accepted by all parties, a prospective juror shall not be removed by peremptory challenge. Without declaring a mistrial, a judge may allow a challenge for cause at any time before the jury begins to deliberate, provided sufficient alternates have been selected, or the defendant consents to be tried by a jury of fewer than 12, pursuant to Rule 1103.

(2) List System of Challenges.

(a) A list of prospective jurors shall be prepared. The list shall contain a sufficient number of prospective jurors to total at least 12, plus the number of alternates to be selected, plus the total number of peremptory challenges (including alternates).

(b) Prospective jurors may be examined collectively or individually regarding their qualifications. If the jurors are examined individually, the examination may be conducted beyond the hearing and presence of other jurors.

(c) Challenges for cause shall be exercised orally as soon as the cause is determined.

(d) When a challenge for cause has been sustained, which brings the total number on the list below the number of 12, plus alternates, plus peremptory challenges (including alternates), additional prospective jurors shall be added to the list.

(e) Each prospective juror subsequently added to the list may be examined as set forth in paragraph (E)(2)(b).

(f) When the examination has been completed and all challenges for cause have been exercised, peremptory challenges shall then be exercised by passing the list between prosecution and defense, with the prosecution first striking the name of a prospective juror, followed by the defense, and alternating thereafter until all peremptory challenges have been exhausted. If either party fails to exhaust all peremptory challenges, the jurors last listed shall be stricken. The remaining jurors and alternates shall be seated. No one shall disclose which party peremptorily struck any juror.

*Official Note:* Adopted January 24, 1968, effective August 1, 1968; amended May 1, 1970, effective May 4, 1970; amended June 30, 1975, effective September 28, 1975. The 1975 amendment combined former Rules 1106 and 1107. Comment revised January 28, 1983, effective July 1, 1983; amended September 15, 1993, effective January 1, 1994. The September 15, 1993 amendments suspended December 17, 1993 until further order of the Court; amended February 27, 1995, effective July 1, 1995 [ . ]; **the September 15, 1993 Order is superseded by the \_\_\_\_\_, 1997 Order, and rule amended \_\_\_\_\_, 1997, effective \_\_\_\_\_, 1998.**

**Comment**

This rule applies to all cases, regardless of potential sentence. Formerly there were separate rules for capital and non-capital cases.

If Alternative (E)(1) is used, examination continues until all peremptory challenges are exhausted or until 12 jurors and 2 alternates are accepted. Challenges must be exercised immediately after the prospective juror is questioned. In capital cases, only Alternative (E)(1) may be used unless affirmatively waived by all defendants and the Commonwealth, with the approval of the trial judge.

If Alternative (E)(2) is used, sufficient jurors are assembled to total 12, plus the number of alternates, plus at least the permitted number of peremptory challenges (including alternates). It may be advisable to assemble additional jurors, to encompass challenges for cause. Prospective jurors may be questioned individually, out of the presence of other prospective jurors, as in Alternative (E)(1); or prospective jurors may be questioned in the presence of each other. Jurors may be challenged only for cause, as the cause arises. If the challenges for cause reduce the number of prospective jurors below 12, plus alternates, plus peremptory challenges (including alternates), new prospective jurors are called and they are similarly examined. When the examination is completed, the list is reduced, leaving only 12 jurors to be selected, plus the number of peremptories to be exercised; and sufficient additional names to total the number of alternates, plus the peremptories to be exercised in selecting alternates. The parties then exercise the peremptory challenges by passing the list back and forth and by striking names from the list alternately, beginning with counsel for the prosecution. Under this system, all peremptory challenges must be utilized. Alternates are selected from the remaining names in the same manner. Jurors are not advised by whom each peremptory challenge was exercised. Also, under Alternative (E)(2), prospective jurors will not know whether they have been chosen until the challenging process is complete and the roll is called.

This rule requires that prospective jurors be sworn before questioning, under either Alternative.

The words in parentheses in the oath shall be inserted when any of the prospective jurors chooses to affirm rather than swear to the oath.

Unless the judge's presence during voir dire and the jury selection process is waived pursuant to paragraph [ (a) ] (A), the judge must be present in the jury selection room during voir dire and the jury selection process.

**Pursuant to paragraph (D), which was amended in 1997, and Rule 1107, prospective jurors are required to complete a juror information questionnaire prior to voir dire. This questionnaire, which facilitates and expedites voir dire, provides the**

**judge and attorneys with basic background information about the jurors, and is intended to be used as an aid in the oral examination of the jurors.**

**The point in time prior to voir dire that the questionnaires are to be completed is left to the discretion of the local officials. Nothing in this rule is intended to require that the information questionnaires be mailed to jurors before they appear in court pursuant to jury summons.**

See Rule 3 for definitions of "capital case" and "voir dire."

*Committee Explanatory Reports:*

Report explaining the September 15, 1993 amendments published at 21 Pa.B. 150 (January 12, 1991). Order suspending, until further order of the Court, the September 15, 1993 amendments concerning juror questionnaires published at 24 Pa.B. 333 (January 15, 1994).

Final Report explaining the February 27, 1995 amendments published with the Court's Order at 25 Pa.B. 948 (March 18, 1995).

**Report explaining the amendment published at 27 Pa.B. 5749 (November 8, 1997).**

**Rule 1107. Juror Information Questionnaire.**

(A) Prior to voir dire of prospective trial jurors and prospective alternate jurors:

(1) Each prospective juror shall complete and verify the standard, confidential juror information questionnaire, and any supplemental questionnaire provided by the court.

(2) The president judge shall designate the method for distributing and maintaining the juror information questionnaires.

(3) The trial judge and the attorneys shall receive copies of the completed questionnaires for use during voir dire and the attorneys shall be given a reasonable opportunity to examine the questionnaires.

(B) All information provided by the jurors on the questionnaires shall be confidential and limited to use for the purpose of jury selection only. Except for disclosures made during voir dire, or unless the trial judge otherwise orders pursuant to paragraph (F), this information shall only be made available to the trial judge, the defendant(s) and the attorney(s) for the defendant(s), and the attorney for the Commonwealth.

(C) The original and any copies of the juror information questionnaires shall not constitute public record.

(D) Juror information questionnaires shall be used in conjunction with the examination of the prospective jurors conducted by the judge or counsel pursuant to Rule 1106(D).

(E) If the court adjourns before voir dire is completed, the trial judge may order that the attorneys be permitted to retain their copies of the questionnaires during the adjournment. When copies of the questionnaires are permitted to be taken from the courtroom, the copies:

(1) shall continue to be subject to the confidentiality requirements of this rule, and to the disclosure requirements of paragraph (B), and

(2) shall not be duplicated, distributed, or published.

The trial judge may make such other order to protect the copies as is appropriate.

(F) The original questionnaires of all impaneled jurors shall be retained in a sealed file and shall be destroyed upon completion of the jurors' service, unless otherwise ordered by the trial judge. Upon completion of voir dire, all copies of the questionnaires shall be returned to the trial judge and destroyed, unless otherwise ordered by the trial judge at the request of the defendant(s), the attorney(s) for the defendant(s), or the attorney for the Commonwealth.

(G) The original and any copies of questionnaires of all prospective jurors not impaneled or not selected for any trial shall be destroyed upon completion of the jurors' service.

*Official Note:* Former Rule 1107 rescinded September 28, 1975. Present Rule 1107 adopted September 15, 1993, effective January 1, 1994; suspended December 17, 1993 until further order of the Court; the September 15, 1993 Order is superseded by the \_\_\_\_\_, 1997 Order, and present Rule 1107 adopted \_\_\_\_\_, 1997, effective \_\_\_\_\_, 1998.

**Comment**

This rule requires that, prior to voir dire in any criminal case, the prospective jurors must complete a juror information questionnaire, and that the trial judge and attorneys must automatically be given copies of the completed questionnaires in time to examine them before voir dire begins. Compare Rule 1104, which provides that attorneys must request copies of juror qualification forms for the jurors summoned in their case.

Under paragraph (A)(2), it is intended that the president judge of each judicial district must designate procedures for submitting the questionnaire to the jurors and maintaining them upon completion. For example, some districts may choose to send them along with their jury qualification form, while others may desire to have the questionnaire completed by the panel of prospective jurors when they are called to a criminal courtroom. This rule, however, mandates that the questionnaires be completed by each prospective juror to a criminal case.

Pursuant to paragraph (C), the juror information questionnaire is not a public record and therefore may not be combined in one form with the qualification questionnaire required by Rule 1104. However, nothing in this rule would prohibit the distribution of both questionnaires in the same mailing.

Under paragraph (B), the information provided by the jurors is confidential and may be used only for the purpose of jury selection. Except for disclosures made during voir dire, the information in the completed questionnaires may not be disclosed to anyone except the trial judge, the attorneys and any persons assisting the attorneys in jury selection, such as a member of the trial team or a consultant hired to assist in jury selection, the defendant, and any court personnel designated by the judge. Even once disclosed to such persons, however, the information in the questionnaires remains confidential.

Although the defendant may participate in voir dire, and have access to information from the questionnaire, see paragraph (B), nothing in this rule is intended to allow a defendant to have a copy of the questionnaire.

Paragraph (D) makes it clear that juror information questionnaires are to be used in conjunction with the oral examination of the prospective jurors, and are not to be used as a substitute for the oral examination. Juror information questionnaires facilitate and expedite the voir dire examination by providing the trial judge and attorneys with basic background information about the jurors,

thereby eliminating the need for many commonly asked questions. Although nothing in this rule is intended to preclude oral questioning during voir dire, the scope of voir dire is within the discretion of the trial judge. See, e.g., *Commonwealth v. McGrew*, 100 A.2d 467 (Pa. 1953) and Rule 1106(D).

Paragraph (E) provides, upon order of the trial judge, that only attorneys in the case, subject to strict limitations, may retain their copies of the juror information questionnaires during adjournment.

Paragraph (F) provides the procedures for the collection and disposition of the original completed questionnaires and copies for impaneled jurors. Once voir dire is concluded, all copies of the completed questionnaires are returned pursuant to paragraph (A)(2) and destroyed promptly. The original completed questionnaires of the impaneled jury must be retained in a sealed file in the manner prescribed pursuant to paragraph (A)(2), and destroyed upon the conclusion of the juror's service, unless the trial judge orders otherwise. Because the information in the questionnaires is confidential, the trial

judge should only order retention of the original questionnaires under unusual circumstances. Such a circumstance would arise, for example, if the questionnaires were placed at issue for post-verdict review. In that event, the judge would order the preservation of the questionnaires in order to make them part of the appellate record.

Under paragraph (G), the original and any copies of the questionnaires of those jurors not impaneled and not selected for any jury shall be destroyed without exception upon completion of their service.

There may be situations in which the attorneys and judge would want to prepare an individualized questionnaire for a particular case. In this situation, a supplemental questionnaire would be used instead of the standard juror information questionnaire, but the disclosure and retention provisions in paragraphs (B) and (F) would still apply. See (A)(1).

*Committee Explanatory Reports:*

Report explaining the provisions of new Rule 1107 published at 27 Pa.B. 5749 (November 8, 1997).

"STANDARD JUROR QUESTIONNAIRE FORM"  
IN THE COURT OF COMMON PLEAS  
COUNTY, PENNSYLVANIA  
JUROR INFORMATION QUESTIONNAIRE

**[ Confidential; Not a Public Record. ]**

YOU ARE A PROSPECTIVE JUROR. TO DETERMINE WHETHER YOU WILL BE A JUROR, PLEASE RESPOND TO THE FOLLOWING QUESTIONS. YOUR ANSWERS WILL BE USED TO HELP SELECT A FAIR JURY.

THIS INFORMATION WILL BE STRICTLY CONFIDENTIAL, AND WILL NOT BE GIVEN TO ANYONE EXCEPT THE JUDGE, THE PARTIES AND THE LAWYERS. AFTER YOUR SERVICE AS A JUROR, THE ORIGINALS WILL BE DESTROYED, UNLESS OTHERWISE ORDERED BY THE COURT.

IF YOU CANNOT ANSWER A QUESTION, PLEASE LEAVE IT BLANK. DURING THE QUESTIONING, YOU WILL BE GIVEN AN OPPORTUNITY TO EXPLAIN ANY ANSWER IF NECESSARY. IF YOU NEED ADDITIONAL SPACE FOR AN ANSWER, PLEASE USE THE SPACE AT THE END OF THE QUESTIONNAIRE.

ANY FALSE STATEMENT IN YOUR ANSWERS IS SUBJECT TO THE PENALTIES OF LAW.

THANK YOU FOR YOUR COOPERATION.

(Please print your answers clearly.)

1. Full name: \_\_\_\_\_

2. Date and Place of Birth \_\_\_\_\_

3. Municipality, neighborhood (if applicable) and zip code where you currently reside (not specific address): \_\_\_\_\_

(a) Length of time at current address: \_\_\_\_\_

(b) Communities where you have lived in or out of the state within the past ten years:

\_\_\_\_\_

4. Marital Status: single  married  separated  divorced   
widowed  remarried  other

(a) if your status is other than single, how long have you been separated, etc.: \_\_\_\_\_

(b) if married, spouse's name: \_\_\_\_\_

5. Education: (Indicate your level of education)

Elementary School: Yes  No

High School Yes  No

GED Yes  No

Technical/Vocational Yes  No

College Yes  No

Graduate Yes  No

(a) How far did your spouse go in school: \_\_\_\_\_

(b) How far did your children or stepchildren go in school: \_\_\_\_\_

(c) How far did the other members of your household go in school: \_\_\_\_\_

6. Other than your spouse and children, how many people reside with you in your home? \_\_\_\_  
Please indicate their relationship to you:

\_\_\_\_\_

\_\_\_\_\_

7. Employment/Occupation:

(a) Your present job: \_\_\_\_\_

(b) Current employer: \_\_\_\_\_

(c) How long employed in this job: \_\_\_\_\_

(d) Your spouse's present job and employer: \_\_\_\_\_

(e) If retired, when did you retire: \_\_\_\_\_  
for whom did you work: \_\_\_\_\_

(f) Are other members of your household employed: Yes  No

By whom: \_\_\_\_\_

8. Children: How many children \_\_\_\_\_, stepchildren \_\_\_\_\_ do you have?

(a) What are their ages: \_\_\_\_\_

(b) How many of your children or stepchildren live with you in your home? \_\_\_\_\_

(c) How many grandchildren do you have and what are their ages: \_\_\_\_\_

9. (a) Have you been or are you now a party to a lawsuit: Yes  No

(b) Have you or any member of your household or family been involved in a criminal case or a civil suit? Yes  No

(c) If your answer was yes, was that person: a defendant  a plaintiff   
a victim  a witness  a juror

10. Are you or any member of your household or family related to, associated with, or close friends with a law enforcement officer? Yes  No

If your answer was yes, please check the relationship:  
related  associated with  close friends

11. Have you or any member of your household or family ever been involved in police work or other law enforcement? Yes  No

12. Are you or any member of your household or family related to, associated with, or close friends with a lawyer? Yes  No

If your answer was yes, please check the relationship:  
related  associated with  close friends

13. Are you or any member of your household or family related to, associated with, or close friends with any person affiliated with the courts of any judicial district? Yes  No

If your answer was yes, please explain.

14. Do you drive a car: Yes  No

15. Are you aware of any physical or mental condition which will affect your ability to serve on a jury? Yes  No  If your answer was yes, please explain: \_\_\_\_\_

16. Is there any reason that you believe that you cannot or should not serve as a juror? Yes  No  If your answer was yes, please explain: \_\_\_\_\_

17. How do you keep informed on current affairs. Please list:

Newspapers: \_\_\_\_\_

Radio

\_\_\_\_\_

Television

Magazines: \_\_\_\_\_

Internet

18. Did anyone assist you in completing this questionnaire? Yes  No

If your answer was yes, please indicate who assisted you and why: \_\_\_\_\_

I VERIFY, SUBJECT TO THE PENALTIES OF SECTION 4904 OF THE CRIMES CODE (18 Pa.C.S. § 4904) RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES, THAT THE FACTS SET FORTH IN THIS QUESTIONNAIRE ARE TRUE AND CORRECT.

DATED: \_\_\_\_\_ SIGNED: \_\_\_\_\_

## REPORT

### **Proposed New Pa.R.Crim.P. 1107, and Correlative Amendments to Rules 1104 and 1106**

#### **Examination and Challenges of Trial Jurors: Juror Information Questionnaire; Juror Qualification Form**

##### *A. Background*

Over the past several years, the Committee has examined voir dire practices throughout the Commonwealth as part of its ongoing monitoring of jury trial procedures. Voir dire can often be very cumbersome and quite protracted. In view of this, the Committee considered whether to mandate the use of juror questionnaires in criminal jury trials. In 1993, the Court adopted changes to the Criminal and Civil Rules which mandated the use of juror information questionnaires.<sup>1</sup> On December 17, 1993, the Court suspended that Order adopting those changes,<sup>2</sup> and, until further Order of the Court, instructed both Committees to reexamine the subject matter.

Subsequently, the Civil Rules Committee reexamined their rules and revised their procedure to provide, inter alia, that the use of the juror information questionnaire is discretionary with the trial judge. The Court adopted the Civil Rules Committee's recommendation on August 14, 1997, effective January 1, 1998.

In view of the Court's actions suspending our rules and adopting the discretionary questionnaire provided in the Rule of Civil Procedure 220.1, the Criminal Rules Committee reconsidered the utility of juror information questionnaires, noting that there continues to exist considerable variation in voir dire practices within and among the judicial districts, including the type and numbers of questions permitted to be asked during voir dire. From our research and the experience of the Committee members, the Committee was concerned that the lack of uniformity in voir dire procedures might have an unfair impact upon the litigants in a case. Indeed, because of this lack of uniformity, the process may become so restricted that it nullifies the purpose of voir dire. Sometimes, that same effect results when the court permits the attorneys to ask unlimited questions, creating an ordeal for the jurors, and absorbing an inordinate amount of the court's time and resources. The Committee also was aware of the recently renewed efforts and movement toward strengthening and solidifying a unified judicial system in Pennsylvania.<sup>3</sup>

Based on these considerations concerning the importance of uniform procedures, and given the benefits to the criminal justice system, as well as the common goals of promoting fairness and preserving the rights of the people and the accused, the Committee reaffirmed its previous decision that the Criminal Rules should require that a juror information questionnaire be completed prior to every criminal trial.

##### *B. Discussion of Rule Changes*

###### *1. Introduction*

Once the Committee agreed that a juror information questionnaire should be completed prior to every criminal trial, the members reexamined the 1993 proposal. To further the benefits of a uniform procedure, the Committee concluded that a standardized juror questionnaire form should be mandated by the rules. We recognized the importance of standardizing practice throughout the Commonwealth for the uniform judicial system: this ensures that there are similar results across the state, that common practice and procedure do not vary greatly from one geographical location to another, and that the court's time and resources will not be wasted unnecessarily. Additionally, the Committee expects that the use of this standardized questionnaire will expedite the process of voir dire by providing the attorneys for the Commonwealth and the attorneys for the defendants with specific information about the jurors before the actual voir dire process begins.

The Committee also reconsidered the concerns raised by members of the judiciary and district court administrators about costs, implementation, and administration. The changes the Committee is proposing preserve the flexibility inherent in the different but equally valid administrative approaches toward handling voir dire and juror questionnaires used by the various counties, and promote greater uniformity in voir dire procedures statewide. These changes provide only the minimum procedural requirements, thereby allowing individual counties to develop their own administratively feasible method of implementation. Furthermore, based on the information we obtained when we researched this matter, since the proposal was initially published in 1993, the experience of those jurisdictions using such forms has been that once the use of the questionnaire is in place, the counties have been able to adapt their existing procedures or develop new procedures suited to their juror selection process consistent with the intent of this rule.

###### *2. Rule 1107 (Juror Information Questionnaire)*

The purpose of proposed new Rule 1107 is to promote statewide uniformity, consistent with the principle of a unified judicial system, and to expedite the completion of the voir dire process. The rule sets forth the requirements for the completion, distribution, and maintenance of juror information questionnaires for all prospective jurors, and includes the mandated standardized form, which must be used in every criminal trial. Rule 1107:

(1) requires each juror to complete and verify an informational questionnaire;

(2) provides that each president judge must designate the method for maintaining and distributing the questionnaires;

(3) requires that the completed questionnaires, and any copies of them, be held strictly confidential;

(4) provides that the trial judge, attorney for the Commonwealth, and attorney for the defendant automatically receive copies of the questionnaires before commencement of voir dire;

<sup>1</sup> See 23 Pa.B. 4638 (October 2, 1993).

<sup>2</sup> See 24 Pa.B. 333 (January 15, 1994).

<sup>3</sup> See, e.g., "Interim Report of the Master on the Transition to State Funding of the Unified Judicial System." The Honorable Frank J. Montemuro, Jr., Master.

(5) insures that the original and all copies of each juror's questionnaire will be destroyed upon completion of the juror's service; and

(6) permits the attorney for the Commonwealth and the attorney for the defendant to retain their copies of the juror questionnaires during adjournment, in limited circumstances and with specific conditions.

Paragraph (A) sets forth the procedures concerning juror information questionnaires which must be completed prior to voir dire.

Paragraph (A)(1) provides that a standard form of juror information questionnaire must be used in all judicial districts for every prospective juror to a criminal trial. The Committee recognized that in some cases more information would be necessary than requested on the standard form, so paragraph (A)(1) permits the use of supplementary questionnaires.

Paragraph (A)(2) requires that the president judge of each judicial district designate the procedures for the distribution and maintenance of the questionnaires, thus leaving the time and manner in which the questionnaires are initially distributed to jurors to the individual judicial districts. In the Comment, the Committee explains that paragraph (A)(2) procedures recognize that each district may have different needs, and therefore we did not want to place an onerous burden on the courts by outlining a single method for all judicial districts to utilize. Rather, it is intended that the judicial districts will establish distribution procedures in the most cost-effective and efficient manner for them. Bearing in mind that mandating use of the juror information questionnaire could potentially create additional expenses for the various judicial districts, we added a provision to the Comment which indicates that the individual questionnaires may, but do not have to, be mailed to the prospective jurors before they are required to appear at the courthouse for their service. However, because of the confidentiality requirements of the rule, the Comment cautions that the juror information questionnaire and the Rule 1104 juror qualification form are not to be confused nor combined into one form.

Finally, paragraph (A)(3) provides that the trial judge and the attorneys are to receive copies of the completed forms prior to voir dire, and the attorneys are to be given a reasonable opportunity to examine them.

Paragraphs (B) and (C) emphasize that the questionnaires are confidential and to be used only for voir dire, and that the completed questionnaires do not constitute public record for any purposes. Specifically, paragraph (B) states that the information provided on an individual juror's questionnaire is confidential and limited to use for voir dire only. In addition, paragraph (B) limits access to the information so that, except for oral disclosures uttered during voir dire, or unless the judge orders that the questionnaires be preserved as provided in paragraph (F), the information provided can only be made available to the trial judge, the defendant(s) and the attorneys in the case. The Committee expressed concern that if the rule did not specifically address and mandate confidentiality, then the jurors themselves would not supply information willingly, thereby thwarting the judicial process and nullifying the purpose of the rule. The Comment explains that disclosure of information contained on the questionnaire is appropriate to persons legitimately working with the attorneys during the jury selection process, for example, prosecuting police officer, trial team associate, jury expert, but clearly states that the confidentiality proscriptions of the rule apply to those persons.

Paragraph (D) was added to address concerns expressed by members of the bar that the required mandated questionnaire may be used by some judges to prevent attorneys from oral examination during voir dire. In order to emphasize that the rule's requirement is to supplement and expedite voir dire, the language "shall be used in conjunction with" was added along with a cross reference to Rule 1106(D), concerning examination of prospective jurors by the judge or attorneys.

Several Committee members expressed concern that there would be times when court would adjourn before the completion of voir dire, and attorneys would want to be able to review the questionnaire during adjournment. Although the Committee agreed that the rule should provide an exception so the questionnaires could be retained by the attorneys, but only during adjournment, and given the confidential nature of the questionnaires and the provisions for retaining the questionnaires by the court, we also agreed that the rule should spell out strict requirements against duplicating, distributing, and publishing. This is accomplished by paragraph (E).

Paragraphs (F) and (G) require that:

(1) if a prospective juror is not selected as a panel member or alternate, then the copies of the juror information questionnaires are to be destroyed upon completion of voir dire for each case to which he or she is called; and

(2) all originals and copies remaining at the end of every juror's service are to be destroyed.

The rule is very specific in these two paragraphs, distinguishing between those jurors who are impaneled for a trial, and those jurors who have filled out the forms, but are not selected or impaneled. It is intended that at the end of the individual juror's service, no original and no copies of his or her completed questionnaire will exist. The Committee added these provisions because of concerns that if the rule were silent on the issues of confidentiality and destruction of the original and copies of the completed questionnaires, then the individuals required to complete the form may be reluctant to provide truthful and honest answers.

The Comment addresses two additional areas of concern to the Committee. First, the Comment, elaborating on paragraph (A)(1), explains that, if the circumstances of a case require that an additional questionnaire would benefit the voir dire process, then a supplemental questionnaire would be permitted under the rule. However, the Comment emphasizes that the additional questionnaire is to be used as a supplement to, not a replacement for, the mandated standardized juror informational questionnaire.

Second, the Comment further elaborates on paragraph (D) by emphasizing that, although the scope of voir dire is within the discretion of the trial judge, the use of the juror information questionnaire is not intended to supplant the oral question and answer period provided in Rule 1106, nor is it to be the sole means to obtain information about the jury pool. The Committee emphasizes that the intent of this rule is to aid in the process of voir dire, and, therefore, the trial judge and the attorneys should ask follow-up questions to those provided on the questionnaire, as well as additional questions more closely related to their specific case.

### 3. *Correlative Changes*

a. Rule 1104 (Juror Qualification Form, Lists of Trial Jurors, and Challenges to the Array)

The changes to Rule 1104 require that the jury service official:

1. devise, distribute, and maintain juror qualification forms;
2. prepare, publish, and post lists of the names of persons to serve as jurors; and
3. upon request of an attorney in a case, furnish a list containing the names of prospective jurors, along with copies of the completed juror qualification forms, summoned to try the cases.

These changes accomplish the objectives of 42 Pa.C.S. § 4501, implement the requirements of 42 Pa.C.S. § 4521(d), and require that a juror qualification form, not to be confused with the juror information questionnaire, be completed, and allow for attorneys to be provided with a list of prospective jurors to their case, along with copies of their juror qualification forms.

b. Rule 1106 (Examination and Challenges of Trial Jurors)

Rule 1106 is the general voir dire rule. The changes in the rule and the Comment tie the Rule 1106 procedures with the new juror questionnaire procedures in Rule 1107 by reiterating that:

- (1) all prospective jurors, prior to voir dire, are required to complete the juror information questionnaire provided to them and the information provided by 4th jurors is intended to supply the trial judge and attorneys with basic information about the jurors before voir dire begins;
- (2) use of the questionnaire is to expedite voir dire;
- (3) the questionnaire is to supplement, not replace, oral examination of the jurors; and
- (4) although the questionnaire must be completed prior to the commencement of voir dire, it need not be mailed to the jurors before they appear to begin their service.

#### 4. *Standardized Juror Questionnaire*

The standardized form of the juror information questionnaire mandated by the rules appears after the Rule 1107 Comment. The standardized form is modeled on the sample questionnaire provided in the 1993 version of the rules. The Committee spent a substantial amount of time reviewing the questions in the sample, and deleted those questions more applicable to civil cases.<sup>4</sup> The Committee also spent a considerable amount of time discussing what information would be most beneficial for the attorneys to know prior to voir dire, bearing in mind practical considerations in mandating use of a form, that is, to not require an unwieldy and unduly time consuming questionnaire for jurors to complete, and to promote honesty from those completing the form. Additionally, the Committee included a question concerning how jurors obtain news and information about current events. At the end of the form, the juror is required to verify the answers he or she provided in response to the questions, and a line is provided for the juror's signature and date the form was completed. Finally, additional space is provided at the end

<sup>4</sup> Because the 1993 version of the rules was the product of a joint effort with the Civil Procedural Rules Committee, the sample form included some questions more applicable to civil cases.

of the form for the juror to further explain his or her answers.

[Pa.B. Doc. No. 97-1778. Filed for public inspection November 7, 1997, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Amendment of Phila.Civ.R.No. 7109; President Judge General Court Regulation No. 97-04

##### Order

*And Now*, this 23rd day of October, 1997, the Board of Judges of Philadelphia County having voted, at the Board of Judges' Meeting held September 25, 1997, to amend Phila.Civ.R.No. 7109, It Is Hereby Ordered and Decreed that the above rule is amended as follows.

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

ALEX BONAVITACOLA,  
*President Judge*

#### **Phila.Civ.R.No. 7109. Mental Health Review Officer.**

(a) *Appointment.* The President Judge may, from time to time, appoint such Mental Health Review Officers as may be needed to effectuate the purposes of the Mental Health Procedures Act of 1976, as amended.

(b) *Qualification of Mental Health Review Officer.* The Mental Health Review Officer shall be a member in good standing of the Bar of the Supreme Court of Pennsylvania and possess such other knowledge, expertise and experience as may be required by the President Judge.

(c) *Venue.* The Philadelphia Court of Common Pleas, or the Mental Health Review Officer appointed pursuant to this rule, shall exercise jurisdiction in proceedings pursuant to the Mental Health Procedures Act of 1976, as amended, only in the following situations:

(1) when the subject of the proceedings is or resides in Philadelphia County; or

(2) when the subject of the proceedings has been subjected to involuntary treatment by another county and that county has determined that Philadelphia County is the county of the person's usual residence, and has transferred the case to Philadelphia County for further proceedings. In that case, the Philadelphia Court of Common Pleas, or Mental Health Review Officer appointed pursuant to this rule, may conduct legal proceedings at such locations as may be directed by the Court, including the facility where the person is in treatment, even if the facility is not located in Philadelphia County.



(d) *Form of Applications, Petitions and Certifications.* All Applications, Petitions and Certifications filed pursuant to the Mental Health Procedures Act shall be on forms approved by the Department of Public Welfare. **Provided, however, that the parties shall attach a cover sheet with all Applications, Petitions and Responses in the form set forth hereunder or as modified by the Court from time to time.**

(e) *Application for Extended Involuntary Treatment Pursuant to Section 303 of the Act.*

(1) *Applicant/Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(2) *Contents of Application/Petition.*

(A) grounds on which extended emergency medical treatment is believed to be necessary;

(B) the name of any examining physician and substance of his/her opinion regarding the mental condition of the person; and

(C) any other appropriate information.

(3) *Filing and Service of Petition.* The Petition must be filed with the PROTHONOTARY within 120 hours of commencement of involuntary emergency treatment rendered pursuant to Section 302, and served on the person by the Petitioner as soon as practicable, on the person, **his/her attorney, the City Solicitor and the Mental Health Review Officer.**

(4) *Scheduling of Conference.* An informal conference shall be **[ scheduled and held ] listed** within 24 hours after the application is filed, **[ and concluded ] with Court intervention to occur** within 120 hours of the commencement of involuntary emergency treatment rendered pursuant to Section 302.

(5) *Conference.* At the informal conference, the person shall be informed of the nature of the proceedings, and the following information shall be considered by the Mental Health Review Officer:

(A) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;

(B) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment;

(C) Information contained in, and appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302; and

(D) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment, even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable.

(6) *Decision.* At the conclusion of the conference, the Mental Health Review Officer shall either:

(A) Certify that the person is severely mentally disabled and in need of continued involuntary treatment. The certification shall be filed with the Prothonotary and served on the parties as required by Section 303(e) of the Act; or

(B) Direct that the facility director or his designee discharge the person.

(7) *Duration of Court-Ordered Involuntary Treatment.* A period not to exceed twenty (20) days.

(f) *Petition for Court-Ordered Involuntary Treatment Pursuant to Section 304 of the Act.*

(1) *Persons Already Subject to Involuntary Treatment*

(A) *Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(B) *Contents of Petition.*

(i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;

(iii) allegation that the person has been provided with the information required by Section 304(b)(3); and

(iv) any other relevant information.

(C) *Filing and Service of the Petition.* The Petition must be filed with the Prothonotary and served as required by Section 304(b)(3).

(D) *Scheduling of Hearing.* A hearing **[ must be scheduled for a date ] shall be held** not more than five (5) days after the filing of the Petition.

(E) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of Petition.

(F) *Hearing.* The following information shall be considered by the Mental Health Review Officer:

(i) Evidence reestablishing that the conduct originally required by Section 301 in fact occurred and that the person's condition continues to evidence a clear and present danger to himself/herself or others. It is not necessary to show the recurrence of dangerous conduct within the past 30 days;

(ii) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;

(iii) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302 or 303;

(iv) Testimony by a physician who examined the person;

(v) **[ Any other relevant information, even if normally excludable under the rules of evidence, provided the information is found to be reliable. ]**

(G) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:

(i) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or

(ii) deny the Petition and direct that the facility director or his designee discharge the person.

(2) *Persons Not Already Subject to Involuntary Treatment*

(A) *Petitioner.* Any responsible party.

(B) *Contents of Petition.*

(i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person; and

(iii) any other appropriate information.

(C) *Filing of Petition.* The Petition must be filed with the Prothonotary.

(D) *Scheduling of Hearing and Service of Petition.* Upon being satisfied that the Petition sets forth reasonable cause to believe that the person is within the criteria for court-ordered treatment as set forth in Section 304(a), the Court shall schedule a hearing, which may be conducted by a Mental Health Review Officer, and issue a summons or warrant to ensure the person's attendance at the hearing. The hearing shall be scheduled as soon as practicable, and the person must be served with a copy of the Petition and required notices at least three (3) days before the scheduled hearing.

(E) *Administration of Treatment Pending Hearing.* No treatment shall be authorized during the pendency of the Petition except in accordance with Sections 302 or 303 of the Act.

(F) *Hearing.* The following information shall be considered by the Court or Mental Health Review Officer:

(i) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that involuntary treatment is considered necessary;

(ii) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment; and

(iii) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment **[ , even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable ] .**

(G) *Decision.* The Mental Health Review Officer, or Court, shall render a decision within 48 hours after the close of evidence, and shall either:

(i) find that the person is severely mentally disabled and in need of involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or

(ii) deny the Petition.

(3) *Duration of Court-Ordered Involuntary Treatment.*

(A) A period not to exceed ninety days under Section 304(g)(1) of the Act; or

(B) A period not to exceed one year under Section 304(g)(2) of the Act, subject to the provisions of Section 304(g)(4) as to termination or continuance of involuntary treatment.

(g) *Application for Additional Periods of Court-Ordered Involuntary Treatment Pursuant to Section 305 of the Act.*

(1) *Applicant.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(2) *Contents of Petition.*

(A) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(B) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;

(C) allegation that the person has been provided with the information required by Section 304(b)(3); and

(D) any other appropriate information.

(3) *Filing and Service of Petition.* The Petition must be filed with the Prothonotary and served as required by Section 304(b)(3).

(4) *Scheduling of Hearing.* A hearing **[ must be scheduled and ] shall be held** not more than five (5) days after the filing of the Petition.

(5) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of the Petition.

(6) *Hearing.* The following information shall be considered by the Mental Health Review Officer:

(A) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302, 303 or 304;

(B) Testimony by a physician who examined the person;

(C) Information relevant to the reasons that continued involuntary treatment is considered necessary, as shown by conduct during the person's most recent period of court-ordered treatment; and

(D) **[ Any other information, even if normally excludable under the rules of evidence, provided the information is found to be reliable. ] Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment.**

(7) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:

(A) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment, as shown by conduct during the person's most recent period of court-ordered treatment; and issue an appropriate order as set forth in Section 305 of the Act; or

(B) deny the Petition and direct that the facility director or his designee discharge the person.

(8) *Duration of Court-Ordered Involuntary Treatment.*

(A) A period not to exceed one-hundred eighty (180) days; or

(B) A period not to exceed one year if the person meets the criteria of Section 304(g)(2) of the Act.

(h) *Transfer of Persons in Involuntary Treatment.*

(1) Except as provided hereunder, any person in involuntary treatment may be transferred to any approved facility.

(2) *Exceptions:*

(A) persons committed pursuant to Section 304(g)(2) of the Act may not be transferred, in the absence of an emergency, unless written notice is given to the committing Judge or Mental Health Review Officer, and district

attorney in the committing county and neither has objected to the transfer within twenty (20) days of receipt of said notice. In the event an objection is received, the Mental Health Review Officer shall hold a hearing within twenty days to review the commitment transfer and shall render a decision within 48 hours of the close of evidence; and

(B) transfers which constitute a greater restraint cannot be accomplished unless **before the expiration of the period of involuntary treatment a petition is filed as provided in this rule and the Mental Health Review Officer [ holds ], after a hearing, [ and ] finds the transfer to be necessary and appropriate.**

(i) *Review of Mental Health Review Officer Certifications or Decisions.*

(1) *Judicial Review and Assignment.* Certifications of the Mental Health Review Officers, pursuant to Section 303 of the Act, and decisions of the Mental Health Review Officers pursuant to Sections 304, 305 and 306 of the Act are subject to Judicial review through the filing, by any party, of a Petition for Review with the Prothonotary of the Court of Common Pleas. Said Petitions shall be assigned to such Court of Common Pleas Judges ("Review Judge"), assigned to any Division of the Court, as may be determined by the President Judge from time to time.

(2) *Scheduling of Hearing and Service.* A hearing must be scheduled and held within 72 hours after the Petition is filed unless a continuance is requested by the person's counsel. The party filing the Petition for Review must forthwith serve a copy of the Petition and Notice of Hearing on the Mental Health Review Officer and all other interested parties. Service may be effectuated by hand-delivery or via facsimile.

(3) *Preparation of Record for the Court.* The Mental Health Review Officer shall **produce the record of the proceedings held by the Mental Health Review Officer [ cause the transcription of the underlying proceedings for presentation ]** to the Review Judge no later than the hearing date, and shall ensure that the evidence relied upon by the Mental Health Review Officer is available to the Review Judge.

(4) *Hearing.* The Review Judge shall review the certification of the Mental Health Review Officer and shall consider such other evidence as the Review Judge may receive or require.

(5) *Decision.* The Review Judge shall render a decision as soon as practicable, and, unless all parties agree to a remand to the Mental Health Review Officer, shall either:

(A) determine that the person is in need of involuntary treatment and that the procedures prescribed by the Mental Health Procedures Act have been followed; or

(B) determine that the procedures prescribed by the Mental Health Procedures Act have not been followed, or that the person is not in need of involuntary treatment, and, if appropriate, shall direct that the facility director or his designee discharge the person.

The decision of the Review Judge as set forth above is subject to appellate review as provided by rules of court.

(j) *Record of Proceedings.* A record of the proceedings (which need not be in a stenographic format) held pursuant to the Mental Health Procedures Act shall be made, impounded by the Court as provided in the Act, and kept by the PROTHONOTARY for at least one year.

(k) *Appointment of Counsel.* **[ The Public Defender is appointed ] The President Judge, or his designee, shall appoint counsel** to represent all persons who may be subject to involuntary medical examination and treatment, unless it appears that any such person can afford, and desires to have, private representation. **[ In the event a conflict prevents the Public Defender from representing any eligible person, conflict counsel shall be appointed as directed by the President Judge. ]**

**Explanatory Note.** The Mental Health Procedures Act, as enacted on July 9, 1976, authorized the local courts to decide whether a judge of the Court of Common Pleas or a "Mental Health Review Officer" would conduct legal proceedings under the Act. Section 109 specifically provided that a Mental Health Review Officer could, if authorized by the Court, conduct proceedings under Section 303(c), which dealt with extended involuntary emergency treatment, and under Section 304, which dealt with court-ordered involuntary treatment. However, the Act did not specifically address the issue of whether the Mental Health Review Officer could issue orders for treatment or whether such orders were deemed to be final orders which were subject to appellate review.

In the case of *In re Chambers*, 282 Pa. Super. 327, 422 A.2d 1140 (1980), the Superior Court addressed the difference between "certifications" issued pursuant to Section 303 and "orders" issued pursuant to Section 304. The Superior Court found that Section 303 specifically authorized the Mental Health Review Officer to certify, without judicial approval, a person for extended involuntary emergency treatment for a period not to exceed 20 days, noting that under Section 303 the person made subject to such involuntary emergency treatment had the right to petition the Court of Common Pleas for review of the certification. However, the Superior Court found that the procedure for Section 304 proceedings was different, in that Section 304 required the entry of an "order" involuntarily committing a person, and since the Mental Health Review Officer is not a judge, the Mental Health Review Officer cannot enter a "final order" which is appealable to the Superior Court. Thus, the Superior Court concluded that a commitment "order" issued pursuant to Section 304 by a Mental Health Review Officer on August 28, 1978 was not a "final order" and accordingly, not ripe for appellate review, and remanded to the Court of Common Pleas with directions to enter a final appealable order. *See also In re Bishop*, 282 Pa. Super. 67, 422 A.2d 831 (1980).

The Mental Health Procedures Act was amended by Act of November 26, 1978, P. L. No. 1362, No. 324, effective in 60 days. This amendment, inter alia, expanded the scope of the Mental Health Review Officer's authority by authorizing the Mental Health Review Officer to conduct hearings concerning extended involuntary emergency treatment under Section 303(c), court-ordered involuntary treatment under Sections 304 and 305, or transfer hearings under Section 306. More importantly, a new section was added, Section 109(b), which specifically provides, as did Section 303(g), that persons made subject to treatment by Mental Health Review Officers have a right to petition the Court of Common Pleas for review of such ordered treatment. Thus, under the 1978 amendments, providing that the Court of Common Pleas authorizes Mental Health Review Officers to conduct proceedings under Sections 303(c), 304, 305 and 306, they may require involuntary treatment, further provided that the persons subject to such treatment may file a petition for review

with the Court of Common Pleas which will enter a final appealable order. The instant Rule constitutes authorization to Mental Health Review Officers to conduct proceedings under the Mental Health Procedures Act, as amended, and sets forth the procedure to be followed so as to clarify the rights of the persons affected.

Adopted by the Board of Judges on May 21, 1997 and effective on July 1, 1997. Amended by President Judge General Court Regulation No. 97-02 issued on August 8, 1997, which was adopted by the Board of Judges on September 25, 1997, effective immediately.

**First Judicial District of Pennsylvania  
Court of Common Pleas  
Philadelphia County  
Mental Health Procedures Act**

In Re:

NAME	
SS #	DATE OF BIRTH
ADDRESS	

<i>Docket Number</i>
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PETITIONER
FACILITY
TYPE OF FILING <input type="checkbox"/> 303 <input type="checkbox"/> 305 <input type="checkbox"/> 304(b) <input type="checkbox"/> 306 <input type="checkbox"/> 304(c) <input type="checkbox"/> Petition for Review <input type="checkbox"/>

Instant Commitment Under Section _____
Expires on _____ at _____ AM/PM.
Requested hearing date: _____
Time: _____
Location: _____

NAME OF PETITIONER'S ATTORNEY	
ADDRESS	
PHONE	SUPREME COURT I.D. NO.
SIGNATURE	

NAME OF PERSON/PATIENT'S ATTORNEY	
ADDRESS	
PHONE	SUPREME COURT I.D. NO.
SIGNATURE	

**Order**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ upon consideration of the attached Application or Petition, an Informal Conference or Hearing shall be held by a Mental Health Review Officer pursuant to Phila.R.Civ.P.No. 7109 on the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ at \_\_\_\_ AM/PM at the following location:

- |   |  |
|---|--|
| <input type="checkbox"/> Albert Einstein Medical Center | <input type="checkbox"/> Norristown State Hospital |
| <input type="checkbox"/> Allegheny University Hospital  | <input type="checkbox"/> EPPI                      |
| <input type="checkbox"/> Girard Medical Center          | <input type="checkbox"/> Kirkbride Center          |
| <input type="checkbox"/> _____                          |  |

Petitioner shall serve all interested parties.

*By the Court:*

ALEX BONAVITACOLA  
*President Judge, Court of Common Pleas*

**INSTRUCTIONS**

1. The original Application, Petition and Cover Sheet must be filed with the Prothonotary's Office, First Filing, Room 278 City Hall. Service copies shall also be filed with the Prothonotary who will attest and return them to the Petitioner for service on all interested parties. No Filing Fee shall be payable.
2. Upon filing of the Application or Petition, the Court will enter an Order listing a conference or hearing. The Petitioner must serve a copy of the Application or Petition and Order on all interested parties: the Patient, his/her attorney, persons designated to be kept informed as provided in Section 302(c), the City Solicitor and the Mental Health Review Officer, as required by the Mental Health Procedures Act of 1976 as amended, and Phila.R.C.P.No. 7109. Petitions for Review shall be forthwith served on the City Solicitor, the patient, the patient's attorney of record, the Mental Health Review Officer and the Court. An Affidavit of Service shall be filed on the hearing date.
3. A hearing or conference will be listed or held as follows:
  - (a) within 24 hours after the filing of an Application pursuant to Section 303 of the Act; provided, however, the Applications filed on Friday will likely be listed for the next business day;
  - (b) within 5 days after the filing of a Petition pursuant to Sections 304, 305 and 306 of the Act;
  - (c) within 3 days after a Petition for Review is filed.

**Location of Mental Health Hearing Sites****Albert Einstein Medical Center**

5583 Park Avenue  
Philadelphia, PA 19141  
(215) 456-7095

**Allegheny University Hospital**

Broad & Vine Streets  
11th Floor South  
Philadelphia, PA 19102  
(215) 762-7403

**Girard Medical Center**

8th Street and Girard Avenue  
Philadelphia, PA 19122  
(215) 787-2048

**Norristown State Hospital**

1001 Stergiere, Bldg. 10 & 52  
Norristown, PA 19406  
(610) 270-1357

**EPPI**

3200 Henry Avenue  
Main Building  
Philadelphia, PA 19129  
(215) 842-4377

**Kirkbride Center**

111 N. 49th Street  
Philadelphia, PA 19139  
(215) 471-2839

*Please Note: The Information Contained Herein May Change Without Notice (8/97)*

[Pa.B. Doc. No. 97-1779. Filed for public inspection November 7, 1997, 9:00 a.m.]

**PHILADELPHIA COUNTY****Joint General Court Regulation; Court of Common Pleas and Traffic Court; No. 97-3***Procedure for Sale of Motor Vehicles Impounded for Non-Payment of Fines Pursuant to 75 Pa.C.S. § 6309.1*

On July 2, 1996, Governor Thomas Ridge signed Act No. 1996-93, which added, inter alia, 75 Pa.C.S. Section 6309.1, authorizing the impoundment and sale of motor vehicles under certain specified situations. This Joint General Court Regulation sets forth the procedure to be followed in implement Section 6309.1, which authorizes the impoundment and sale of motor vehicles for failure to pay fines in excess of \$250.

1. *Motor Vehicles Eligible for Impoundment.* A defendant's motor vehicle with a gross vehicle weight rating of 17,000 pounds or less may be impounded if upon conviction or entry of a plea of guilty or nolo contendere for any of the offenses set forth in 75 Pa.C.S. § 6309.1(b), the defendant has outstanding or unpaid Traffic Court fines in excess of \$250.00.

2. *Prerequisites to Impoundment.* A motor vehicle may not be impounded for a 24 hour period after the conviction or entry of a plea of guilty or nolo contendere to enable the defendant to pay, or to make arrangements to pay, the fines and costs of prosecution. During that 24

hour period the motor vehicle may be rendered temporarily inoperable and transferred to a secure location for safe keeping.

3. *Designation of Enforcement Officer.* The Philadelphia Parking Authority is designated as "the appropriate law enforcement officer" who shall undertake the impoundment and notification as authorized by 75 Pa.C.S. § 6309.1. The Traffic Court may, from time to time, designate different "appropriate law enforcement officers."

4. *Impoundment.* Upon expiration of the 24 hour period as set forth above, if the fines and costs are not paid or satisfactory arrangements have not been made to pay same the Traffic Court shall notify the Parking Authority to impound the vehicle and store same at an appropriate location.

5. *Notice of Impoundment.* The Philadelphia Parking Authority shall notify the defendant, the owner of the vehicle or combination, any lienholder and, if applicable, the owner of the load, that the motor vehicle has been impounded pursuant to 75 Pa.C.S. § 6309.1 and of their right to reclaim the said motor vehicle and its contents by paying the outstanding fines and other applicable costs. The notice shall be in the form set forth as Exhibit "A." Notice shall be sent by regular mail with a Certificate of Mailing and also by certified mail, return receipt requested. Notice shall be deemed to have been provided upon the mailing of the letters. The Traffic Court shall give a similar notice, which shall be substantially as set forth hereunder as Exhibit "B"; provided, however, that

the said notice may be sent together with the notice sent by the Philadelphia Parking Authority.

6. *Filing of Petition.* A Civil Cover Sheet, Petition and Motion Court Cover Sheet shall be filed with the Prothonotary of the Court of Common Pleas setting forth, inter alia, that prior to impounding the motor vehicle, the defendant was given 24 hours to make arrangements for payment of the underlying fines, setting forth the efforts made to notify the owners, and lienholders, of record, and that the outstanding fines and costs have not been paid. Attached to the Petition shall be copies of the notices sent to the appropriate parties, the Certificates of Mailing and, if returned, the Certified Return Receipts. Upon review of the Petition, the President Judge of the Court of Common Pleas, or his designee, may enter an Order authorizing the Philadelphia Parking Authority, through its authorized agent, to sell at public auction the motor vehicles described in the said Petition. The Order shall be substantially in the form set forth hereunder as Exhibit "C."

7. *Notice of Auction Date and Rights of Owners and Lienholders of Record Pending Auction.* Notice of the auction dates shall be set forth in the notice to the owners as provided in Section 5 above. Notice of the public auction shall also be provided by publication at least five (5) days before the auction in either *The Philadelphia Inquirer* or *The Philadelphia Daily News*, or as otherwise directed by the Court. At any time prior to the auction date, any owner, or lienholder, may obtain the release of the motor vehicle upon the payment of the fines, fees and costs as set forth in the notice and as may be incurred thereafter. In the event a vehicle scheduled to be auctioned on a specific date is not auctioned on that date, the said vehicle may be auctioned on a subsequent date provided, however, that the Philadelphia Parking Authority shall, in rescheduling the auction date, provide notices substantially as set forth in Sections 5 and 7, and shall otherwise comply with the within Joint General Court Regulation.

8. *List of Successful Bidders.* At the auction, the Philadelphia Parking Authority, and/or its authorized agent, shall maintain a list of the successful bidders. The said list shall be submitted to the Court within thirty (30) days after the auction entry of an order directing the Department of Transportation to extinguish title of the prior owners or lienholders of record and to issue certifi-

cates of ownership to the successful bidders. The order shall substantially be in the form set forth hereunder as Exhibit "D."

9. *Disposition of Proceeds of the Auction.* The proceeds from the auction shall be used to satisfy the various fines and costs in the following order:

- costs of sale (auctioneer, advertising, postage);
- towing and storage costs;
- Traffic Court's costs as authorized in Section 6309.1(e);
- outstanding fines due as a result of violations of the Motor Vehicle Code;
- City of Philadelphia parking fines.

Any remaining proceeds shall be subject to the demands of the original owner of record and/or lienholder of record, as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia.

10. *Effective Date.* This Joint General Court Regulation shall become effective immediately.

This Joint General Court Regulation is promulgated in accordance with Act 1996-93, the May 8, 1996 Order of the Supreme Court of Pennsylvania, Eastern District, No. 168 Judicial Administration, Docket No. 1, Phila. Civ. R. ★ 51 and Pa. R.C.P. 239. As required by Pa. R.C.P. 239, the original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

ALEX BONAVIDACOLA,  
*President Judge,*  
*Court of Common Pleas*  
BERNICE DEANGELIS,  
*Administrative Judge,*  
*Traffic Court*

#### Exhibit "A"

### PHILADELPHIA PARKING AUTHORITY 501 N. COLUMBUS BLVD., PHILADELPHIA, PA NOTICE OF IMPOUNDED VEHICLE SUBJECT TO SALE

(Date)

(Last Known Registered Owner's Name)  
(Address)  
(City, state, zip)

Dear (Last Known Registered Owner):

The Philadelphia Parking Authority is informing you that on (Date of Tow), the following vehicle, registered in your name, was impounded for violation(s) of the Motor Vehicle Code, 75 Pa.C.S. § 6309.1.

Vehicle Year:  
Vehicle Make:  
Vehicle Color:

State and Tag Displayed:  
Vehicle Identification Number:  
PPA Control Number:

To recover this vehicle, you will be required to pay outstanding fines due to the Philadelphia Traffic Court which current exceed \$250.00. In addition, you are liable for a towing fee of \$75.00, a storage charge of \$5.75 per day for the first five (5) days and \$17.25 per day thereafter, and an administrative cost of \$75.00 imposed by the Philadelphia Traffic Court.

Before you may reclaim the vehicle, you must make arrangements to pay the outstanding fines and costs due to the Philadelphia Traffic Court. You may appear in person at the Traffic Court, 800 Spring Garden Street, Philadelphia, PA or contact at 686-1680 to determine the exact amount which is due. Upon payment of such outstanding fines and costs, the Traffic Court will issue a Certificate of Release. Court hours Mon. to Fri. 8:30 a.m. to 8:00 p.m.—Sat. 9:00 a.m. to 1:00 p.m.

You may reclaim this vehicle by bringing the Certificate of release issued by the Traffic Court, proof of ownership, proof of insurance, along with payment of the applicable towing and storage fees and ticket fines, to either:

Parking Violations Branch 913 Filbert Street Philadelphia, PA 19107 (215) 561-3636	Hours: M/T/Th/Fri Wednesday Saturday	9:00 a.m.—7:00 p.m. 8:00 a.m.—8:00 p.m. 9:00 a.m.—1:00 p.m.
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Or

Philadelphia Parking Authority Impoundment Lot #1 Columbus Blvd. & Noble St. Philadelphia, Pa 19123 (215) 683-9550	Hours: M—W Th—Sat Sunday	8:00 a.m.—9:00 p.m. 8:00 a.m.—2:00 p.m. 7:00 p.m.—2:00 a.m.
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Pursuant to 75 Pa.C.S. § 6309.1 and Joint General Court Resolution No. 97-3, if this vehicle is not claimed within fifteen (15) days of the issuance of this notice, the Philadelphia Parking Authority will petition the Philadelphia Court of Common Pleas to sell this vehicle at public auction. A petition to sell this vehicle will be filed with the Court requesting leave to sell this vehicle, at public auction on \_\_\_\_\_ at \_\_\_\_ a.m./p.m. at the following location: Philadelphia Parking Authority Lot #2, 2535 South Swanson Street, Philadelphia, PA 19148. If you do not retrieve your vehicle, you are responsible to remove any personal property from your vehicle 72 hours prior to sale from Impoundment Lot #2, or we will dispose of the items.

**THIS IS YOUR FINAL NOTICE, IF YOU DO NOT RECLAIM THIS VEHICLE IT WILL BE AUCTIONED AS SET FORTH ABOVE AND YOUR OWNERSHIP INTEREST WILL BE EXTINGUISHED AND OWNERSHIP WILL VEST TO THE SUCCESSFUL BIDDER.**

Sincerely,

Frank Ragozzino, Manager  
 Towing and Impoundment

**Exhibit "B"**

**PHILADELPHIA PARKING AUTHORITY  
 800 SPRING GARDEN STREET, PHILADELPHIA, PA  
 NOTICE OF IMPOUNDED VEHICLE SUBJECT TO SALE**

(Date)

(Last Known Registered Owner's Name)  
 (Address)  
 (City, state, zip)

Dear (Last Known Registered Owner):

The Philadelphia Parking Authority is informing you that on (Date of Tow), the following vehicle, registered in your name, was impounded for violation(s) of the Motor Vehicle Code, 75 Pa.C.S. § 6309.1, by the Philadelphia Parking Authority.

Vehicle Year:	State and Tag Displayed:
Vehicle Make:	Vehicle Identification Number:
Vehicle Color:	PPA Control Number:

To recover this vehicle, you will be required to pay outstanding fines due to the Philadelphia Traffic Court which current exceed \$250.00. In addition, you are liable for a towing fee of \$75.00, a storage charge of \$5.75 per day for the first five (5) days and \$17.25 per day thereafter, and an administrative cost of \$75.00 imposed by the Philadelphia Traffic Court.

Before you may reclaim the vehicle, you must make arrangements to pay the outstanding fines and costs due to the Philadelphia Traffic Court. You may appear in person at the Traffic Court, 800 Spring Garden Street, Philadelphia, PA or contact at 686-1680 to determine the exact amount which is due. Upon payment of such outstanding fines and costs, the Traffic Court will issue a Certificate of Release. Court hours Mon. to Fri. 8:30 a.m. to 8:00 p.m.—Sat. 9:00 a.m. to 1:00 p.m.

You may reclaim this vehicle by bringing the Certificate of release issued by the Traffic Court, proof of ownership, proof of insurance, along with payment of the applicable towing and storage fees and ticket fines, to either:

Parking Violations Branch 913 Filbert Street Philadelphia, PA 19107 (215) 561-3636	Hours: M/T/Th/Fri Wednesday Saturday	9:00 a.m.—7:00 p.m. 8:00 a.m.—8:00 p.m. 9:00 a.m.—1:00 p.m.
---	---	---



Or

Philadelphia Parking Authority  
Impoundment Lot #1  
Columbus Blvd. & Noble St.  
Philadelphia, Pa 19123  
(215) 683-9550

Hours:  
M—W  
Th—Sat  
Sunday

8:00 a.m.—9:00 p.m.  
8:00 a.m.—2:00 p.m.  
7:00 p.m.—2:00 a.m.

Pursuant to 75 Pa.C.S. § 6309.1 and Joint General Court Resolution No. 97-3, if this vehicle is not claimed within fifteen (15) days of the issuance of this notice, the Philadelphia Parking Authority will petition the Philadelphia Court of Common Pleas to sell this vehicle at public auction. A petition to sell this vehicle will be filed with the Court requesting leave to sell this vehicle, at public auction on \_\_\_\_\_ at \_\_\_\_ a.m./p.m. at the following location: Philadelphia Parking Authority Lot #2, 2535 South Swanson Street, Philadelphia, PA 19148. If you do not retrieve your vehicle, you are responsible to remove any personal property from your vehicle 72 hours prior to sale from Impoundment Lot #2, or we will dispose of the items.

THIS IS YOUR FINAL NOTICE, IF YOU DO NOT RECLAIM THIS VEHICLE IT WILL BE AUCTIONED AS SET FORTH ABOVE AND YOUR OWNERSHIP INTEREST WILL BE EXTINGUISHED AND OWNERSHIP WILL VEST TO THE SUCCESSFUL BIDDER.

Sincerely,

Bernice A. DeAngelis  
Administrative Judge

**Exhibit "C"**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

In RE: : TERM, 19  
: :  
Philadelphia Parking Authority :  
by \_\_\_\_\_ :  
Director, Enforcement : NO:

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, upon Petition of the Philadelphia Parking Authority filed on \_\_\_\_\_, the Court being satisfied that appropriate notices were sent to the owners and lienholders of vehicles listed in Exhibit "A", as required by Joint General Court Regulation No. 97-3, copies of the notices and certificates of mailing, and proof of certified mail being attached to the Petition, and the said owners or lienholders not having paid, or made satisfactory arrangements to pay, the outstanding fines and costs, IT IS HEREBY ORDERED and DECREED that the Philadelphia Parking Authority, through its authorized agent, is authorized to sell at public auction the motor vehicles described in said Petition on \_\_\_\_\_, 19 \_\_, at \_\_\_\_\_ a.m./p.m., \_\_\_\_\_ Philadelphia, PA.

Notice of said public auction shall be published once at least five (5) days before the auction in either the *Philadelphia Inquirer* or the *Philadelphia Daily News*.

Petitioner shall, after the sale, submit to the Court a list setting forth the names of each successful bidder for the entry of an appropriate Order directing the Department of Transportation to issue Certificates of Title to the successful bidders.

IT IS FURTHER ORDERED and DECREED that the net proceeds of said sale shall be distributed as provided in Section 9 of Joint General Court Regulation No. 97-3, and any remaining proceeds shall be held for one year subject to the demands of the current owners or lienholders of record of said vehicles, as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia.

BY THE COURT:

\_\_\_\_\_  
BONAVITACOLA, P.J.

**Exhibit "D"**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

In RE: : TERM, 19  
: :  
Philadelphia Parking Authority :  
by \_\_\_\_\_ :  
Director, Enforcement : NO:

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, the Philadelphia Parking Authority having identified in Exhibit "A" the purchasers of the impounded motor vehicles offered for sale at public auction pursuant to this Court's Order of \_\_\_\_\_, 19 \_\_, IT IS HEREBY ORDERED and DECREED that the currently registered owners' and lienholders' legal and equitable interest in those vehicles is hereby extinguished, and the

appropriate Department of Transportation shall cancel any certificates of title which were issued prior to this Order to other persons, and shall issue title to said vehicles in the names of those persons identified as purchasers in Exhibit "A", upon completion of the proper forms and payment of the required fees.

BY THE COURT:

BONAVITACOLA, P.J.

[Pa.B. Doc. No. 97-1780. Filed for public inspection November 7, 1997, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BERKS COUNTY

Rule of Judicial Administration No. 5000.7; No. 97-1611

#### Order

*And Now*, this 3rd day of October, 1997, Berks County Rule of Judicial Administration No. 5000.7 is hereby amended to read as set forth in the form following hereto and made a part hereof, and said Rule as so amended is hereby approved, adopted and promulgated for use in the Court of Common Pleas of Berks County, Pennsylvania. Berks County Rule of Judicial Administration as herein amended shall apply to all transcripts requested on or after January 1, 1998. Berks County Rule of Judicial Administration No. 5000.7 as heretofore adopted shall remain in effect as to all transcripts requested on or before December 31, 1997.

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

(1) Keep continually available for public inspection and copying copies of this Order and of Berks County Rule of Judicial Administration No. 5000.7 as herein approved, adopted and promulgated;

(2) Forward ten (10) certified copies of the Order and Rule as herein amended to the Administrative Office of Pennsylvania Courts for distribution in accordance with Pennsylvania Rule of Judicial Administration No. 103(c)(2).

Anything to the contrary hereinbefore set forth notwithstanding, this Order and Rule 5000.7 as amended and adopted herein shall not become effective unless, and until, the rates set forth therein are approved by the Supreme Court of Pennsylvania pursuant to Pennsylvania Rule of Judicial Administration 5000.7(f).

*By the Court*

SCOTT D. KELLER,  
*Acting President Judge*

#### No. 5000.7. Fees for Transcripts.

(a) When a person or entity, other than the Commonwealth, or one of its political subdivisions, requests a transcript, such person or entity shall be liable for the cost of the original transcript at the rate of \$3.90 for each page thereof and shall pay the Clerk one-half (1/2) the estimated cost for the transcript at the time such person or entity requests the transcript and the balance upon completion of the transcript. The court reporter shall not be required to start the transcription until such advance payment is made in full, but when such advance has been paid, the court reporter shall immediately begin the transcription of his or her notes as requested.

(1) Upon completion of the transcript, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy thereof:

(A) to the District Attorney of Berks County, if such district attorney is a party to the action in his or her official capacity or represents the Commonwealth in such action;

(B) to the County Solicitor of Berks County, if such county solicitor is a party to the action in his or her official capacity or represents Berks County in such action;

(C) to the person or entity who ordered the transcript, if, but only if, such person or entity has paid the balance due for the transcript to the clerk in full, calculated at the rate of \$3.90 for each page of original transcript.

(2) Where the Commonwealth, or any political subdivision, requests a copy of the transcript, the court reporter shall provide the Commonwealth, or political subdivision thereof, with a complete and legible copy thereof without charge.

(3) Where any person or entity, other than the Commonwealth, or a political subdivision thereof, requests a copy of the transcript, such person or entity may purchase the same by paying the clerk \$1.20 for each page of complete and legible copy.

(4) The Clerk shall pay the monies received for original transcript and for copies of the county promptly, and the county shall promptly pay therefrom:

(A) to the court reporter, the sum of \$3.00 for each page of original transcript, or if the transcript is typed on a typewriter, the sum of \$2.10 for each page.

(B) to the typist who typed the original transcript, the sum of \$0.90 for each page of original transcript, if the transcript is typed on a typewriter.

(5) The County of Berks shall retain the balance of the funds received for original transcript and for copies and its own use. See Pa.R.J.A. No. 5000.7(c).

(b) When the Commonwealth or one of its political subdivisions requests a transcript, the Commonwealth, or such political subdivision, shall be liable for the cost of the original transcript at the rate of \$2.00 for each page thereof, and:

(1) the court reporter, upon receipt of the transcript request, shall immediately begin the transcription of his or her notes as directed by the transcript order.

(2) Upon completion of the transcript, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy thereof:

(A) to the District Attorney of Berks County, if such district attorney is a party to the action in his or her official capacity or represents the Commonwealth in such action;

(B) to the County Solicitor of Berks County, if such county solicitor is a party to the action in his or her official capacity or represents Berks County in such action;

(C) the court reporter shall deliver one (1) complete and legible copy to the Commonwealth or to such political subdivision thereof if, but only if, the Commonwealth, or such subdivision has paid \$2.00 for each page of complete and legible copy. See Pa.R.J.A. No. 5000.7(a), (b) and (c).

(3) Where any person or entity, including the Commonwealth or a political subdivision thereof, requests a copy of the transcript but where such person or entity is not liable for the cost of the original transcript, the court reporter shall provide such person or entity with a complete and legible copy of the transcript without charge.

(4) The Clerk shall pay the monies received for original transcripts to the County of Berks promptly and the county shall promptly pay therefrom:

(A) to the court reporter, \$1.55 for each page of original transcript where the transcript is not typed on a typewriter;

(B) to the court reporter, \$1.10 for each page of original transcript where the transcript is typed on a typewriter;

(C) to the typist who typed the original transcript, \$0.45 for each page of original transcript where the transcript is typed on a typewriter.

(5) The County of Berks shall retain the balance of the funds received for original transcript for its own use.

(c) Where the County of Berks is liable for the cost

(1) the court reporter, upon receipt of the transcript order, shall immediately begin the transcription of his or her notes as directed by the transcript order.

(2) Upon completion of the transcript, the court reporter shall lodge and file the original transcript of record and shall deliver one (1) complete and legible copy to each of the following without charge:

(A) to any party proceeding in forma pauperis;

(B) to the District Attorney of Berks County, if said district attorney is a party to the action in his or her official capacity or is representing the Commonwealth in such action;

(C) to the County Solicitor of Berks County, if the county solicitor is a party to the action in his or her official capacity or is representing the county in said action;

(D) If any person or entity, including but not limited to the Commonwealth, or any of its political subdivisions, desires a copy of the transcript, the court reporter shall provide such person or entity with a complete and legible copy of the same without charge.

(3) Upon completion of the transcript, the County of Berks shall pay:

(A) to the court reporter, the sum of \$1.55 for each page of original transcript where the transcript is not typed on a typewriter;

(B) to the court reporter, the sum of \$1.10 for each page of original transcript where the transcript is typed on a typewriter;

(C) to the typist, the sum of \$0.45 for each page of original transcript where the transcript is typed on a typewriter.

(d) Any judge of the court, the district attorney and county solicitor shall each be entitled to a copy of the transcript in any proceeding upon request without charge. In such case, the county shall be liable for the cost of preparing the original transcript whenever no other person or entity is otherwise liable for the cost therefor.

(e) Nothing in this rule shall authorize delivery of a transcript, or copy thereof, in a proceeding where the record is impounded, to any person or entity not otherwise entitled to the same.

**Comments:** Rule 5000.2(h) of the Pa.R.J.A. provides that in any case where the court orders a transcript for its own use or where a copy thereof is for the use of a party entitled to proceed in forma pauperis, the county shall pay for the original and one copy of the transcript.

Berks County provides a computer-aided transcription system. For those court reporters who cannot use the system or who must transcribe notes not capable of being translated by the system, the county provides dictation equipment, typewriters, paper and supplies, and pays the typist directly.

[Pa.B. Doc. No. 97-1781. Filed for public inspection November 7, 1997, 9:00 a.m.]

## CARBON COUNTY

**Adoption of Rules L3154 and L3155 and Amendments to Rules L206.1, L211, L212.1, L216, L229, L440, L1018.1, L1028, L1034, L1035, L1305, L1915.3, L1915.5, L1915.12, L1915.20, L1920.22, L2102, L2206 and L2971; No. 97-2389**

### Administrative Order No. 8-1997

*And Now*, this 21st day of October, 1997, it is hereby

*Ordered and Decried* that Local Rule L3154 pertaining to Attachment of Income to Satisfy Landlord-Tenant Judgment Under Residential Lease and Local Rule L3155 setting forth the Order of Attachment of Income to Satisfy Landlord-Tenant Judgment Under Residential Lease—Form are hereby *Promulgated* and become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*It Is Further Ordered and Decried* that the following Local Rules L206.1, L211, L212.1, L216, L229, L440, L1018.1, L1028, L1034, L1035, L1305, L1915.3, 1915.5, L1915.12, L1915.20, L1920.22, L2102, L2206 and L2971 are hereby *Amended and Promulgated* and become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. Seven (7) certified copies of the within rules shall be filed with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be distributed to Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and one (1) certified copy shall be filed with the Pennsylvania Civil Procedural Rules Committee.

*By the Court*

JOHN P. LAVELLE,  
*President Judge*

### Rule L206.1. Motions and Petitions Procedure.

(1) *Motions, Petitions and Continuances.*

(A) Motions, Petitions, and Continuances shall be submitted to the Civil Filing Office along with the requisite filing fee, without the necessity of presentation to the Court. These matters shall include, but not be limited to, routine Rules to Show Cause, Requests for Hearings,

Discovery Motions, Child Custody matters, Requests for Alternative Service, Quiet Title matters, Change of Name proceedings, and Motor Vehicle and Liquor License Suspension Appeals.

(B) After the motion or petition is filed and time stamped, it shall be forwarded by the Civil Filing Office to the Motions and Petitions Coordinator in the Office of Court Administration for Court action and/or scheduling. The Motions and Petitions Coordinator shall return the Order or Rule to the Civil Filing Office in order to conform all copies. The Civil Filing Office shall then file the original signed order and forward by regular mail to each attorney of record or unrepresented party a copy of the Petition or Motion together with the conformed copy of the Order or Rule.

(C) A rule to show cause shall be issued at the discretion of a judge of the court as contemplated by Pa.R.C.P. 206.5 and in the form provided in Carbon County Local Rule L206.5(D). The court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its own discretion, provide for disposition of the matter on briefs without the necessity of oral argument. In such instances, the court shall establish a briefing schedule in its initial order.

(D) Uncontested Continuances will be accepted by mail providing they are received at least three (3) working days in advance of the scheduled event. The filing office should stamp the continuance filed and then forward said continuance to the Motions and Petitions Coordinator, who will, in turn, present it to the assigned Judge for disposition and signature. After the continuance is acted upon, it will be delivered to the filing office for completion of docketing and the mailing of the copies. If the continuance is received **less than three (3) working days** before the scheduled event, the attorney will be required to **personally present** it to the Motions and Petitions Coordinator for processing.

(E) Contested Continuances must be presented in the Court Administration Office. Notice of presentation of the contested continuance must be given to opposing counsel at least 3 days prior to presentation. The assigned judge will conduct a telephone conference which will be arranged by presenting counsel.

(2) *Filing Requirements.* All Motions and Petitions subject to this rule shall be accompanied by the following items in the following order:

- (A) A completed cover sheet in the Form of Exhibit "A";
- (B) A proposed order (and rule to show cause, if necessary);
- (C) Stamped, addressed envelopes for each attorney of record and unrepresented party;
- (D) Sufficient copies of the Petition, Motion and proposed Order or Rules for each attorney of record and unrepresented party; and

(E) Memorandum of Law, if Motion or Petition is contested.

(F) All Motions and Petitions shall be in writing, signed by a party or counsel of record and shall contain the caption of the case, the name, address, telephone number and Supreme Court identification of counsel for the moving party and the names and addresses of adverse parties and their attorneys.

(3) No motion for a preliminary injunction shall be filed unless a complaint in equity has already been docketed in the Civil Filing Office. Upon the filing of said complaint, the attorney presenting said motion shall attach to his motion a copy of his complaint and an affidavit that a preliminary injunction is an appropriate relief. This motion shall then be presented to the Motions and Petitions Coordinator who will present it to the assigned judge.

For any motion for a Temporary Restraining Order to be considered, a brief must be filed prior to the preliminary injunction hearing. The brief shall address, with particularity, why irreparable harm will result if an injunction is not granted and why an adequate remedy at law is not available.

(4) *Response Requirements.* Any party opposing the Motion or Petition shall file the following documents with the Civil Filing Office no later than 4:30 P.M. on the date twenty (20) days after the date of the signing of the Court Order or Rule to Show Cause:

- (A) Completed cover sheet in the form of Exhibit "A";
- (B) Proposed order;
- (C) Answer to the Motion or Petition (if necessary);
- (D) Copy of a transmittal letter to each counsel of record and/or unrepresented party; and
- (E) A Memorandum of Law.

The filing party shall immediately serve copies of all documents filed in the Civil Filing Office on each attorney of record and unrepresented party.

(5) *Discovery Motions.* Any Motion relating to discovery must be accompanied by a Certificate signed by counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery Motion and was unable to resolve the differences which exist. Said Certificate shall set forth the exact time and place of the conference or consultation. Where counsel for the moving party cannot furnish the required Certificate, he shall furnish an alternate Certificate stating that opposing counsel has refused to so meet and confer and stating such other facts and circumstances supporting the absence of the required Certificate and movant's efforts to obtain compliance by opposing counsel. (NOTE: This Rule is borrowed from Rule 4 of Local Rules for Fed. Dist. Ct. of Western PA).

(6) The Court shall not act upon any Petition or Motion which does not conform with the provisions of this Rule.

THE COURTS

Exhibit "A"

CARBON COURT OF COMMON PLEAS

CIVIL DIVISION

MOTION COURT COVER SHEET

NO. \_\_\_\_\_

vs.

FILING OF: \_\_\_\_\_  
Movant( ) Respondent( )

- |  |
|--|
| <input type="checkbox"/> Assigned Judge                        |
| <input type="checkbox"/> Court Action Taken                    |
| <input type="checkbox"/> Returned to Attorney for Deficiencies |
| <input type="checkbox"/> Action Deferred by Court              |
| <i>For Court Use Only</i>                                      |

TYPE OF FILING (check one):

- ( ) 1. Pretrial Discovery Motion (432)
- ( ) 2. Motion for Discovery in Aid of Execution (480)
- ( ) 3. Preliminary Objections to (576) \_\_\_\_\_
- ( ) 4. Motion for Summary Judgment (306)
- ( ) 5. Motion for Judgment on Pleadings (294)
- ( ) 6. Petition for Leave to Join Additional Defendant (403)
- ( ) 7. Petition for TRO or Preliminary Injunction (438)
- ( ) 8. Petition to Open or Strike Judgment (498)
- ( ) 9. Petition for Alternative Service (409)
- ( ) 10. Petition for Leave to Amend (465) \_\_\_\_\_
- ( ) 11. Petition to Consolidate Actions (424)
- ( ) 12. Petition to Compromise Minor's Action (435)
- ( ) 13. Petition for Leave to Withdraw (510)
- ( ) 14. Petition for Reconsideration (441)
- ( ) 15. Petition for Advancement on Trial List (404)
- ( ) 16. Other Motion or Petition (specify):

( ) 17. Response to:

OTHER PARTIES:

Attorney's Name (Typed) \_\_\_\_\_

Attorney for: \_\_\_\_\_  
( ) Movant ( ) Respondent

N.B. The numbers after the Motion or Petition above are docket codes used in the Court Computer System. Please be precise when checking your Motion or Petition.

The form of order required by subdivision (b) of the Pa.R.C.P. 206.5 shall be in substantially the following form:

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 199 \_\_, upon consideration of the foregoing petition, it is hereby ordered that

- \_\_\_\_\_ (1) A rule is issued upon the respondent \_\_\_\_\_ to show cause why the petitioner is not entitled to the relief requested;
- \_\_\_\_\_ (2) The respondent shall file an answer to the petition within \_\_\_\_\_ days of this date;
- \_\_\_\_\_ (3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- \_\_\_\_\_ (4a) Deposition shall be completed within \_\_\_\_\_ days of this date.
- \_\_\_\_\_ (4b) An evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_, 199 \_\_, at \_\_\_\_\_ o'clock, \_\_ .m., in Courtroom \_\_\_\_\_ of the Carbon County Courthouse.

- \_\_\_\_ (5a) The question of law presented shall be resolved by the Court on briefs, without oral argument.
- \_\_\_\_ (5b) If answer is filed hearing/argument shall be scheduled by the Court on or around \_\_\_\_\_ by Court Order.
- \_\_\_\_ (6) The attached motion/petition is Denied and Dismissed for failure to comply with \_\_\_\_\_ .
- \_\_\_\_ (7) Notice of the entry of this order shall be provided to all parties by the petitioner.

**BY THE COURT:**

J.

\*The Court shall determine which procedure shall be followed in a particular case by checking the appropriate line.

**Rule L211. Oral Argument.**

(1) The Court Calendar Officer shall prepare the lists of cases to be argued at Argument Court. Such lists shall include cases praeciped thereon by a party or counsel with notice to all adverse parties or their counsel of record, together with such cases as may be ordered on the lists by the Court. Notice of the listing for argument shall be sent by regular mail to all parties or their counsel of record in such cases listed thereon at least ten (10) days prior to the date of argument. Copies of the argument lists shall be made available in the Court Scheduling Office.

(2) Counsel for the moving party shall in all matters file three (3) copies of a brief pursuant to applicable local rule in the Office of the Prothonotary and forthwith serve one (1) copy of a brief upon each adverse party or counsel of record.

(3) Each adverse party or his counsel of record shall file in the Office of the Prothonotary three (3) copies of a brief in answer, not later than three (3) weeks before the date of argument and forthwith serve a copy thereof upon all opposing parties or their counsel of record. No party shall be allowed to argue if the brief is not filed.

(4) Except as provided in (2), and (3) no untimely briefs shall be filed unless upon special allowance or within such time as shall be set by the Court.

(5) Proof of service of briefs shall not be required unless demanded by a party or the Court.

(6) The Court Calendar Officer shall divide the Argument List into a short list and a long list. Unless the Judge shall deem it necessary or appropriate and direct otherwise, the argument of preliminary objections shall be placed on the short list. The Court, with the agreement of counsel, may place such other cases on the short list as they may deem appropriate. The time for argument of cases on the short list shall be limited to not more than five (5) minutes for each side. The time for argument of cases on the long list shall be limited to not more than twenty (20) minutes for each side. Not more than one attorney shall be heard on any side of an issue, except that if several parties plaintiff or defendant have adverse interests, the attorney for each adverse interest shall be limited to not more than five (5) minutes on the short list and not more than twenty (20) minutes on the long list.

(7) Failure to comply with the requirements of the L205.2, pertaining to filing and serving copies of briefs shall constitute a default for which the Court may impose sanctions, including, but not limited to, dismissal of the motion or other matter which is the subject of the argument or allowing the other party to proceed ex parte.

(8) The Court may, upon agreement of the attorneys, or upon its own motion dispense with oral argument and receive the matter on such briefs as may be filed by the parties.

**Rule L 212.1. Civil Case Management.**

(1) *Cases Subject to Civil Case Management:* All Civil cases commenced on or after January 3, 1995 shall be subject to Case Management.

(2) *Commencement of Action:* All subject actions shall be commenced as provided in Pa.R.C.P. 1007. Carbon County Local Rule L213.2 shall be followed.

(3) *Case Management Review:* Pursuant to Pa.R.C.P. 212, a Case Management Review shall be performed by the Court Calendar Officer in every civil case not earlier than one hundred twenty (120) days after commencement of the action in order to prepare a case management order.

(A) The case management review order establishes: Expedited Case Management Track, Standard Case Management Track, Complex Case Management Track and Extraordinary Case Management Track. Each case shall be assigned to a Case Management Track in accordance with the presumptive track assignment, established hereby and following as "Exhibit A". For cause shown, the Judge or the Court Calendar Officer may reassign the case to any appropriate Case Management Track.

The Case Management Order shall establish the applicable deadlines for each particular case in accordance with the Presumptive Time Standards, established hereby and following as "Exhibit B".

(B) If the Court Calendar Officer determines that a case is not ready for a Management Order because of lack of docket activity, the case shall be scheduled for Management Conference before the Assigned Judge.

(C) Prothonotary shall serve a copy of the Case Management Review order on all attorneys of record, and any unrepresented party.

(D) Management/Telephone Conferences shall be scheduled at the discretion of the Court.

(4) *Relief from Deadlines Set Forth in Case Management Order:* Relief from the time requirements of any Case Management Order may be granted only by the assigned Judge. Any aggrieved party may file a Petition For Modification of Management Milestones, established hereby and following as Exhibit "C", with the Prothonotary prior to the deadline that is sought to be changed.

Any adverse party shall have ten (10) days after the filing of the Petition For Modification of Management Milestones to file a Response to Petition for Modification of Management Milestones, established hereby and following as Exhibit "D". The parties may not extend any Case Management deadline by agreement, without Court approval.

(5) *Settlement Conference:* A settlement conference will be expeditiously scheduled on any case in which counsel concur that such a conference may be productive. Such requests shall be made in writing to the assigned Judge.

In Standard Case Management Track cases, a settlement conference may be scheduled by the Court. In all Complex Management Track cases, a settlement conference will be scheduled by the Court.

(6) *Pretrial Memorandum:* All counsel and unrepresented parties shall file a Pretrial Memorandum for the Pretrial Conference as required by Carbon County Rule L212. The Pretrial Memorandum shall contain all of the information mandated by Rule L212, including but not limited to: A concise summary of the facts of the case, or defense; a list, by name and address, of all witnesses the party anticipates calling at trial classified as to liability or damages or both; a prenumbered list of all exhibits which the party intends to offer into evidence at trial; the Plaintiff shall list an itemization of the injuries or damages sustained, and all special damages claimed, by category and amount; and Defendant shall identify the applicable insurance carrier, together with applicable limits of liability.

The Pretrial Memorandum shall be served upon all counsel and unrepresented parties contemporaneously with filing. Counsel should expect witnesses and exhibits not listed in the Pretrial Memorandum to be precluded at trial.

(7) *Pretrial Conference:* In every case, a Pretrial Conference shall be scheduled by the Court. At the conclusion of the Pretrial Conference, a Pretrial Order controlling the conduct of trial may be entered.

(8) *Trial Date:* At the conclusion of the pretrial conference, a date certain trial date consistent with the "Presumptive Time Standards" shall be established by which the case shall be deemed by the Court to be ready for trial. No Continuance requests shall be entertained, except in accordance with Pa.R.C.P. 216, and subject to Pa.R.C.P. 217.

(9) *Failure to Appear for Scheduled Conferences:* Attendance at all conferences scheduled by the Court is mandatory. If Plaintiff fails to appear, the case may be nonprosessed without further notice. In the event any other party fails to appear, the conference shall be held in their absence; and sanctions may be imposed. All requests to reschedule conferences shall be made by filing an application for continuance and following the procedures set forth in Carbon County Rule L216.

**Exhibit "C"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION

PETITION FOR MODIFICATION OF MANAGEMENT MILESTONES

Must be filed with the Prothonotary. Attach self-addressed, stamped envelopes to all counsel and unrepresented parties.

	Plaintiff(s)	:	
vs.		:	NO.
		:	
		:	
	Defendant(s)	:	

Filing of: \_\_\_\_\_  
Name of filing party (state whether Plaintiff or Defendant)

NAME OF PLAINTIFF AND COUNSEL	NAME OF DEFENDANT AND COUNSEL
ASSIGNED TRACK (Check one) <input type="checkbox"/> Fast <input type="checkbox"/> Standard <input type="checkbox"/> Complex	CURRENT APPLICABLE CASE MANAGEMENT MILESTONES (Complete all dates subsequent to the date you are asking to be extended) <input type="checkbox"/> Discovery Date _____ <input type="checkbox"/> Plaintiff Expert Reports _____ <input type="checkbox"/> Defendant Expert Reports _____ <input type="checkbox"/> Pre-Trial Motions _____ <input type="checkbox"/> Pre-trial Memo _____ <input type="checkbox"/> Pretrial Conference _____ <input type="checkbox"/> Trial Date _____
NAME OF JUDGE	
SET FORTH DATES OF ISSUANCE OF ORDERS ON PREVIOUSLY FILED PETITIONS FOR EXTRAORDINARY RELIEF—ATTACH COPIES OF THOSE ORDERS.	

Exhibit "D"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION

RESPONSE TO PETITION FOR MODIFICATION OF MANAGEMENT MILESTONES

Must be filed with the Prothonotary. Attach self-addressed, stamped envelopes to all counsel and unrepresented parties.

	:	
	:	
Plaintiff(s)	:	
vs.	:	NO.
	:	
	:	
Defendant(s)	:	

Filing of: \_\_\_\_\_  
Name of filing party (state whether Plaintiff or Defendant)

NAME OF PLAINTIFF AND COUNSEL	NAME OF DEFENDANT AND COUNSEL
SET FORTH YOUR POSITION CONCERNING THE MOVING PARTY'S REQUESTED RELIEF (ATTACH PROPOSED ORDER).	
A COPY OF THIS RESPONSE WAS SENT OR WILL BE SENT TO THE FOLLOWING PARTIES OR COUNSEL ON THE FOLLOWING DATES:	

I certify the above to be true and correct.

Respectfully submitted,

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff/Defendant

**Rule L216. Application for Continuance.**

(1) All Applications for Continuance shall be presented to the Court on the form provided and shall be presented for Court action at least three (3) working days prior to the scheduled event, except for Applications for Continuance of Arbitrations under Carbon County Rule L1303.

(2) Uncontested Continuances will be accepted by mail providing they are received at least three (3) working days in advance of the scheduled event. The filing office should stamp the continuance filed and then forward said continuance to the Motions and Petitions Coordinator, who will, in turn, present it to the assigned Judge for disposition and signature. After the continuance is acted upon, it will be delivered to the filing office for completion of docketing and the mailing of the copies. If the continuance is received **less than three (3) working days** before the scheduled event, the attorney will be required to **personally present** it to the Motions and Petitions Coordinator for processing.

(3) Contested Continuances must be presented in the Court Administration Office. Notice of presentation of the contested continuance must be given to opposing counsel at least **3** days prior to presentation. The assigned judge

will conduct a telephone conference which will be arranged by presenting counsel.

**Rule L229. Discontinuance of Cases.**

(1) Discontinuance of a case prior to the entry of an arbitration award (see L1305(3)), verdict or judgment may be accomplished without leave of Court only by filing a praecipe to settle, discontinue and end, or a praecipe to discontinue (without prejudice), signed on behalf of all parties who have asserted claims in the action.

(2) Discontinuance of an appeal from arbitration before the entry of a verdict or judgment may be accomplished without leave of Court only by filing a praecipe to discontinue the appeal signed on behalf of all parties. If an appeal is discontinued, the arbitration award will remain on the judgment index unless an order to satisfy the award signed on behalf of the prevailing party or parties also is filed.

(3) Discontinuance of a case after the entry of an unappealed arbitration award or after the entry of a verdict or judgment may be accomplished without leave of



Court only by filing a praecipe to satisfy the award, verdict or judgment signed on behalf of the prevailing party or parties.

(4) When a settlement has been consummated, an award, verdict or judgment has been paid, or the parties have otherwise agreed to terminate a case, the appropriate praecipe or praecipes shall be filed within twenty (20) days thereafter, in default of which sanctions may be imposed.

**Rule L440. Notice of Bankruptcy Stay.**

So that this Court is informed of an automatic stay under 11 U.S.C. § 362, in all civil cases pending before the Court of Common Pleas of Carbon County, a party in such a case who files a Federal bankruptcy case shall, within ten (10) days of such filing, file written notice thereof in this Court.

The written notice shall be filed to the caption and number of the case in this Court and have attached to it a photocopy of the face sheet of the bankruptcy petition certified by the Clerk of the Bankruptcy Court clearly showing the filing date.

All other parties shall be served with a copy of said notice in the manner provided by Pa.R.C.P.440.

If a pre-trial matter, arbitration or trial is scheduled to occur within ten (10) days from the Federal bankruptcy filing, in addition to the written notice required above, the filing party shall immediately give oral notice to all other parties affected by the automatic stay and to the Court Administrator.

Upon termination of this stay, any party may move to reactivate the case in this Court.

Failure to give notice as required by this Rule may result in an order of sanction issued by the Court imposing court costs upon the party who fails to so comply.

**Rule L1018.1. Notice to Defend.**

The following shall be designated in the notice to defend contained in a complaint filed by a plaintiff and a complaint filed by a defendant against an additional defendant as the organization from whom legal referral can be obtained, as required by Pa.R.C.P. 1018.1.

Legal Services of Northeastern Pennsylvania, Inc.  
122 Iron Street  
Lehighton, PA 18235  
(610) 377-5400

**Rule L1028. Preliminary Objections.**

(1) Any party who files preliminary objections shall simultaneously file a brief in duplicate in support of the preliminary objections with the Prothonotary and serve copies of said brief upon all adverse parties or their counsel of record.

(2) Failure to file the brief as required by subsection (1) may result in automatic dismissal of the preliminary objections. The Prothonotary shall transmit the record papers of such case to the Assigned Judge who may enter an order dismissing the preliminary objections and, when appropriate, directing the party who filed the preliminary objections to file an answer or reply to the prior pleading within twenty (20) days. A copy of the order shall be served by the Prothonotary upon all parties or their counsel of record by regular mail.

(3) Where preliminary objections raise a factual or jurisdiction issue, the procedure set forth in Pa. R.C.P.1029 shall be followed and the party filing the

preliminary objection shall also file a certification that the preliminary objections raise a factual or jurisdiction issue so that the requirements of Subsection (1) of this rule do not apply.

(4) The adverse party shall file a brief in duplicate, and serve it upon the opposing party no later than twenty-one (21) days prior to the scheduled argument. In the event the adverse party fails to file timely a responsive brief, the matter shall be considered by the court as if uncontroverted.

**Rule L1034. Motion for Judgment on the Pleadings.**

(1) A Motion for Judgment on the Pleadings shall be accompanied by a legal memorandum setting forth the position of the moving party. The moving party shall file the Motion with the Prothonotary and shall also serve a copy on the Court Calendar Officer, together with a copy of the supporting legal memorandum. Any Motion for Judgment on the Pleadings must be accompanied by a Certificate of Counsel certifying that counsel had made service of the Motion upon opposing counsel. The Prothonotary shall refuse to accept any Motion for Judgment on the Pleadings which is not accompanied by a supporting Legal Memorandum.

(2) The responding party shall file a responsive legal Memorandum thirty (30) days following service of the Motion.

(3) Upon filing, the Prothonotary shall refer the Motion for Judgment on the Pleadings to the Court Calendar Officer.

(4) The pendency of a Motion for Judgment on the Pleadings shall not act as a stay on any discovery, and shall not extend any of the time constraints otherwise mandated by these Rules or the Pennsylvania Rules of Civil Procedure, unless the Court explicitly extends or stays discovery.

**Rule L1035. Motion for Summary Judgment.**

(1) A Motion for Summary Judgment shall be filed within thirty (30) days after completion of discovery and must be accompanied by a supporting Legal Memoranda. A responsive Memoranda shall be filed thirty (30) days thereafter.

(2) A Motion for Summary Judgment shall be accompanied by a Certificate of Counsel certifying that counsel has made service of the Motion upon all opposing counsel. The moving party shall file the Motion with the Prothonotary and shall also serve a copy on the Court Calendar Officer. The Court Calendar Officer will thereafter schedule Argument on the Motion.

(3) Affidavits in support of the Motion and Counter-Affidavits in opposition to the Motion shall be filed prior to the day of the Argument. At Argument, the Court shall determine whether any genuine issue as to a material fact exists. The Court may at that time also determine whether any party is entitled to judgment as a matter of law.

(4) If the Court determines that further briefing will be helpful, the Court will provide counsel with a briefing schedule.

**Rule L1305. Conduct of Hearing.**

(1) On the date fixed for the hearing, the chairman and the members of the panel shall take their oaths of office before the Prothonotary and shall organize for the hearing at least fifteen (15) minutes before the scheduled time. The panel shall conduct the hearing in accordance with Pa.R.C.P. 1304 and 1305. The chairman of the panel

shall preside and see to the proper conduct of the hearing. He shall announce all rulings of a majority of the panel pertaining to the law and/or the admissibility of evidence and be responsible for the proper filing of the award. Hearings shall be held in such place as shall be designated by the Court Calendar Officer.

(2) If a hearing is held and cannot be concluded on the initial day scheduled within the time as indicated on the certificate of readiness, a continued hearing shall be scheduled by the chairman with the Court Calendar Officer and notice thereof given either at the conclusion of the hearing or as provided in Carbon Civ. L1302(4).

(3) If case is settled less than 2 days before the Arbitration hearing, one of the attorneys must appear before the Board of Arbitrators and have an Award entered by agreement. If settled more than 2 days before,

Plaintiff's attorney must file a praecipe to strike case from arbitration list because case is settled and notify Panel.

**Rule L1915.3. Prosecution of Action.**

When a claim for custody, partial custody or visitation is made in a complaint, petition, or counterclaim, such pleading shall comply with Pa.R.C.P. 1915.15(a) and shall have attached an Order of the Court referring the claim to the Hearing Officer for a conference, a Conciliation Conference Notice and a Pre-trial Conciliation Information Form which will be substantially in the same form as "Form A", "Form B" and "Form C" following this rule. The moving party shall follow the Motion practice as set forth in L206.1(9) in the filing and service of the custody pleading.

**"Form A"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

vs.

:  
:  
: **NO.**  
: **CUSTODY**  
:

**ORDER OF COURT**

You, \_\_\_\_\_, Defendant, have been sued in Court to obtain custody, partial custody or visitation of the child(ren), \_\_\_\_\_.

You are ordered to appear in person at \_\_\_\_\_, Carbon County Courthouse, Jim Thorpe, Pennsylvania, 18229, on \_\_\_\_\_, 19 \_\_, at \_\_\_\_\_, \_\_ .m., prevailing time, for a CONCILIATION or MEDIATION CONFERENCE.

If you fail to appear as provided by this Order, an Order for Custody, Partial Custody or Visitation may be entered against you or the Court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Legal Services of Northeastern Pennsylvania, Inc.  
122 Iron Street  
Lehighton, PA 18235  
(610) 377-5400

BY THE COURT:

DATED: \_\_\_\_\_

\_\_\_\_\_ J.

**"Form B"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

vs.

:  
:  
: **NO.**  
: **CUSTODY**  
:

**CONCILIATION CONFERENCE NOTICE**

TAKE NOTICE that pursuant to Carbon County Rule 1915.3 the above captioned case has been set for a conciliation conference on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_\_ AM/PM before Carbon County Custody Conference Officer \_\_\_\_\_, Esquire, in the First Floor Conference Room, Carbon County Court House, Jim Thorpe, Pennsylvania.

Both parties shall complete the Custody questionnaire and shall supply the completed questionnaire to the Custody Conference Officer at least five (5) days before the conciliation conference.

THE PARTIES ARE ADVISED THAT IF HE OR SHE FAILS TO APPEAR AT THIS CONFERENCE, THE COURT OR CUSTODY CONFERENCE OFFICER MAY GRANT LEAVE TO THE PARTY WHO APPEARS TO PRESENT TESTIMONY AND THE COURT MAY PROCEED TO ENTER AN ORDER BASED SOLELY UPON SUCH TESTIMONY. NO STENOGRAPHIC RECORD SHALL BE MADE OF THIS CONFERENCE.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

BY THE COURT:

\_\_\_\_\_ J.

“Form C”

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

vs.

:  
:  
: NO.  
: CUSTODY  
:  
:

**PRE-TRIAL CONCILIATION INFORMATION**  
(To be submitted at conciliation conference)

**GENERAL INFORMATION:**

1. Names, addresses, ages and employment of parents:

FATHER

MOTHER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Names and ages of all children involved; state with whom living:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Names and addresses of other parties involved (if any—children’s services, grandparents, foster parents, etc.)

\_\_\_\_\_  
\_\_\_\_\_

4. Status of current custody orders or custody arrangements:

\_\_\_\_\_  
\_\_\_\_\_

5. Addresses of children for past 5 years; state who had custody at each location:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Position of Party Submitting Memorandum:

1. State what living arrangements you consider to be in child(ren)’s best interests (i.e. where children should spend weekdays, weekends, holidays, vacation, attend school, matters of that sort):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. State kind of environment you can provide under above arrangement (home, school, other children in neighborhood, your availability at various times):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Other factors you consider relevant to resolution of dispute:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Efforts at mediation, conciliation, counseling:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TRIAL INFORMATION:**

1. List of witnesses you would intend to call:

Fact Witnesses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Experts: (attach copies of any reports currently available to the memorandum):

\_\_\_\_\_  
\_\_\_\_\_

2. Issues for resolution: (e.g., suitability of physical environment, suitability of parent, unusual opportunities for enrichment, particular skills of availability of one parent as opposed to another):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Remarks: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Counsel for \_\_\_\_\_

COPIES TO BE SENT TO: Court

Opposing Counsel

**Rule L1915.5. Discovery Motion Practice.**

(1) Discovery shall be limited to the following Motion practice unless authorized by special order of Court:

(A) Motions authorized by the Uniform Child Custody Jurisdiction Act, 42 Pa.C.S. § 5341 et. seq.

(B) Motion for physical or mental examinations.

(C) Motion for a home study.

(2) All discovery motions shall be in writing and filed with the court no later than five (5) days after the pre-hearing conference. All motions shall be supported or opposed according to the practice followed on motion for summary judgment under Pa.R.C.P. 1035(d).

**Rule L1915.12. Civil Contempt for Disobedience of Custody Order.**

A petition for civil contempt shall be assigned only to the judge who signed the Order which is allegedly violated, who shall take testimony, make a decision and specify the conditions which must be fulfilled to purge the contempt. The petition for civil contempt shall comply substantially with the prescribed format pursuant to Pa. R.C.P.1915.12

**Rule L1915.20. Exceptions to Hearing Officer's Report—De Novo Hearings—Final Order.**

(1) Within ten (10) days after notice of the filing of the hearing officer's report has been mailed, exceptions may be filed by any party to the report or any part thereof, to rulings on objections to evidence, to statement or findings of fact, to conclusions of law, or to any other matters occurring during the hearings. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the final order, leave is granted to file exceptions raising those matters.

(2) If no exceptions are filed to the hearing officer's report within the ten (10) day period, the Prothonotary shall transmit the entire record to the Court.

(3) If exceptions are filed the Court shall hear arguments and enter an appropriate final order. No exceptions may be filed to the final order.

(4) Exceptions shall be served upon the hearing officer and all opposing counsel.

(5) All costs associated with the exceptions including transcription costs, shall be borne by the party or parties taking the same, unless otherwise ordered by Court.

(6) De Novo hearings shall not be allowed, except upon Petition alleging special or unusual circumstances and Order of Court.

(7) No exceptions shall be argued before the Court unless written briefs have been filed. The moving party shall file three (3) copies of a brief with the Prothonotary's Office no later than twenty (20) days after the filing of the Notes of Testimony, and forthwith serve one (1) copy of the brief upon each adverse party or counsel of record.

(8) Each adverse party or his counsel of record shall file in the appropriate filing office three (3) copies of a brief in answer, not later than twenty one (21) days before the date of argument and forthwith serve a copy thereof upon all opposing parties or their counsel of record.

(9) All briefs shall be prepared in conformity with Rule L210.

**Rule L1920.22. Discovery.**

*Motion*

(1) A party seeking a special order of court for discovery pursuant to Pa.R.C.P. 1920.22(a) shall request the same by written motion in accord with Local Rule 206.5.

*Compliance*

(2) All requests for discovery shall be complied with within the time period established by the order therefor or if no order is required or no period is established by the order then within 30 days from the date of service thereof.

*Motion for Compliance*

(3) If a party fails to comply with requested discovery within the time period provided by Rule L1920.22(2) the requesting party may, upon expiration of said time period file a motion for compliance and serve a copy thereof on the attorney for the noncomplying party or if no attorney is of record, then, on the noncomplying party. Upon service thereof, the noncomplying party shall:

*Mandatory compliance*

(A) Comply with the requested discovery within 15 days, unless additional time is granted by the Court.

*Sanctions*

(4) If a motion for compliance is filed and served in accordance with Local Rule 1920.22(3) and the opposing party fails to comply with Local Rule 1920.22(3)(A), the court shall impose the following sanctions as additional sanctions to those which the Court deems appropriate.

*Counsel fees*

(A) Require the noncomplying party to pay reasonable counsel fees of the requesting party.

*Monetary sanctions*

(B) Require the noncomplying party to pay to the requesting party a sum to be set by the Court for each day of noncompliance.

**Rule L2102. Zoning Appeals.**

(1) Appeals from the decision of a zoning hearing board shall be captioned

\_\_\_\_\_  
 (Name)  
 Appellant  
 vs.  
 (Name) Borough/Township Zoning Hearing Board  
 Appellee

(2) Within ten days after the allowance by this court of a writ of certiorari, on petition to review a decision of a zoning board, the petitioner shall give notice in writing of

the court and number of such appeal, to all persons who shall have entered an appearance in writing in the proceedings before the zoning hearing board, stating the name and address of the person or attorney to which it is wished the notice be sent. The appellant shall serve a copy of the petition and order of allowance of the writ upon the solicitor for the zoning hearing board, or, if none, to the solicitor for the municipality for which the zoning board was appointed to serve as such.

(3) Whenever a zoning hearing board or the governing body of a municipality is required under the Pennsylvania Municipalities Planning Code to certify its record to the court in response to a writ of certiorari in a zoning appeal case, said record shall contain a copy of the entire zoning ordinance, building code or other ordinance, with the relevant portions indicated therein, and a copy of the zoning map of the municipality. After the zoning hearing board or the governing body of the municipality has made its return, the appeal shall be at issue. Appellant's brief is due 30 days after the record is received and appellee's brief is due 30 days thereafter. The case shall be scheduled by the Court Calendar Officer on the next available Argument List.

(4) In the event a party desires to present additional evidence, a motion indicating the reasons therefore shall be presented to the Court within twenty (20) days after filing of the appeal.

(5) Appeals from decisions of a zoning hearing board or a governing body of a municipality shall be heard by the court upon the record. No questions shall be heard or considered by the court which were not raised at the hearing before the zoning hearing board or the governing body of the municipality, except:

(A) Questions involving the validity of a statute or the procedure before the zoning hearing board or the governing body of the municipality;

(B) Questions involving the jurisdiction of the zoning hearing board or the governing body of the municipality over the subject matter;

(C) Questions involving the timeliness of the decision rendered by the zoning hearing board or the governing body of the municipality;

(D) Questions which the court is satisfied that the appellant could not, by the exercise of due diligence, have raised before the zoning hearing board or the governing body of the municipality at the time of the hearing. If, upon argument, the court is satisfied that any such additional questions should be raised, further testimony shall be obtained as provided in section 4 hereof.

**Rule L2206. Petitions for Approval of Settlement in Wrongful Death and Survival Actions.**

(1) Court approval of settlements in wrongful death cases shall be required only where a minor or incapacitated person has an interest.

(2) Petitions for Approval of Settlement shall, and copies thereof, be sent and served on all heirs of the estate wrongful death beneficiaries and any others having a possible interest, pursuant to Carbon Rule L206.1 and be filed with the Prothonotary. When a wrongful death settlement has been approved by a settlement conference or Trial Judge, that Judge shall retain jurisdiction for adjudication of the petition in accord with paragraph (3) below. In all other cases, such petition will be determined by the Assigned Judge.

(3) The petition shall:

- (A) Set forth the factual circumstances of the case;
- (B) State the reasons why the settlement is a reasonable one;
- (C) Be accompanied by the following:
  - (1) A proposed order approving the settlement and allocation between wrongful death and survival; the proposed order shall comply substantially with the prescribed format in Form A.
  - (2) A statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion;
  - (3) A statement setting forth the proposed allocation between wrongful death and survival actions and the amount proposed to be allocated to each beneficiary;
  - (4) A statement clearly identifying those parties believed to be beneficiaries under each of the actions, attaching a copy of the will of the decedent, if any;

- (5) A statement setting forth the following:
  - (a) The time between the injury and death;
  - (b) Whether or not the decedent was conscious, and the circumstances prior to his or her death;
  - (c) The amount of the medical and funeral bills;
  - (d) The amount of the decedent's wage loss; and
  - (e) The age, employment and any other circumstances of any potential beneficiaries under the Wrongful Death Act.
- (6) A certification of service of notice and a copy of the petition to all parties with a possible interest, together with a list of those persons notified.
- (7) A letter from the Department of Revenue stating either their approval or objection to the proposed settlement.

**Form "A"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

Plaintiff  
vs.  
Defendant

: : : : : : : : : :  
: : : : : NO.  
: : : : :  
: : : : :

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, upon consideration of the Petition to Compromise Wrongful Death and Survival Action filed on \_\_\_\_\_, 19\_\_\_\_, it is hereby ORDERED that Petitioner is authorized to enter into a settlement with Defendant(s) \_\_\_\_\_ in the gross sum of \_\_\_\_\_ (\$ \_\_\_\_\_).

It is further ORDERED and DECREED that the settlement proceeds be distributed as follows:

- 1. To: \_\_\_\_\_, Esq. \$ \_\_\_\_\_  
For Costs
- 2. To: \_\_\_\_\_, Esq. \$ \_\_\_\_\_  
Counsel Fees
- 3. The balance of the settlement, the sum of \$ \_\_\_\_\_  
is apportioned as follows:
  - Wrongful Death Claim \$ \_\_\_\_\_
  - Survival Claim \$ \_\_\_\_\_
  - a. The Wrongful Death Claim shall be paid as follows:
    - i. To: Spouse; and/or \$ \_\_\_\_\_
    - ii. Adult Child(ren) \$ \_\_\_\_\_
    - iii. To: Minor Child(ren)<sup>1</sup> as provided hereunder \$ \_\_\_\_\_

*OPTION 1*

Counsel is hereby authorized to execute all documentation necessary to purchase saving certificate(s), from federally insured banks or savings institutions having an office in Carbon County, in the sum of \$ \_\_\_\_\_, each not to exceed the insured amount, with the funds payable to the minor upon majority. The certificate shall be titled in the name of the minor and shall be restricted as follows:

\_\_\_\_\_, a minor, not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or, otherwise alienated before the minor attains majority, except upon prior Order of Court.

Counsel shall open a savings account in the sum of \$ \_\_\_\_\_ in the name of the minor. The savings account shall be restricted as follows:

\_\_\_\_\_, a minor, not to be withdrawn, before the minor attains majority, except for the payment of city, state, and federal income taxes on the interest earned by the savings certificate and savings account, or upon prior Order of Court.

<sup>1</sup> In the event the beneficiary is an incapacitate person, appropriate changes are to be made. Counsel shall set forth in the Order a separate provision for each minor or incapacitated person.

OPTION 2

To: \_\_\_\_\_, Guardian \$ \_\_\_\_\_

of the Estate of \_\_\_\_\_, a minor; provided, however, that no payment shall be made to the guardian until the guardian has posted additional security as may be required by the Orphans' Court Division of Carbon County pursuant to 20 Pa.C.S. § 5121, et seq. An appropriate Petition shall be filed with the Orphans' Court within thirty (30) days.

OR

[To: Guardian of the Estate of \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_, a minor, upon appointment by the Orphans' Court Division of Carbon County and upon the posting of any security as required by the said Orphans' Court pursuant to 20 Pa.C.S. § 5121, et seq. An appropriate Petition shall be filed with the Orphans' Court within thirty (30) days. Counsel shall not make any Distribution to said Guardian upon appointment until this provision is fully complied with.]; and/or

iv. To: Parent(s) \$ \_\_\_\_\_

b. The Survival Claim, in the sum of \$ \_\_\_\_\_

shall be paid to \_\_\_\_\_, Administrator/Executor of the Estate of \_\_\_\_\_, Deceased; provided, however, that counsel shall not distribute any funds to the said Administrator/Executor until additional security as may be required by the Register of Wills of Carbon County pursuant to 20 Pa.C.S. § 3323(b)(3) is posted.

Within thirty (30) days from the date of this Order, counsel shall file with the Motion's Court an Affidavit from counsel certifying compliance with this Order.

BY THE COURT:

P.J.

**Rule L2971. Confession of Judgment for Possession of Real Property.**

(1) When an action is commenced pursuant to Pa.R.C.P. No. 2971 for possession of residential property, the Prothonotary, upon praecipe, shall only enter judgment in conformity with the confession after twenty-one (21) days have elapsed since commencement of the action and either:

(A) service has been made as required by (2) hereof and no petition has been filed which raises the issue of whether there was a knowing and voluntary waiver of due process rights by the defendant when the lease authorizing confession of judgment was executed; or

(B) entry of judgment is authorized by order of court.

(2) Plaintiff must file the complaint and make service of it in accord with Pa.R.C.P. No. 400 et seq, except that service shall not be made by publication under Pa.R.C.P. No. 430(b) or by posting a copy under Pa.R.C.P. No. 410(a)(2) without order of the court. In addition, the plaintiff shall also serve a notice and a petition in the form set forth in the addendum after this rule in the same manner as service of the complaint.

(3) The required notice shall be substantially in the form of the addendum following this rule.

(4) If a petition is filed pursuant to this rule, the Court shall hear the petition within five (5) business days after filing upon such notice to the parties as the Court shall direct and shall promptly dispose of the matter on the testimony, admissions or other evidence.

**"Addendum 1"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

Plaintiff :  
vs. : NO.  
Defendant :

**NOTICE TO DEFEND**

You have been sued in Court.

A complaint has been filed and a judgment will be entered against you and you may be evicted from your residence.

The judgment will be entered against you unless you file a petition with the Prothonotary which raises the issue of whether you knowingly and voluntarily waived your rights to due process when you signed the lease which authorized confession of judgment against you.

The petition must be filed no later than twenty (20) days from the date of service of the complaint. If you fail to file the petition and judgment is entered against you, you may file a petition with the Court in accord with Pa.R.C.P. 2959 to strike off the judgment or to open it.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LEGAL SERVICES OF NORTHEASTERN PENNSYLVANIA, INC.  
122 Iron Street  
Lehighton, Pennsylvania 18235  
Telephone: 610-377-5400

“Addendum 2”

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

Plaintiff :  
vs. : No.  
Defendant :

**PETITION TO STAY JUDGMENT BY CONFESSION**  
TO YOUR HONORABLE COURT:

The above-named Defendant files this Petition and states the following:

- 1. I did not knowingly and voluntarily waive my rights to due process when the lease which authorized confession of judgment against me was executed.
- 2. I request a prompt court hearing to determine my rights. Notice of the hearing should be given to me at:

Address

Telephone

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

DATE:

Defendant

**Rule L3154. Attachment of Income to Satisfy Landlord-Tenant Judgment Under Residential Lease.**

(a) After obtaining a final judgment for damages arising under a residential lease, the judgment creditor/landlord may petition the Court to attach the debtor/tenant’s income to satisfy that portion of the judgment representing damages for abuse of the physical make up of the leased premises.

(b) The petition procedure utilized by the judgment creditor/landlord shall be in compliance with Pennsylvania Rules of Civil Procedure 206.1—206.7 and Carbon County Rule L206.1 All petitions for attachment of income shall be accompanied by a proposed “Order of Attachment of Income” substantially in accordance with the form provided in Rule L3155.

(c) At the time of the hearing on the petition it shall be the burden of the judgment credit/landlord to establish: (1) notice to the defendant/tenant of the income attachment hearing date; (2) that the attachment is for a judgment that represents damages for abuse of the physical makeup of the leasehold premises; and (3) that the tenant’s security deposit, if any, has been deducted from the amount subject to attachment, or has been applied to payment of rent due on the same premises for which the judgment of attachment is to be entered.

(d) At the time of the hearing on the petition, it shall be the burden of the debtor/tenant to: (1) establish that the attachment would place the debtor’s net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget; or (2) other good cause why the attachment order should not issue.

**Rule L3155. Order of Attachment of Income to Satisfy Landlord-Tenant Judgment Under Residential Lease-Form.**

To: (employer)

Pursuant to the laws of the Commonwealth of Pennsylvania the net wages of \_\_\_\_\_, defendant/tenant, \_\_\_\_\_ (payroll or other identification number, if applicable), of \_\_\_\_\_ (address), is hereby attached to the following extent.

You are directed to pay to the Prothonotary of the Court of Common Pleas of Carbon County 10% of the net wages due the defendant/tenant. The attachment payment must be sent to the Prothonotary within fifteen (15) days of the date the defendant/tenant is paid. Checks should be made payable to “Prothonotary of Carbon County”, Post Office Box 127, Jim Thorpe, PA 18229.



The order of attachment for damages arising out of a residential lease is binding upon you until further notice and shall have priority over any attachment, execution, garnishment, or wage attachment under state or local law except one relating to a support order or a prior attachment for damages arising out of a residential lease. You must commence the attachment of the defendant/tenant's income as soon as possible but no later than fourteen (14) days from the date of the issuance of this order of attachment.

You are notified further that pursuant to law:

1. The defendant/tenant has been notified that an order of attachment would be issued.
2. Willful failure to comply with this order may result in (i) your being adjudged in contempt of court with appropriate sanctions; (ii) your being held liable for any amount not withheld or withheld but not forwarded to the Prothonotary; and (iii) attachment of your funds or property.
3. The attachment of income or the possibility thereof as a basis, in whole or in part, for the discharge of an employee or any disciplinary action against or demotion of an employee is prohibited. Violation may result in (I) your being adjudged in contempt with appropriate sanctions; and (ii) an action against you by the employee for damages.
4. You must notify the Prothonotary when the defendant/tenant terminates employment and provide the Prothonotary with the employee's last known address and the name and address of the new employer, if known.
5. The maximum amount of the attachment shall not exceed 10% of the employee's net wages per pay period. The total amount of wages attached pursuant to this order shall not exceed \_\_\_\_\_.
6. For the purposes of this order, "net wages" means all wages paid less only the following items:
  - (i) Federal, State, and local income taxes;
  - (ii) F.I.C.A. payments and nonvoluntary retirement payments;
  - (iii) Union dues; and
  - (iv) Health insurance premiums.

Date of Order: \_\_\_\_\_

BY THE COURT,

J.

[Pa.B. Doc. No. 97-1782. Filed for public inspection November 7, 1997, 9:00 a.m.]

**CARBON COUNTY**

**Juvenile Transports; No. 245 JV 97**

**Administrative Order 9-1997**

And Now, this 24th day of October, 1997, it is hereby Ordered and Decreed that effective January 1, 1998 the Sheriff of Carbon County is directed to transport juvenile delinquents to and from various detention centers, treatment facilities for scheduled Court Detention, Adjudication, and Disposition Hearings upon Writ of the Carbon County Juvenile Court.

By The Court

JOHN P. LAVELLE,  
President Judge

[Pa.B. Doc. No. 97-1783. Filed for public inspection November 7, 1997, 9:00 a.m.]

**WYOMING AND SULLIVAN COUNTIES**

**1998 Court Calendar; No. 97-1046**

**Order of Court**

And Now, the 22nd day of October, 1997, It Is Ordered that the Court Calendar of the Court of Common Pleas of the 44th Judicial District of Pennsylvania for the Year of 1998, be and the same is hereby established in accordance with the schedule hereto and made a part hereof.

By the Court

BRENDAN J. VANSTON,  
President Judge

**1998 Court Calendar—Wyoming County**

*Account Confirmation*

January 6	July 7
February 3	August 4
March 3	September 1
April 7	October 6
May 5	November 3
June 8	December 1

*Arraignments*

January 14	July 8
February 11	August 12
March 11	September 9
April 8	October 14
May 13	November 4
June 10	December 9

*Domestic Relations*

*De Novos*

January 13	15
February 10	12
March 10	12
April 14	9
May 12	14
June 9	11
July 14	6
August 11	13
Sept. 8	10
October 13	15
November 10	12
December 8	10

*Contempts*

*General Call*

September 1

*Juveniles*

January 7  
February 4  
March 4  
April 1  
May 6  
June 3

July 1  
August 5  
September 2  
October 7  
November 4  
December 2

*Criminal Trial Weeks*

February 17, 1998  
April 20, 1998  
June 22, 1998

August 24, 1998  
October 19, 1998  
December 14, 1998

*Guilty Pleas and Status Call*

January 9  
February 6  
March 6  
April 3  
May 8  
June 5

July 17  
August 14  
September 4  
October 9  
November 6  
December 4

*Dependency*

January 15  
February 12  
March 12  
April 9  
May 14  
June 11

July 9  
August 13  
September 10  
October 15  
November 12  
December 10

*Civil Trial Weeks*

January 19, 1998  
March 16, 1998  
May 18, 1998

July 27, 1998  
September 21, 1998  
November 16, 1998

*Close Civil Trial List*

December 5, 1997 (March, 1998)  
February 6, 1998 (May, 1998)  
April 3, 1998 (July, 1998)  
June 5, 1998 (September, 1998)  
August 7, 1998 (November, 1998)  
October 2, 1998 (January, 1999)  
December 4, 1998 (March, 1999)

*Sentences and ARD Hearings*

January 14  
February 11  
March 11  
April 8  
May 13  
June 10

July 15  
August 12  
September 9  
October 14  
November 13  
December 9

*Prison Board*

January 6  
February 3  
March 3  
April 7  
May 5  
June 2

July 7  
August 4  
September 1  
October 6  
November 3  
December 1

**1998 Calendar—Sullivan County**

*Miscellaneous, Arraignments and Account Confirmations*

January 8  
February 5  
March 5  
April 2  
May 7  
June 4

July 2  
August 6  
September 3  
October 8  
November 5  
December 3

*Civil and Criminal Trial Weeks*

January 26, 1998  
March 23, 1998  
June 15, 1998  
September 28, 1998  
October 26, 1998

*Close Civil Trial List*

November 7, 1997	(January, 1998 Trial Term)
December 5, 1997	(March, 1998 Trial Term)
March 6, 1998	(June, 1998 Trial Term)
June 5, 1998	(September, 1998 Trial Term)
August 7, 1998	(October, 1998 Trial Term)
November 6, 1998	(January, 1999 Trial Term)
December 4, 1998	(March, 1999 Trial Term)

*General Call*

September 3, 1998

[Pa.B. Doc. No. 97-1784. Filed for public inspection November 7, 1997, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CHS. 23 AND 30]

#### Personnel Rules; Leave with Pay

The Executive Board (Board) has approved a resolution to rescind Chapter 23 and Chapter 30, Subchapter B (relating to general provisions; and leave with pay). All other chapters and subchapters were rescinded by the Executive Board, Resolution PR-84-220 dated November 15, 1984. Notice of proposed rulemaking is omitted under section 204(1)(ii) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(ii)) (CDL) and 1 Pa. Code § 7.4(1)(ii) because this rulemaking relates to agency organization, management or personnel.

This rulemaking pertains to general provisions and entitlements to leaves of absence with pay.

#### Summary

Section 709(e) of The Administrative Code of 1929 (71 P. S. § 249(e)), empowers the Executive Board to "establish regulations concerning the entitlement to leaves of absence, with pay." Entitlements are promulgated by the Executive Board in Chapter 30, Subchapter B and in labor agreements. Subsequent changes to Chapters 23 and 30 will be approved by the Executive Board and promulgated through the Directives Management System in Management Directive 505.7, Personnel Rules.

#### Major Provisions

To delete the remaining two chapters of Management Directive 505.7, Personnel Rules, from the *Pennsylvania Code*.

1. Chapter 23 is deleted.
2. Chapter 30, Subchapter B, is deleted.

#### Forms and Paperwork

No additional forms or paperwork are required.

#### Fiscal Impact

There is no appreciable fiscal impact.

#### Contact Person

The contact person is Art Duprat, Office of Administration, Room 513, Finance Building, Harrisburg, PA (717) 787-8575.

#### Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on September 25, 1997, a copy of this rulemaking was submitted to the Regulatory Review Commission (IRRC), the Chairpersons of the House and Senate State Government Committees. At the same time, this rulemaking was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5(c) of the Regulatory Review Act, the rulemaking was deemed approved by the House and Senate Committees on October 15, 1997. IRRC met on October 23, 1997, and approved the rulemaking.

#### Findings

The Executive Board finds that:

(1) Public notice of intention to delete the administrative regulations by this order has been omitted under section 204(1)(ii) of the CDL and 1 Pa. Code § 7.4(1)(ii) because the regulations relate to agency organization, management or personnel.

(2) The deletion of the regulations of the Executive Board in the manner provided by this order is necessary and appropriate for the administration of the authorizing statutes.

#### Order

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

(a) The regulations of the Executive Board, 4 Pa. Code Chapters 23 and 30, are amended by deleting §§ 23.1, 23.2, 23.2a, 30.11—30.17, 30.21—30.37, 30.41, 30.51—30.53, 30.61, 30.71, 30.72 and 30.81—30.83 to read as set forth in Annex A.

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

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

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

THOMAS G. PAESE,  
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 5840 (November 8, 1997).)

**Fiscal Note:** 42-1. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 4. ADMINISTRATION

#### PART II. EXECUTIVE BOARD

#### Subpart C. PERSONNEL RULES

#### CHAPTER 23. (Reserved)

§ 23.1. (Reserved).

§ 23.2. (Reserved).

§ 23.2a. (Reserved).

#### CHAPTER 30. (Reserved)

#### Subchapter B. (Reserved)

§§ 30.11—30.17. (Reserved).

§§ 30.21—30.37. (Reserved).

§ 30.41. (Reserved).

§§ 30.51—30.53. (Reserved).

§ 30.61. (Reserved).

§ 30.71. (Reserved).

§ 30.72. (Reserved).

§§ 30.81—30.83. (Reserved).

[Pa.B. Doc. No. 97-1785. Filed for public inspection November 7, 1997, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 63, 65, 69 AND 75]

#### Fishing

The Fish and Boat Commission (Commission) by this order amends Chapters 63, 65, 69 and 75. The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendments relate to fishing.

##### A. *Effective Date*

These amendments will go into effect on January 1, 1998.

##### B. *Contact Person*

For further information on the amendments, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P.O. Box 67000, Harrisburg, PA 17106-7000. This final rulemaking is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

##### C. *Statutory Authority*

The amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

##### D. *Purpose and Background*

The amendments are designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the amendments is described in more detail under the summary of changes.

##### E. *Summary of Changes*

1) Sections 63.8 and 69.12 (relating to long bows, spears and gigs; and seasons, sizes and creel limits—Lake Erie). The Commission received requests from individuals who scuba dive in Lake Erie to allow the taking of burbot through the use of spears or gigs. The Bureau of Fisheries and Bureau of Law Enforcement personnel in the Northwest Regional Office and Erie County reviewed the requests, and no one had any particular objections.

Accordingly, the Commission has adopted amendments that permit the taking of burbot from Lake Erie at a depth of at least 60 feet or more using nonmechanical spears or gigs. The season is from June 1 to September 30 annually, with a daily creel limit of five fish per day. The possession of mechanically propelled spearguns is illegal. Divers possessing spears/gigs and taking or attempting to take burbot are required to have a valid fishing license. The Executive Director, acting on the recommendation of the Bureaus of Fisheries and Law Enforcement, previously exercised his authority to make temporary changes to fishing regulations so that the change was in effect on a trial basis during the period July 12—September 30, 1997.

After the publication of a notice of proposed rulemaking, it was brought to the Commission's attention

that according to § 75.2(b) (relating to threatened species), burbot are classified as a threatened species State-wide, when in fact burbot are not threatened in Lake Erie and Presque Isle Bay, including peninsula waters. The Bureau of Fisheries has indicated that it was never intended that burbot be listed as threatened in Lake Erie and Presque Isle Bay. However, the regulation, as currently written, does not reflect that fact. Therefore, the Commission, on final rulemaking, adopted the changes to §§ 63.8 and 69.12 as proposed with the clarification to § 75.2 that the burbot's threatened status does not extend to Lake Erie and Presque Isle Bay.

2) Section 65.24 (relating to miscellaneous special regulations). The Allegheny River tailwater located in Warren County provides a popular multispecies fishery for anglers. As a result of the coldwater release from the Allegheny Reservoir, the 8.75 mile section located immediately downstream from the outflow of the reservoir is managed to provide trout angling opportunities through the annual planting of fingerling trout. Under current regulations, the 0.75 mile segment immediately downstream of the reservoir are managed under Miscellaneous Waters Special Regulations with no closed season on trout and a daily creel limit of 3 trout per day. The remaining 8 miles of trout habitat are managed under Statewide regulations. The provision of a coldwater release and the increased productivity of this water combine to offer a unique opportunity for management designed to further enhance the year round trout fishery. Therefore, staff proposed that the regulations for trout be revised on the Allegheny River tailwater. Specifically, staff proposed that the regulations provide for year-round angling with no tackle restriction under a 14-inch minimum size limit and two trout daily creel limit during the regular trout season (8 a.m. opening day through midnight Labor Day), with no harvest permitted during the remainder of the season. This proposal was supported by the Cornplanter Chapter of Trout Unlimited. The Commission adopted changes to § 65.24, consistent with the staff's recommendation.

##### F. *Paperwork*

The amendments hereby adopted will not increase paperwork and will create no new paperwork requirements.

##### G. *Fiscal Impact*

The amendments adopted will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments will impose no new costs on the private sector or the general public.

##### H. *Public Involvement*

A notice of proposed rulemaking containing the proposed changes was published at 27 Pa.B. 4456 (August 30, 1997). None of the proposed changes attracted public comment.

##### *Findings*

The Commission finds that:

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

(2) A public comment period was provided and that no comments were received.

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

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 63, 65, 69 and 75, are amended by amending §§ 63.8, 65.24 and 69.12 to read as set forth at 27 Pa. B. 4456 and by amending § 75.2 to read as set forth at Annex A.

(b) The Executive Director will submit this order, 27 Pa. B. 4456 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 27 Pa.B. 4456 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*.

PETER A. COLANGELO,  
*Executive Director*

(*Editor's Note:* The amendment of § 75.2, amended in this document, was not included in the proposal at 27 Pa.B. 4456.)

**Fiscal Note:** Fiscal Note 48A-71 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 75. ENDANGERED SPECIES**

**§ 75.2. Threatened species.**

(a) *General.* The species of fish, amphibians and reptiles listed in subsections (b) and (c) are classified as threatened. The catching, taking, killing, possessing, importing to or exporting from this Commonwealth, selling, offering for sale or purchasing, of any individual of these species, alive or dead, or any part thereof, without a special permit from the Executive Director is prohibited.

(b) *Fish.* The following species are threatened:

- (1) Ohio Lamprey, *Ichthyomyzon bdellium*.
- (2) Mountain Brook Lamprey, *Ichthyomyzon greeleyi*.
- (3) Atlantic Sturgeon, *Acipenser oxyrinchus*.
- (4) Mountain Madtom, *Noturus eleutherus*.
- (5) Northern Madtom, *Noturus stigmosus*.
- (6) Burbot, *Lota lota* (except in Lake Erie and Presque Isle Bay, including peninsula waters).
- (7) Bluebreast Darter, *Etheostoma camurum*.
- (8) Channel Darter, *Percina copelandi*.
- (9) Gilt Darter, *Percina evides*.

(c) *Amphibians and reptiles.* The following species are threatened:

- (1) Green Salamander, *Aneides aeneus*.
- (2) Red-bellied Turtle, *Pseudemys rubriventris*.

(3) Rough Green Snake, *Opheodrys aestivus*.

[Pa.B. Doc. No. 97-1786. Filed for public inspection November 7, 1997, 9:00 a.m.]

**STATE HORSE RACING COMMISSION**

**[58 PA. CODE CH. 163]**

**Jockeys and Apprentices**

The State Horse Racing Commission (Commission) acting under the authority conferred by section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)), amends §§ 163.171, 163.182 and 163.187—163.191 relating to jockeys, apprentice jockeys and weight allowances.

Under section 204(2) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(2)) (CDL), public notice of the intention to amend §§ 163.171, 163.182 and 163.187—163.191 of the Commission's regulations under the procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) has been omitted because all persons subject to the amended regulations have received actual notice thereof. The Commission's regulations in §§ 163.171—163.195 are applicable solely to apprentice jockeys and licensed jockeys and no other licensee. Furthermore, the amendments do not jeopardize the rights or privileges of any person, but rather, clarify outdated regulations and provide a more uniform and regionally-consistent regulations. The Jockeys' Guild and its representatives participated in the drafting of the amended rules within this Commonwealth and surrounding jurisdictions and are in favor of the amendments. Thus, the Commission finds that the persons subject to the regulations have received actual notice of the intention to amend these regulations. Nevertheless, the Commission has forwarded a copy of these amendments to the Jockeys' Guild and various jockey representatives for their further comment.

The amendments to the Commission's regulations are intended to eliminate existing discrepancies and ambiguities between this Commonwealth and surrounding racing jurisdictions, such as Maryland, New York and Delaware. Presently many jockeys and apprentice jockeys who race in these jurisdictions face extremely inconsistent regulations relating to weight allowances. The Jockeys' Guild, an association which represents a majority of the jockeys in this Commonwealth, requested that the Commission modify its regulations to create, at the very least, a uniform regional regulations, and at most, a National uniform regulations governing apprentice jockeys. The Commission agrees with the Jockeys' Guild that there is a need to clarify the existing discrepancies and therefore has adopted the amendments, which the Jockeys' Guild has submitted.

Historically, an apprentice jockey was 16 years of age or older who had at least 1 year of verifiable contracted service with a racing stable, generally as a stable hand, groom or exercise rider. Presently, in this Commonwealth an apprentice jockey must be 17 years of age or older. The Commission can find no data to support the present age requirement of 17 and thus will amend its regulations accordingly. An applicant for an apprentice jockey certificate must satisfactorily accomplish the requirements in § 163.189(c)(1)—(7). The apprentice certificate allows the applicant the appropriate access to the race track, backside and video room to complete the necessary requirements, including riding two parimutuel races observed by

the Board of Stewards. Upon recommendation by the Board of Stewards, a regular apprentice jockey's license is issued to the successful applicant.

In accordance with the Commission's regulations, the apprentice jockey must then win a certain number of races within a 1-year period, during which the apprentice jockey may claim a particular weight allowance. In essence, the weight allowance allows the apprentice jockey to reduce the weight he would normally have to carry in the race to compensate for the lack of racing experience against other more qualified riders. The weight that the jockey carries, which includes the jockey's clothing, boots and saddle, is generally added or deleted to provide a uniform weight and equal advantage between the racehorses and the jockeys. As the apprentice jockey becomes more successful and experienced, the less weight he will be allowed to claim (reduce). Assuming the jockey successfully wins the required number of races within the allowed time frame, that jockey may apply to the Commission for a jockey's license.

*Summary of Major Amendments*

Section 163.171(b) (relating to jockey's license) is being amended to allow persons 16 years of age or older to become apprentice jockeys. As presently adopted, there is an inconsistency with the Commission's regulations as to the appropriate age for an apprentice or licensed jockey. Within the surrounding jurisdictions, jockeys have to be at least 16 years of age or older.

Section 163.190 (relating to claiming in overnight races) is being amended to provide greater clarity as to when the 10 pound allowance is set to begin. The number of winners (winning races) is being increased from 35 to 40 so that the Commission's regulations will be consistent with the regulations from Maryland, Delaware and New York. Additionally, the time within which an apprentice jockey must complete his apprenticeship has been increased to 2 years (or longer if the Commission grants the appropriate extension).

Section 163.191 (relating to applications for extension) is being amended to provide greater uniformity and clarity regarding the weight allowance extension which apprentice jockeys may seek from the Commission.

*Fiscal Impact*

*Commonwealth*

The Commission has determined that the amendments will have no adverse fiscal impact on the Commonwealth.

*Political Subdivisions*

The amendments will not have any direct fiscal impact on political subdivisions.

*Private Sector*

The amendments will not have any fiscal impact on the private sector.

*General Public*

The amendments will not have any fiscal impact on the general public. The amendments will, however, bring the Commission's regulations relating to apprentice jockeys and licensed jockeys into conformity with the surrounding jurisdictions.

*Paperwork Requirements*

The amendments will not generate substantial paperwork for the public or the Commonwealth. Paperwork requirements will not increase substantially and will

continue to be mostly the responsibility of the apprentice jockeys or licensed jockeys through the use of previously approved forms.

*Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on September 25, 1997, the Commission submitted a copy of the amendments with proposed rulemaking omitted on to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House State Government Committee (Committees). On the same date, the amendments were submitted to the Office of Attorney General for review and approval as provided in the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In addition to submitting the amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. In accordance with section 5(c) of the Regulatory Review Act, the amendments were deemed approved by the Committees on October 16, 1997, and were approved by IRRC on October 23, 1997.

*Contact Person*

Individuals interested in further information may contact Benjamin H. Nolt, Jr., Executive Secretary, State Horse Racing Commission, Room 304 Agriculture Building, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717)787-5196.

*Findings*

The Commission finds that:

(1) Public notice of intention to amend §§ 163.171, 163.182 and 163.187—163.191 by this order under the procedures specified by sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(2) of the CDL because the Commission has, for good cause, found that the persons subject to the regulations have participated in the drafting of the amendments and previously commented on the amendments.

(2) The persons subject to and affected by the amendments as adopted by this order have received actual notice of the Commission's intention to amend §§ 163.171, 163.182 and 163.187—163.191 in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendments to the regulations of the Commission relating to apprentice jockeys and licensed jockeys in the manner provided in this order is necessary and appropriate for the proper administration of its authorizing statute.

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 163, are amended by amendment §§ 163.171, 163.182 and 163.187—163.191 to read as set forth in Annex A.

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

(c) The Executive 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*.

BENJAMIN H. NOLT, Jr.,  
*Executive Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 5840 (November 8, 1997).)*

**Fiscal Note:** 34-62. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 58. RECREATION

#### PART IV. HORSE RACING COMMISSION

#### CHAPTER 163. RULES OF RACING

#### JOCKEYS AND APPRENTICES

##### § 163.171. Jockey's license.

(a) A jockey shall obtain a license from the Commission.

(b) No person under 16 years of age or younger will be granted a jockey's license.

(c) A jockey or apprentice may be allowed to ride in two races before being granted a first license, pending approval of the license by the stewards.

(d) The stewards may permit a jockey to ride pending action on an application.

(e) A licensed jockey may not be the owner or trainer of a race horse.

##### § 163.182. Designated race rule.

(a) A jockey who is serving a suspension of 10 days or less may be permitted to ride in a designated race during the suspension if the following apply:

(1) The race has been specified as a designated race by the racing secretary of the association before the beginning of the race meeting of the association.

(2) The race has been approved as a designated race by the board of stewards officiating at the race meeting.

(3) The jockey is named to ride in the designated race no later than at the time set for the close of entries for the race.

(4) The jockey agrees to serve an additional day of suspension in place of the day on which the jockey rides in a designated race.

(b) Reciprocity of this rule shall be at the stewards' sole discretion and shall apply only to those states which have also adopted the designated race rule or its equivalent.

##### § 163.187. Jockey apprentices.

(a) A jockey apprentice is bound by this chapter, except if this chapter is in conflict with this specific regulation for apprentices.

(b) Apprentice contracts and certificates entered into in this Commonwealth shall be made on forms supplied by the Commission, and a copy shall be filed with the Commission.

(c) A copy of apprentice contracts and certificates, wherever entered into, shall be filed with the Commission.

(d) If an apprentice contract is transferred, the transfer shall be approved by the stewards and registered with the Commission by both the transferor and the transferee.

##### § 163.188. Contracts.

The jockey or apprentice shall be bound by written contract approved by and filed with the Commission to an owner or trainer for a term of not less than 3 nor more than 5 years, subject to a written extension, if made for less than 5 years. After at least 1 year service with a racing stable, an apprentice may claim weight allowances in all overnight races, except handicaps or stakes races. A person is not allowed to hold a contract on a jockey or apprentice jockey unless that person is in control or possession of a stable or horse that would, in the opinion of the stewards of the meeting where the jockey or apprentice jockey applies for a license, warrant the employment of a contract jockey or apprentice jockey.

##### § 163.189. Apprentice jockeys.

(a) A person 16 years of age or older who has never been licensed as a jockey in any country or if under age, with the written consent of that person's parents or guardian, may apply to become an apprentice jockey. An application for a license as apprentice jockey shall be accompanied by an original, a notarized or photostatic copy of the agreement with the contract employer and written proof of at least 1 year service with a racing stable, a birth certificate or satisfactory evidence of the date of birth.

(b) An apprentice jockey is not permitted to ride for another person except his contract employer, without the consent of the employer.

(c) The following requirements shall be accomplished satisfactorily by a person desiring an apprentice jockey certificate and the privilege of riding races at tracks in this Commonwealth:

(1) Employment on the backside of a race track, including exercising horses on the track.

(2) Attending and reviewing video tapes of races in jockeys' quarters, as scheduled by the stewards. The applicant may ask questions of stewards and jockeys. The applicant shall leave the jockeys' quarters, immediately following the showing of video tapes and the question and answer period.

(3) Observing jockeys and horses break from the gate, at the start of races under the supervision of a starter, for at least 15 racing days and at least 5 races per racing day.

(4) Observing horses changing leads at the 1/4, 3/8 and 7/8 poles and observing horses and jockeys approaching the finish line and finishing the race. The observations shall take place during races, for at least 10 racing days with at least 5 races per racing day.

(5) Participating in as many schooling races as possible through the cooperation of the racing secretary and informing two or more members of the board of approval of application for apprentice license as soon as the applicant has been notified of acceptance to ride in the schooling race.

(6) Breezing horses from the gate satisfactorily with a whip at least twice in the presence of two or more members of the board of approval.

(7) Riding with competence two parimutuel races without a whip under a temporary apprentice jockey certificate. The applicant will be observed by the board of approval during the races.

(d) A regular apprentice jockey's license will be issued by the stewards, upon notification of the recommendation

of a majority of the members of the board of approval, unless withheld by the Commission.

(e) The board of approval was formed to aid and further the safety of the applicant, other riders and horses in races in this Commonwealth.

**§ 163.190. Weight allowances in overnight races.**

(a) A certified apprentice jockey may claim the following weight allowances in all overnight races except stakes and handicaps:

(1) A 10 pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners.

(2) A 7 pound allowance until the apprentice has ridden an additional 35 winners.

(3) If an apprentice has ridden a total of 40 winners prior to the end of 1 year from the date of riding the fifth winning mount, the apprentice jockey may claim an allowance of 5 pounds until 1 year from the date of the fifth winning mount.

(b) If after 1 year from the date of the fifth winning mount the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for 1 additional year or until the 40th winner, whichever comes first. A weight allowance may not be claimed for more than 2 years from the date of the fifth winning mount, unless an extension has been granted under this section.

(c) A contracted apprentice may claim an allowance of 3 pounds for an additional year when riding horses owned or trained by the original contract employer. The holder of the contract at the time the apprentice rides the fifth winner shall be considered the original contract employer.

**§ 163.191. Applications for extensions.**

(a) The Commission has the authority to grant an allowance extension of an apprentice jockey if, in the discretion of the Commission, an apprentice jockey is unable to continue riding due to one of the following and has provided the Commission with appropriate documentation verifying the following:

- (1) Physical disablement or illness.
- (2) Military service.
- (3) Documented attendance in an institution of secondary or higher education.
- (4) Restriction on racing.
- (5) Other valid reasons found by the Commission.

(b) To qualify for an extension, an apprentice jockey shall have been rendered unable to ride for at least 7 consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance. Under exceptional circumstances, total days lost collectively will be given consideration.

[Pa.B. Doc. No. 97-1787. Filed for public inspection November 7, 1997, 9:00 a.m.]



# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51 AND 63]

### Administration and Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments relate to administration and fishing.

#### A. *Effective Date*

These proposed amendments will, if approved on final rulemaking, go into effect on January 1, 1998, or upon publication of an order adopting the amendments, whichever occurs later.

#### B. *Contact Person*

For further information on the proposed changes, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P.O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

#### C. *Statutory Authority*

These proposed amendments are published under the statutory authority of sections 2102 and 2711 of the code (relating to rules and regulations; and issuing agents).

#### D. *Purpose and Background*

The proposed amendments are designed to update, modify and improve Commission regulations pertaining to issuing agents and the display of fishing licenses and verification of license purchase. The specific purpose of the various amendments is described in more detail under the summary of proposal.

#### E. *Summary of Proposal*

1) Sections 51.31, 51.34 and 51.35 (relating to responsibility of issuing agents; stamps and permits; and operation of issuing agency). The Commission's staff recently undertook a review of the current licensing process, and beginning in 1998, the application form will no longer be used. The new process provides that the applicant will give the issuing agent his driver's license or other positive form of identification (as already required), and the agent will copy the information from the driver's license to the reverse side of the license. To address concerns about signatures being required on the display side of the license, staff were able to modify the reverse side of the license to include the signature of the applicant. This proposed change, coupled with some other modifications to the reverse side of the form, will allow the Commission to eliminate the application form. Although the signature will still appear over the face of the trout stamp, this is hardly discernable except upon close inspection. The Commission approved the publication of a notice of proposed rulemaking containing changes to the issuing agent regulations in Chapter 51 to reflect the revised process for issuing licenses.

2) Section 63.2 (relating to display of fishing license). Current practice in the Bureau of Law Enforcement

provides that when a resident is apprehended for fishing without a license in his possession and claims that previously a valid fishing license was purchased but left it elsewhere, the apprehending officer will give the individual 7 days to produce the original license certificate. Current practice also provides that if it is inconvenient for the individual to produce the certificate in person, the officer may permit the individual to mail the original license certificate to the officer, and upon receipt, the officer will examine and verify it and return it to the individual. To codify this existing practice, the Commission approved the publication of a notice of proposed rulemaking containing a new subsection (c), describing the process by which officers deal with claims that a person fishing without a license has left it elsewhere.

#### F. *Paperwork*

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

#### G. *Fiscal Impact*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

#### H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at [regulations@fish.state.pa.us](mailto:regulations@fish.state.pa.us). A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-72, No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

#### Subpart A. GENERAL PROVISIONS

#### CHAPTER 51. ADMINISTRATIVE PROVISIONS

#### § 51.31. Responsibility of issuing agents.

(a) Issuing agents are responsible to [ insure ] ensure that the fishing license [ application ] is fully completed [ by the applicant ]. [ The issuing agent may assist the applicant in completing the application, but the applicant ] The applicant shall make sure the information entered on the license form is correct, and shall sign his own name or place his mark in the place indicated on the [ application ] reverse of the license certificate.

(b) Issuing agents shall verify the eligibility of the applicant for the class of license indicated on the [ appli-

ation ] license in accordance with § 51.32 (relating to resident and nonresident licenses). [ Issuing agents shall notate on the application the type of proof that the applicant provided to demonstrate resident status. ]

(c) The issuing agent shall transfer the information [ from the application ] provided by the applicant to the license certificate, assuring that the information can be easily read. Information on the license certificate shall agree with the [ application ] information provided and be typed or printed in ink.

(d) Agents shall use standard abbreviations supplied by the Commission for the color [ of hair and color ] of eyes.

\* \* \* \* \*

(h) Issuing agents are responsible to [ insure ] ensure that when someone buys a license as a gift for another person, the person buying the license signs his name on the [ application ] reverse of the agent's copy of the license and [ writes the word "gift" below his signature ] indicates that the license was purchased as a gift. The recipient of the gift license shall sign his name on the original of the license.

§ 51.34. Stamps and permits.

(a) The Commission may require licensees to possess stamps or permits to fish for certain species or in certain bodies of water. [ It is not necessary for the purchaser of a stamp or permit to complete an application. ]

\* \* \* \* \*

(c) Issuing agents shall make stamps and permits available to individuals purchasing them as collectibles. [ An application is not required, and the ] The buyer does not have to sign the stamp or permit.

§ 51.35. Operation of the issuing agency.

\* \* \* \* \*

(b) An entity accepted by the Commission to act as an issuing agent shall perform in the following manner:

\* \* \* \* \*

(3) Issuing agents shall retain the third copy of the license certificate [ and the original application ] for 1 year after the close of any given license year.

\* \* \* \* \*

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.2. Display of fishing license and verification of license purchase.

\* \* \* \* \*

(c) Fishing without a license in possession.

(1) When a resident of this Commonwealth is apprehended for fishing without a license in his possession and claims that a valid fishing license was previously purchased for that year, the officer apprehending the individual shall give the individual 7 days to produce the original of the license certificate, if the individual provides to the officer's satisfaction, at the time of apprehension, positive proof of identity and a residence address within this Commonwealth.

(2) If it is inconvenient for the individual to produce the certificate in person, the officer may permit the individual to mail the original license certificate, showing the required permits and a purchase date prior to the date of apprehension, to the officer together with a stamped, self-addressed return envelope. If the officer permits the individual to mail the original license certificate to the officer, the officer shall provide the individual with a receipt or other documentation allowing the individual to fish during the period that the original license certificate is not in his possession.

(3) Upon receipt of the original license certificate, the officer shall examine and verify it and return it to the licensee.

(4) If the person apprehended fails to send the original license certificate and required permits to the officer within the time allotted, the officer shall institute summary proceedings against the individual in the manner prescribed by law.

[Pa.B. Doc. No. 97-1788. Filed for public inspection November 7, 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 Public Welfare

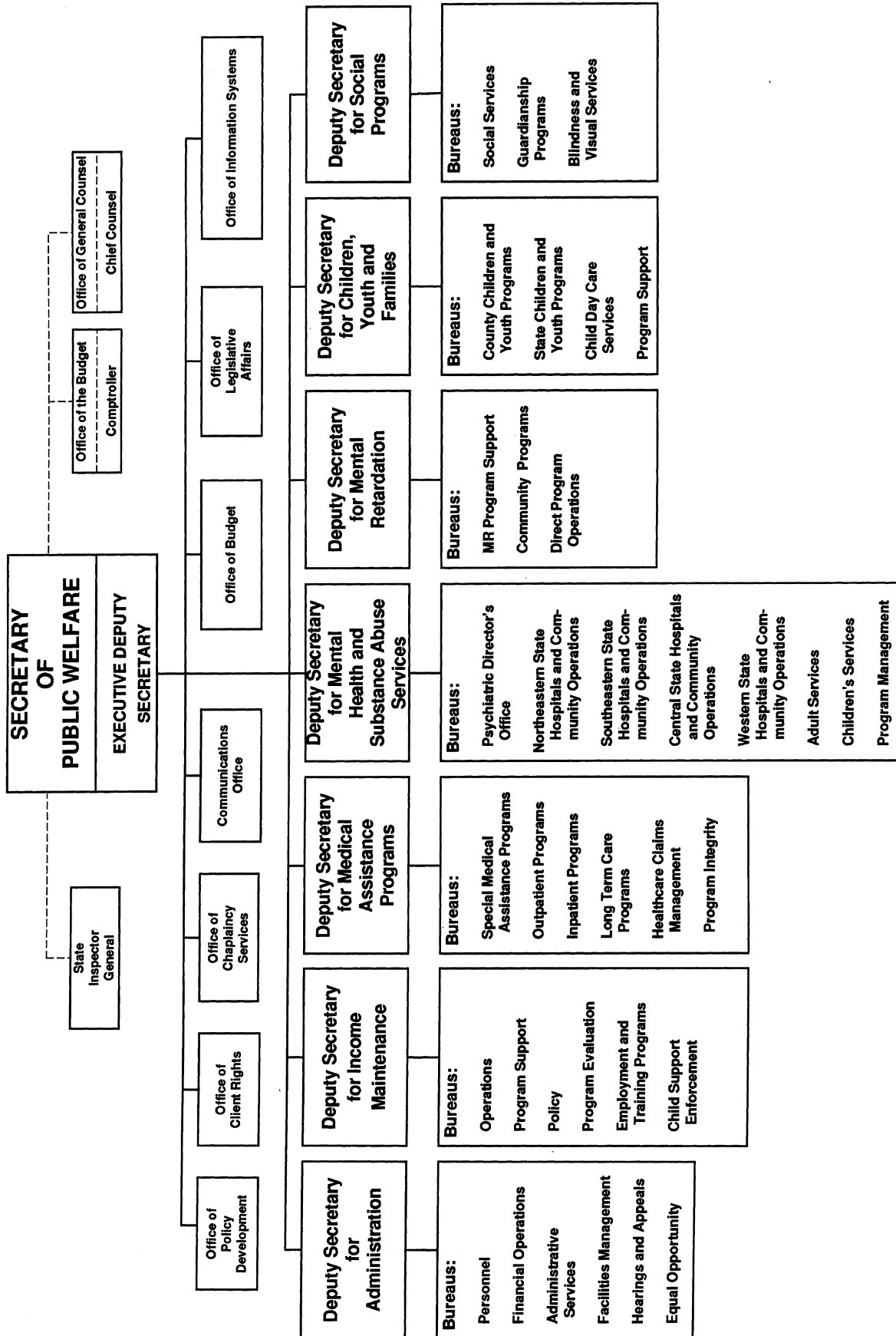
The Executive Board approved a reorganization of the Department of Public Welfare effective October 23, 1997.

The organization chart at 27 Pa. B. 5787 (November 8, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(8) (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. 97-1789. Filed for public inspection November 7, 1997, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE



# NOTICES

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Project Contractors

The Department of Agriculture is soliciting names of research institutions who have an interest in conducting agricultural research during the period July 1, 1998 to June 30, 1999, and beyond. Institutions which respond will be provided with a preproposal format and a list of topical research areas. The Department of Agriculture,

through a selection process, will decide which projects are to be placed under contract. Interested parties should submit the name, address and telephone number of the research institution to: Fred Wertz, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110 or call (717) 783-3577.

SAMUEL E. HAYES, Jr.,  
*Secretary*

[Pa.B. Doc. No. 97-1790. Filed for public inspection November 7, 1997, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending October 21, 1997.

#### BANKING INSTITUTIONS

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-16-97	Enterprise Bank Allison Park Allegheny County  <i>Correspondent:</i> Paul A. Adams, Esq. Shumaker Williams, P.C. 3425 Simpson Ferry Road Camp Hill, PA 17011	4091 Mt. Royal Blvd. Allison Park Allegheny County	Filed

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-10-97	Northwest Savings Bank Warren Warren County  Purchase of assets/assumption of liabilities of one branch office of First Western Bank, FSB, Sharon, located at: 6 East First Street Oil City Venango County  Immediately upon consummation of the purchase and assumption, Northwest Savings Bank will consolidate the loans/deposits acquired into its branch office at 1 East First Street, Oil City, and the subject branch will be discontinued by First Western Bank, FSB.	Warren	Effective
10-14-97	Northwest Savings Bank Warren Warren County  Purchase of assets/assumption of liabilities of nine branch offices of National City Bank of Pennsylvania, Pittsburgh, located at: Route 555 Weedville Elk County	Warren  Bald Eagle & Madison Sts. Sligo Clarion County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	R. D. 8 Kittanning Armstrong County	Main & Park Sts. Sykesville Jefferson County	
	165 Butler Street Kittanning Armstrong County	Main Street Volant Lawence County	
	Main Street Marianna Washington County	14457 Main Street Wattsburg Erie County	
	211 N. Main Street Rimersburg Clarion County		

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-9-97	1st Summit Bank Johnstown Cambria County	1304 William Penn Ave. Johnstown East Taylor Twp. Cambria County	Opened
10-14-97	Franklin First Savings Bank Wilkes-Barre Luzerne County	115 J. Campbell Collins Drive Wilkes-Barre Luzerne County	Filed
10-14-97	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	161 Gaither Drive Mount Laurel New Jersey	Filed
10-20-97	Patriot Bank Pottstown Montgomery County	Redner's Supermarket 703 S. West End Blvd. Quakertown Bucks County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-14-97	Franklin First Savings Bank Wilkes-Barre Luzerne County	City Heights Shopping Center 161 Amber Lane Wilkes-Barre Luzerne County	Filed

**SAVINGS ASSOCIATIONS**

No Activity.

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-1791. Filed for public inspection November 7, 1997, 9:00 a.m.]

**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 October 28, 1997.

**BANKING INSTITUTIONS**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-24-97	Penn Security Interim Bank and Trust Company Scranton Lackawanna County	Scranton	Filed

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-22-97	Premier Bank, Doylestown, and Premier Interim Bank, Doylestown Surviving Institution— Premier Bank, Doylestown	Doylestown	Approved

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-20-97	Irwin Bank and Trust Company Irwin Westmoreland County	Shop N Save Supermarket Route 136 and Janyce Dr. Greensburg Westmoreland County	Opened
10-20-97	Pittsburgh Home Savings Bank Pittsburgh Allegheny County	Shop N Save 5001 Library Road Bethel Park Allegheny County	Opened
10-22-97	East Penn Bank Emmaus Lehigh County	Shoppes at Macungie 201 West Main Street Macungie Lehigh County (Approved as Rte. 100 and West End Trail)	Opened
10-23-97	The Peoples Bank of Oxford Oxford Chester County	Baltimore Pike and Route 796 Penn Township Chester County	Approved

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-23-97	Parkvale Savings Bank Monroeville Allegheny County	<i>To:</i> 4885 McKnight Road Storeroom #1A Pittsburgh Ross Township Allegheny County  <i>From:</i> 4885 McKnight Road Storeroom #18 Pittsburgh Ross Township Allegheny County	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-22-97	First Commonwealth Bank Indiana Indiana County	2032 Pleasant Valley Boulevard Altoona Blair County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
10-22-97	Ambassador Bank of the Commonwealth Allentown Lehigh County	To provide for the acquisition of full fiduciary powers and to increase the number of authorized shares from 2,000,000 to 10,000,000 shares at a par value of \$4 per share.	Approved and Effective

## SAVINGS ASSOCIATIONS

No activity.

## CREDIT UNIONS

## Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-28-97	Belco Community Credit Union Harrisburg Dauphin County	Regency Square East Hempfield Twp. Lancaster County	Filed

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-1792. Filed for public inspection November 7, 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 the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the 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 Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

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

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

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

**PA 0062243.** Sewerage, **Borough of Nesquehoning**, 127 West Catawissa Street, Nesquehoning, PA 18240.

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

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the Northampton Municipal Water Supply located on the Lehigh River.



The proposed effluent limits for Outfall 001 based on a design flow of 0.650 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
NH <sub>3</sub> -N (5-1 to 10-31)	8.0		16.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
pH	6.0—9.0 standard units at all times		
Total Residual Chlorine (1st Month through 24th Month) (25th Month through Expiration)	monitor only 1		2
Total Copper	monitor only		
Total Lead	monitor only		
Total Zinc	monitor only		

The EPA waiver is in effect.

**PA 0063037.** Sewerage, **Stoney Creek Hotel**, Chris L. Rau, HC 2, Box 2813, Jim Thorpe, PA 18229.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into the Stoney Creek in Penn Forest Township, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the location considered during the evaluation is at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0035 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	50.0
Total Suspended Solids	30.0	60.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 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) (Months 25 through 60)	monitor and report 1.2	2.8

The EPA waiver is in effect.

**PA 0063690.** Sewerage, **Melissa Evans, Melroe's Restaurant**, R. R. 1, Box 1790, Berwick, PA 18603.

This proposed action is for issuance of an NPDES permit to discharge treated sewage into an unnamed tributary to the Susquehanna River in Salem Township, **Luzerne County**.

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

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

The proposed effluent limits for Outfall 001 based on a design flow of 0.003 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	50.0
Total Suspended Solids	30.0	60.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine	1.2	2.8

The EPA waiver is in effect.

**PA 0012475.** Industrial waste, SIC, **Metropolitan Edison Company, Portland Station**, P. O. Box 16001, Reading, PA 19640.

This proposed action is for renewal of an NPDES permit to discharge treated process wastewater, cooling water and sewage into Delaware River in Upper Mount Bethel Township, **Northampton County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Easton Water Supply on the Delaware River.

*Outfall 001*

The proposed effluent limits based on a design flow of 305 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine		0.2	
Discharge Temperature			110°F
Upstream Temperature			monitor and report
Downstream Temperature			monitor and report
pH		6—9 su at all times	

*Outfall 002*

The proposed effluent limits based on a design flow of .006 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N	20		40
Fecal Coliform	200/100 ml		
pH		6—9 su at all times	

*Outfall 003*

The proposed effluent limits based on a design flow of .809 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	75
Oil and Grease	15	16	30
Hydrazine	not detectable (less than .002 mg/l)		
pH		6—9 su at all times	

Outfalls SW1, SW2, SW3 consist of uncontaminated stormwater.

The EPA waiver is not in effect.

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

**PA 0027359.** Industrial waste, SIC: 4941, **Danville Municipal Authority**, 12 West Market Street, Danville, PA 17821.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater to Susquehanna River in Danville Borough, **Montour 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Merck & Company, Inc., located at Riverside.

The proposed effluent limits for Outfall 001, based on a design flow of 0.1 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>
TSS	30	60			
Total Iron	2	4			
Total Manganese	1	2			
Total Aluminum	4	8			
Total Chlorine	1		2.3		
pH	6.0—9.0 at all times				

The EPA waiver is in effect.

**PA 0113107.** SIC: 4952, **Columbia County Commissioners**, Court House, Bloomsburg, PA 17815.

This proposed action is for renewal of an NPDES permit for discharge of treated sewage to the East Branch Briar Creek in Briar Creek Township, **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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is the Danville Borough located approximately 20 miles below the discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.02 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Total Chlorine Residual	1.0	2.3
Fecal Coliform	200/100 ml as a geometric average	
pH	6.0—9.0 su at all times	

The EPA waiver is in effect.

### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

#### Applications under the Pennsylvania Clean Streams Law

##### (Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (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 name, address and telephone number of the protester, identification of the plan or application to which the protest is addressed and a concise statement or protest in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest or protests. Each protester will be notified in writing of the time and place of any scheduled hearing or conference concerning the plan or action or application to which the protest relates. To insure consideration by the Department prior to final action or permit application 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.

#### 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. 4597404.** Sewerage. **Pocono Mountain School District**, Pocono Mountain School Road, P. O. Box 200, Swiftwater, PA 18370-0200. Application to construct and make modifications to the existing Senior High School STP located in Pocono Township, and demolish the Junior High School STP located in Paradise Township, **Monroe County**.

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

**A. 5697402.** Sewerage, **David, Jr. and Laura Benning**, 13 Shannon Road, Monongahela, PA 15063. Application for the construction and operation of a single residence sewage treatment plant located in the Township of Fallowfield, **Washington County** to serve the Benning residence.

#### 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 effluent limitations set forth in the permit and special conditions. The 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 of 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin*.

at which time this determination may be appealed to the Environmental Hearing Board.

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

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.

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

**NPDES Permit No. PAS10-G290.** Stormwater. **Penn Real Estate Group**, 4427 Spruce Street, Philadelphia, PA, has applied to discharge stormwater from a construction activity located in East Whiteland Township, **Chester County**, to Valley Creek.

**NPDES Permit No. PAS10-G291.** Stormwater. **BJ Drueding Builders, Inc.**, 531 East Lancaster Avenue, St. Davids, PA 19087, has applied to discharge stormwater from a construction activity located in Tredyfrin Township, **Chester County**, to Valley Creek.

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

*Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (717) 629-3060.*

**NPDES Permit PAS10S057.** Stormwater. **Pocono International Raceway**, P. O. Box 500, Long Pond, PA 18334-0500 has applied to discharge stormwater from a construction activity located in Tunkhannock Township, **Monroe County**, to Tunkhannock Creek.

*Northampton County Conservation District, District Manager, R. R. 4, Greystone Building, Nazareth, PA 18064-9211, (610) 746-1971.*

**NPDES Permit PAS10U080.** Stormwater. **Hornstein Enterprises, Inc.**, 1150 Cedar Crest Boulevard, Allentown, PA 18103 has applied to discharge stormwater from a construction activity located in Forks Township, **Northampton County**, to Bushkill Creek.

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

**NPDES Permit PAS105716.** Stormwater. **Ringtown Valley Sunrise Enterprises**, Phase II, Bruce A. Rareck and Charles and Bernard Bann, R. R. 2, Box 518A, Ringtown, PA 17967 has applied to discharge stormwater from a construction activity located in Union Township, **Schuylkill County**, to Dark Run and Little Catawissa Creek.

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

*Cumberland County Conservation District, District Manager, 43 Brookwood Avenue, Suite 4, Carlisle, PA 17013, (717) 240-7812.*

**NPDES Permit PAS-10-H078.** Stormwater. **Fry Communications, Inc.**, 800 W. Church Road, Mechanicsburg, PA 17055 has applied to discharge stormwater

from a construction activity located in Silver Spring Township, **Cumberland County**, to Hogestown Run.

**NPDES Permit PAS-10-H077.** Stormwater. **Harold Stoner**, 25 Iron Gate Court, Mechanicsburg, PA 17055 has applied to discharge stormwater from a construction activity located in Silver Spring Township, **Cumberland County**, to Trindle Spring Run.

*Northcentral Regional Office, Regional Water Management Program Manager, 208 W. Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3669.*

*Centre County Conservation District, District Manager, 414 Holmes Ave., Suite 4, Bellefonte, PA 16823.*

**NPDES Permit PAS10F068.** Stormwater. **Richard L. and Brooke W. Frautschi, PanTops**, 105 Blackberry Hill, Port Matilda, PA 16870, has applied to discharge stormwater from a construction activity located in Patton Township, **Centre County**.

*Clearfield County Conservation, District Manager, 650 Leonard St., Clearfield, PA 16830, (814) 765-2629.*

**NPDES Permit PAS101714.** Stormwater. **Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105 has applied to discharge stormwater from a construction activity located in Huston Township, **Clearfield County**, to Bark Camp Run.

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#### Stormwater Individual

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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 reviewed 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 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>
PAS112205	Pennsylvania Process Compressors P. O. Box 389 Easton, PA 18042	Northampton Easton Boro	Bushkill Ck.	
PAS122201	Rosenberger's Dairies, Inc. 847 Forty Foot Rd. Hatfield, PA 19440	Northampton Forks Twp.	Bushkill Ck.	
PAS142201	Moore Business Forms 110 Fourth St. P. O. Box 669 Honesdale, PA 18431	Wayne Honesdale Boro	Lackawaxen River	
PAS202206	Aurora Equipment Co. 225 Main St. Tatamy, PA 18085	Northampton Tatamy Boro	Bushkill Ck.	
PAS202207	Victaulic Co. of America P. O. Box 31 Easton, PA 18044-0031	Northampton Forks Twp.	Unnamed Trib. to Bushkill Ck.	
PAS212204	Suprador Mfg. Corp. 440 Katherine Rd. Wind Gap, PA 18091	Northampton Wind Gap Bor.	Unnamed Trib. to Bushkill Crk.	
PAS212205	Quiet Core, Inc. 1440 Schoenersville Rd. Bethlehem, PA 18017	Northampton Hanover Twp.	Monocacy Ck.	
PAS802217	Overnite Transportation Co. 342 Stokes Park Bethlehem, PA 18017	Northampton Hanover Twp.	Unnamed Trib to Monocacy Ck.	

## SAFE DRINKING WATER

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

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

**A. 0997515.** Public water supply. **Hilltown Township Water and Sewer Authority**, Scott Tagg, 13 West Creamery Road, Hilltown, PA 18927-0143. This proposal involves the construction of a booster pump station and a 1.0 mg Water Storage Tank in Hilltown Township, **Bucks County**.

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

**A. 2597504.** Public water supply. **Davis Mobile Home Park**, 700 Culbertson Dr., Lake City, PA 16415. This proposal involves the permitting of an existing, unpermitted water system in Girard Township, **Erie County**.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### Under Act 2, 1995

#### Preamble 1

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

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

For further information concerning the contents 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 1 (800) 654-5984.

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

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

**Van Buren Associates, L. P.**, Norristown Borough, **Montgomery County**. Michael Gonshor, P. G., RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate groundwater contaminated with volatile organic compounds. The applicant proposes to remediate the site to meet background standards. A final report was simultaneously submitted.

**Krouse Property**, City of Philadelphia, **Philadelphia County**. Darryl D. Borrelli, Manko, Gold & Katcher, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard. A final report was simultaneously submitted.

**Former Canada Dry Facility**, City of Philadelphia, **Philadelphia County**. Dennis P. Shelly, P. E., Alden Environmental Management, 151 S. Warner Rd., Suite 318, Wayne, PA 19087, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide health standard.

**Bristol Borough Recreation Authority**, Bristol Borough, **Bucks County**. Louis Marseglia, Chairperson, Bristol Borough Recreation Authority, 250 Pond St., Bristol, PA 19007, has submitted a Notice of Intent to Remediate site soil contaminated with pesticides. The applicant proposes to remediate the site to meet the Statewide health standard. A final report was simultaneously submitted.

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

**Pennsylvania Power & Light Company (PP&L)—Jasper Substation**, City of Allentown, **Lehigh County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard.

**Pennsylvania Power & Light Company (PP&L)—Jermyn Substation**, Jermyn Borough, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard.

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

**GPU Former Hamburg Coal Gas Plant Site**, Hamburg Borough, **Berks County**. Penn Fuel Gas, Inc., 55 South 3rd Street, Oxford, PA 19363, and GPU Energy,

2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19640-0001, have submitted a Notice of Intent to Remediate site soils and groundwater contaminated with PAHs. The applicants propose 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 Reading *Eagle Times* on October 22, 1997.

**Martin Dubbs Residence**, Dover Township, **York County**. Martin Dubbs, 4380 Pinehill Road, Dover, PA 17315, has submitted a Notice of Intent to Remediate site soils contaminated with PHCs and PAHs. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *York Dispatch* on October 1, 1997.

**Franklin Lehigh Substation**, City of Lancaster, **Lancaster County**. Pennsylvania Power & 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 November 3, 1997.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

**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 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified, a municipality may request to be

involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

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

**Moen of Pennsylvania**, Pine Grove Township, **Schuylkill County**. ENSR, 35 Nagog Park, Acton, MA 01720 has submitted a Notice of Intent to Remediate (on behalf of its client, Moen of PA, Rt. 645 and Roberts Road, Pine Grove, PA 17963-0098) concerning the remediation of soils, groundwater and adjacent creek sediments at the project site which are contaminated with solvents (chlorinated volatile organic compounds). The applicant proposes to address the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Press Herald* on October 23, 1997.

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

**PMAC, Ltd.**, Beaver Falls, **Beaver County**. PMAC, Ltd., 4023 Fourth Avenue, Beaver Falls, PA 15010 and Kevin Garber, Esq., Counsel for PMAC, Ltd., Babst, Calland, Clements and Zomnir, P. C., Two Gateway Center, 8th Floor, Pittsburgh, PA 15222 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PHCs and heavy metals. The applicant proposes to remediate the site to meet a special industrial area standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Beaver County Times* on September 29, 1997.

**St. George Crystal, Ltd.**, Jeannette and Grapeville (Hempfield Township). St. George Crystal, Ltd., Susan Gonze, Brown Avenue, P. O. Box 709, Jeannette, PA 15644 has submitted a Notice of Intent to Remediate soil contaminated with lead. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune Review* on September 30, 1997.

**LTV Southside (Tar Tank Area)**, City of Pittsburgh, **Allegheny County**. Martin Knuth, CEC, Inc., 601 Holiday Drive, Pittsburgh, PA 15220 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PAHs. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on July 30, 1997.

## SOLID AND HAZARDOUS WASTE

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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**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.**

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

**A. 100758. Harrisburg Energy, Materials, Recycling & Recovery Facility**, Harrisburg Authority, (One Keystone Plaza, Suite 104, Front and Market Streets, Harrisburg, PA 17104). Application for addition of a transfer station to a site in City of Harrisburg, **Dauphin County**. Application determined to be administratively complete in the Regional Office on October 20, 1997.

*Northcentral Regional Office, Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3653.*

**A. 100963. Permit Modification. Lycoming County Landfill**, Lycoming County Commissioners (48 W. Third St., Courthouse, Williamsport, PA 17701). Application for modification to municipal waste landfill located in Brady Township, **Lycoming County**, received in the regional office on October 21, 1997.

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

**Permit No. 300995. Witco Corporation**, P. O. Box 336, Petrolia, PA 16050, located in Fairview Township, **Butler County**. An application under 25 Pa. Code § 287.115 to repermit the residual waste landfill at the Petrolia Plant was accepted in the Regional Office on October 14, 1997.

### PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE

#### INFECTIOUS OR CHEMOTHERAPEUTIC WASTE

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**Renewal applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6), and regulations for license to transport infectious and chemotherapeutic waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**JPS Equipment Co., Inc.**, 5038 A West Chester Pike, Edgemont, PA 19028; Diane C. Schwarz, President; License No. **PA-HC 0142**; renewal application received on October 20, 1997.

**S. H. Bio-Waste Ltd.**, 900 Selma Street, Norristown, PA 19401; Charles F. Santangelo, President; License No. **PA-HC 0096**; renewal application received on October 20, 1997.

## AIR POLLUTION OPERATING PERMITS

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

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**44-03005: Complete Resource Company** (1275 East Fifth Avenue, Columbus, OH 43219) for a portable crushing and screening plant in Brown Township, **Mifflin County**.

**67-03001A: Frito-Lay, Inc.** (P. O. Box 660634, Dallas, Texas 75266-0634) for a snack food manufacturing facility in West Manchester Township, **York County**.

*Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**OP-65-00838: Poly Hi Solidur** (200 Industrial Drive, Delmont, PA 15626) for the operation of a plastic film and sheet manufacturing process at the Delmont #4 facility in Salem Township, **Westmoreland County**.

**OP-63-00147: Union Camp Corporation** (72 Wilson Road, Eighty Four, PA 15330) for the operation of a corrugated box manufacturing process at the Eighty Four facility in North Strabane Township, **Washington County**.

**OP-30-00073: Chess Coal Company** (R. R. 1, Box 151, Smithfield, PA 15478) for the operation of a portable coal cleaning plant at the Strip Mine #6 Plant in Dunkard Township, **Greene County**.

**AR-32-059: Pennsylvania Electric Company** (1001 Broad Street, Johnstown, PA 15907) for a Phase II Acid Rain Permit for Conemaugh Station, West Wheatfield Township, **Indiana County**.

**AR-32-055: Pennsylvania Electric Company** (1001 Broad Street, Johnstown, PA 15907) for a Phase II Acid Rain Permit for Homer City Station, Center Township, **Indiana County**.

**AR-03-027: Pennsylvania Electric Company** (1001 Broad Street, Johnstown, PA 15907) for a Phase II Acid Rain Permit for Keystone Station, Plum Creek Township, **Armstrong County**.

**AR-03-023: West Penn Power Company** (800 Cabin Hill Drive, Greensburg, PA 15601) for a Phase II Acid Rain Permit for Armstrong Power Station, Washington Township, **Armstrong County**.

**AR-63-016: West Penn Power Company** (800 Cabin Hill Drive, Greensburg, PA 15601) for a Phase II Acid Rain Permit for Mitchell Station, Union Township, **Washington County**.

**AR-30-099: West Penn Power Company** (800 Cabin Hill Drive, Greensburg, PA 15601) for a Phase II Acid Rain Permit for Hatfield Power Station, Monongahela Township, **Greene 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.

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 persons submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

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

*Southeast Regional Office: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Attn: Edward Brown, (610) 832-6242.*

**09-00044: Dunmore Corporation** (207 Penns Trail, Newtown, PA 18940) in Newtown Township, **Bucks County**. The facility coats a metal finish on plastic sheeting for use in a wide variety of consumer products. The facility's major air emissions include two rotogravure presses which emit major levels of Volatile Organic Compounds (VOCs).

### Notice of Intent to Revise Municipal Solid Waste (MSW) Landfill Operating Permit

Under section 111(d) of the 1990 Clean Air Act Amendments, the United States Environmental Protection Agency (EPA) promulgated Emission Guidelines (EG) for existing MSW landfills to control the emission of landfill gases. (See 61 FR 9905, March 12, 1996). A MSW landfill is considered an existing MSW landfill if the facility began construction, modification or reconstruction before May 30, 1991; or received waste on or after November 8, 1987; or has additional capacity available for the future deposition of waste control of landfill gases from existing landfills using best demonstrated technology.

The Commonwealth's State Plan for implementing the EG was submitted to the EPA on July 1, 1997. In accordance with the 111(d) plan, the Department of Environmental Protection (Department) will enforce the requirements of the EG through the issuance of Federally Enforceable State Operating Permits (FESOPS) to designated MSW landfills. Therefore, in accordance with the plan, the operating permit issued to the landfills identified will be revised to incorporate the requirements of the EG. This revised permit will serve as the enforcement mechanism for the EG requirements.

Copies of the proposed permit amendments and other relevant information are available for public inspection and additional information may be obtained by contacting the Regional Office.



Interested persons may submit written comments, suggestions or objections concerning the proposed permit amendments 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 persons submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

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

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

**39-0009: Empire Sanitary Landfill, Inc.** (P. O. Box 28, Taylor, PA 18517) facility located in Taylor Borough, **Lackawanna County**.

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#### Notice of Intent to Issue

#### Phase II Acid Rain Permit GPU Generation, Inc. Titus Steam Electric Station

#### Berks County

The Department of Environmental Protection (Department) intends to issue a Phase II Acid Rain Permit to the GPU Generation, Inc. for the Titus steam electric generating station located in Cumru Township, Berks County.

The Titus station is a major facility subject to the Acid Rain requirements of Title IV of the Federal Clean Air Act and 25 Pa. Code § 127.531. Phase II is a continuation of the Acid Rain Program and becomes effective on January 1, 2000, for SO<sub>2</sub> and January 1, 1998, for NO<sub>x</sub>. The requirements in the proposed permit establish each boiler's annual nitrogen oxides NO<sub>x</sub> emission limit and allotment of SO<sub>2</sub> allowances during the period from January 1, 2000, until the expiration of the permit.

Copies of the permit application, proposed permit and other relevant information are available for public inspection at the Reading District Office, 1005 Cross Roads Boulevard, Reading, PA 19605. An appointment to review the documents may be scheduled by contacting Roger Fitterling at (610) 916-0100 between 8:30 a.m. and 3:30 p.m., Monday through Friday, except holidays.

Interested persons may submit written comments, suggestions or objections to Kanubhai L. Patel, Chief, Title V Facilities Section, One Ararat Boulevard, Harrisburg, PA 17110 or Roger Fitterling, 1005 Cross Roads Boulevard, Reading, PA 19605 within 30 days of this notice. Written comments should include the name, address and telephone number of the persons submitting the comments along with a reference to the proposed permit.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the comment period. The Department 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.

#### PLAN APPROVALS

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

*Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4587.*

**07-310-025: Grannas Bros. Stone & Asphalt Co., Inc.** (P. O. Box 488, Hollidaysburg, PA 16648) for the installation of a limestone crushing and screening operation in Catharine Township, **Blair County**. This source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

**21-314-005: Carlisle SynTec, Inc.** (P. O. Box 7000, Carlisle, PA 17013) for the installation of a replacement fabric filter in Carlisle, **Cumberland County**.

**38-318-033A: Supreme Mid-Atlantic Corporation** (P. O. Box 779, Jonestown, PA 17038) for the installation of a paint area at Plant #1 in Union Township, **Lebanon County**.

**67-304-027A: R. H. Sheppard Co., Inc.** (101 Philadelphia Street, Hanover, PA 17331) for the construction of a casting cleaning operation located in Hanover Borough, **York County**.

**67-309-107: Lehigh Portland Cement Company** (200 Hokes Mill Road, York, PA 17404) for the installation of a replacement fabric filter in West Manchester Township, **York County**.

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

**18-318-013A: Pan Avis Realty Company d/b/a Avis America** (P. O. Box 420, Avis, PA 17721) for the modification of a modular home manufacturing operation (increase in allowable volatile organic compound emission rate) in Pine Creek Township, **Clinton County**.

**14-318-001: Spectra Wood** (2651 Carolean Industrial Drive, State College, PA 16801) for the construction of three wood furniture spray booths in College Township, **Centre County**.

**59-309-001C: OSRAM SYLVANIA Products, Inc.** (One Jackson Street, Wellsboro, PA 16901) for the operation of five bulk material handling and storage systems, a glass proportioner area and associated air cleaning devices (fabric collectors) previously owned and operated by OSRAM Sylvania, Inc. in Wellsboro Borough, **Tioga County**.

**59-309-008: OSRAM SYLVANIA Products, Inc.** (One Jackson Street, Wellsboro, PA 16901) for the operation of two glass ribbon machines and associated air cleaning device (a fume eliminator) previously owned and operated by OSRAM Sylvania, Inc. in Wellsboro Borough, **Tioga County**.

**60-318-009C: The New Columbia Joist Company** (P. O. Box 31, New Columbia, PA 17856-0031) for the construction of a vacuum coating operation in White Deer Township, **Union County**.

**8-316-001B: Masonite Corporation** (P. O. Box 311, Towanda, PA 18848) for the installation of an air cleaning device (a replacement scrubber) on a die form wood fiber felt in Wysox Township, **Bradford County**.

**14-313-035A: Ruetgers-Nease Corporation** (201 Struble Road, State College, PA 16801) for the modification of a chemical process facility (MMPDC intermediate) in College Township, **Centre County**.

**14-313-036A: Ruetgers-Nease Corporation** (201 Struble Road, State College, PA 16801) for the modification of a chemical process facility (Product 35) in College Township, **Centre County**.

*Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**PA-65-899A: Snyder Funeral Home, Inc.** (Bell and 402 East Church Street, Ligonier, PA 15658) for a human crematory at their facility in Donegal Borough, **Westmoreland County**.

**PA-65-016B: Latrobe Steel Company** (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) for two homogenization furnaces at their Latrobe Plant in Latrobe Borough, **Westmoreland County**.

**PA-65-016C: Latrobe Steel Company** (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) for a slag storage building at their Latrobe Plant in Latrobe Borough, **Westmoreland County**.

**PA-04-467A: J & L Structural, Inc.** (111 Station Street, Aliquippa, PA 15001) for a billet reheat furnace at the Aliquippa Plant in Aliquippa Borough, **Beaver County**.

**PA-26-487A: Amerikohl Mining, Inc.** (P. O. Box 427, Acme, PA 15610) for a coal crushing plant at the Nicholson Surface Mine in Saltlick Township, **Fayette County**.

**PA-30-120A: CoBon Synfuel #2, L.L.C.**, 1145 East Union Avenue, Midvale, UT 84047 for a coal agglomeration process at the Alicia Facility, Monongahela Township, **Greene 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.**

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

**OP-18-0007: Brodart Company** (500 Arch Street, Williamsport, PA 17705) for a RACT synthetic minor operating permit for a wood furniture finishing facility in Wayne Township, **Clinton County**.

**Proposed revision to the State Implementation  
Plan for oxides of nitrogen and volatile organic  
compounds and notice of public hearing**

On June 15, 1995, the Department of Environmental Protection (Department) conducted a public hearing to solicit comments on a proposed nitrogen oxides Reasonably Available Control Technology (RACT) determination and proposed operating permit issuance for various combustion sources (boilers, and the like) owned and operated by **American Home Foods, Inc.** (now I.H.F.P., Inc.) in Milton Borough, **Northumberland County**. The Department subsequently issued an operating permit, identified as **OP-49-0010**, to American Home Foods, Inc. (now I.H.F.P., Inc.) on July 7, 1995.

I.H.F.P., Inc. found, via stack testing, that it was unable to meet the nitrogen oxides emission limit of .15 pound of nitrogen oxides per million BTU of heat input which was

established in Operating Permit OP-49-0010 for one of its combustion sources, a 116 million BTU per hour natural gas and #2 fuel oil-fired boiler identified as Boiler #7, while that source was burning its standby or backup fuel, #2 fuel oil. This failure is attributed to the use of estimated nitrogen oxides emission rate data in the company's RACT plan rather than empirical data which was unavailable at the time the plan was submitted to the Department.

I.H.F.P., Inc. has now identified the respective boiler's true nitrogen oxides emission potential while burning #2 fuel oil and has requested a revision of Operating Permit OP-49-0010 to reflect this true potential. After evaluating the company's request, the Department has made a preliminary determination that the proposed revision should be approved.

The revised nitrogen oxides emission limit to which the Department has preliminarily determined Boiler #7 should be subject when burning #2 fuel oil is .20 pound of nitrogen oxides per million BTU of heat input. The Department also proposes to limit the respective boiler from operating on #2 fuel oil for more than 500 hours in any 12 consecutive month period.

If approved, the revised nitrogen oxides emission limit and the 500-hour operating restriction will be incorporated into a revised operating permit and submitted to the United States Environmental Protection Agency as a revision to the Pennsylvania State Implementation Plan.

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

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (717) 327-3659 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (717) 327-3659 or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to David Aldenderfer, Air Quality Environmental Program Manager, Pennsylvania DEP, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by December 4, 1997.

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

**Public Hearing**

The Department of Environmental Protection (Department) will hold a public hearing on Thursday, November

13, 1997, at 10 a.m. in the Monongahela Conference Room at its Southwest Regional Office, 400 Waterfront Drive, Pittsburgh.

The hearing is to take testimony concerning the Department's intent to issue NO<sub>x</sub> and VOC Emission Reduction Credits (ERCs) to **Koppers Industries, Inc.** ERCs result from the shutdown and dismantling of four combustion units (boilers) at the Monessen Boiler House in **Westmoreland County** (ER-65-853). Creditable emissions from the shutdown amount to 129 tpy NO<sub>x</sub> and 1.6 tpy VOC.

The Department also intends to take testimony concerning our intent to issue a Reasonable Available Control Technology (RACT) Operating Permit **65-000-853** to **Koppers Industries, Inc.** for the Monessen Coke Plant in Westmoreland County. The Department intends to revise the State Implementation Plan (SIP) to include these proposed Operating Permit requirements. The facility is a major emitter of Nitrogen Oxides and Volatile Organic Compounds. RACT for this site has been determined to be operation and maintenance of all sources in conformance with manufacturer's specifications, guidelines and procedures and good air pollution control practices.

The Department will also take testimony concerning the RACT proposal submitted by **Anchor Glass Container** for Plant #5 located in Connellsville, **Fayette County**, PA. The proposed RACT Plan Approval (26-000-119) is for the immediate implementation of manual control of air-to-fuel ratios on Furnaces #1, #2 and #3 for a 15 % reduction in NO<sub>x</sub> emissions. Additionally, Anchor shall install Combustion Staging on Furnaces #1 and #2 by May 31, 1998, to reduce NO<sub>x</sub> emissions for these sources by approximately 50 %. RACT for all sources at Anchor's facility will include their operation and maintenance in accordance with manufacturer's recommendations and accepted air pollution control practices.

Those wishing to present testimony during the hearing should contact the Community Relations Coordinator, Betsy Mallison, at (412) 442-4182 by November 12, 1997 to register. Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Betsy Mallison or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. Those who are unable to attend the hearing, but wish to comment, should provide written comments to Mark Wayner, Acting Chief, Title V Section, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Comment period is open for 30 days after the appearance of this public notice.

Copies of the ERC Application, the proposed ERC Registration, the RACT Proposal and the proposed RACT Operating Permit are available for review from 8 a.m. to 4 p.m. in the Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Appointments for scheduling a review may be made by calling (412) 442-4000.

## 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 the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of 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*

**11900201. Maple Coal Company** (2591 Wexford-Bayne Road, Suite 204, Sewickley, PA 15143), for an SMP boundary revision to add 5.4 acres to the eastern boundary of this existing bituminous coal refuse reprocessing

permit for ash deposition and support facilities. Total SMP acres goes from 128.8 to 134.2. The final ash pile design and E & S plan are being revised at this time, also, in Barr and Blacklick Townships, **Cambria County**, receiving stream Elk Creek. Application received October 15, 1997.

**11920110. Permit Renewal. Laurel Land Development, Inc.**, commencement, operation and restoration of bituminous strip mine in Blacklick Township, **Cambria County**, affecting 42.0 acres, receiving stream Coalpit Run and unnamed tributaries to the South Branch of Blacklick Creek, application received October 20, 1997.

**11930101. Permit Renewal. Wesott, Inc.** (P. O. Box 328, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine, valid for reclamation, only in Hastings Boro and Elder Township, **Cambria County**, affecting 15.0 acres, receiving stream unnamed tributary to/and Brubaker Run, application received October 22, 1997.

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

**17930119. Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a change in permit acreage from 59.0 to 28.7 acres, Lawrence Township, **Clearfield County**, receiving streams unnamed tributaries to the West Branch of the Susquehanna River, application received September 18, 1997.

**17940113. E. P. Bender Coal Co., Inc.** (Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722), major revisions to an existing bituminous surface mine permit, Beccaria Township, **Clearfield County**, for an increase in permit acreage from 101 to 127 acres and a stream encroachment application which includes a variance on the 100-foot barrier of an unnamed tributary to Turner Run. The variance is requested to conduct mining and related preAct mining in order to reclaim and restore abandoned mine lands. The variance area on the unnamed tributary begins approximately 800 feet upstream of its juncture with Turner Run and extends northeastward for a distance of approximately 1,400 feet. The unnamed tributary will be relocated approximately 150 feet west of its current path, application received September 22, 1997.

**17940114. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), revision to an existing bituminous surface mine permit to apply biosolids (stabilized sewage sludge) to enhance vegetation on a surface mine site, Jordan Township, **Clearfield County** affecting 103.3 acres, receiving streams: two unnamed tributaries to Potts Run to Clearfield Creek to West Branch Susquehanna River, application received September 23, 1997.

**17910129. Beth Contracting, Inc.** (R. D. 1, Box 208-C, Glen Campbell, PA 15742) revisions to an existing bituminous surface mine permit for a change in permit acreage from 87.0 to 90.3 acres, and a stream encroachment on unnamed tributary no. 1 to Little Muddy Run. The variance begins at the confluence with tributary no. 2 thence continues upstream in a northeasterly direction for a distance of 1,000 feet, Gulich Township, **Clearfield County**, application received October 6, 1997.

**17920108. Johnson Bros. Coal Co.** (R. D. 1, Box 580, Mahaffey, PA 15757), transfer of an existing bituminous surface mine permit from Waroquier Coal Company, Penn Township, **Clearfield County** affecting 51.9 acres, receiving streams: unnamed stream to Kratzer Run to

Anderson Creek to West Branch Susquehanna River, application received October 15, 1997.

**17970117. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine permit in Bell Township, **Clearfield County** affecting 36.4 acres, receiving streams: unnamed tributaries to West Branch Susquehanna River, application received October 9, 1997.

**17860133. Johnson Bros. Coal Company** (R. D. 1, Box 580, Mahaffey, PA 15757), transfer of an existing bituminous surface mine permit from Thomas Coal Co., Inc., Brady-Penn Townships, **Clearfield County** affecting 22.6 acres, receiving streams: Laurel Branch Run and Beech Run, application received October 20, 1997.

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

**54970104. Harriman Coal Corporation** (P. O. Box 127, Valley View, PA 17983), commencement, operation and restoration of an anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 708.0 acres, receiving stream Lorberry Creek. Application received October 7, 1997.

**54970205. A/C Fuels Company** (1001 Industrial Road, Nesquehoning, PA 18240), commencement, operation and restoration of a coal refuse reprocessing operation in Reilly Township, **Schuylkill County** affecting 165.9 acres, receiving stream Muddy Creek. Application received October 9, 1997.

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

*Noncoal Permits Received*

**06910301C. Berks Products Corporation** (726 Spring Street, P. O. Box 421, Reading, PA 19603), renewal of NPDES Permit #PA0595420 in Ontelaunee Township, **Berks County**, receiving stream Maiden Creek and Schuylkill River. Application received October 8, 1997.

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

### ENCROACHMENTS

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

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301-1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit comments, suggestions or objections within 30 days of the date of this

notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

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

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

**E15-558.** Encroachment. **Black Rock Boat Club**, 402 Walnut St., Spring City, PA 19475. To construct and maintain an approximately 360-foot long × 30-foot wide floating dock and associated concrete boat launch ramp along the southern bank of the Schuylkill River (WWF, MF) for private use. The site is located approximately 660 feet upstream of the Black Rock Road Bridge (SR 113), (Phoenixville, PA Quadrangle N: 6.00 inches; W: 1.75 inches) in the Borough of Phoenixville, **Chester County**.

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

**E48-263.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 5-0**, 2460 Parkwood Drive, Allentown, PA 18103. To remove the existing structure and to construct and maintain a prestressed concrete box beam bridge having a single span of 42 feet on a 90° skew and an underclearance of approximately 4.3 feet across Monocacy Creek (HQ-CWF). The project is located along S. R. 0248 (Main Street), approximately 500 feet west of S. R. 0512 (Catasauqua, PA Quadrangle N: 18.3 inches; W: 2.8 inches) in the Borough of Bath, **Northampton County** (Philadelphia District, Army Corps of Engineers).

**E58-225.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a single span prestressed concrete spread box beam bridge, having a waterway opening width of 20.0 feet and a minimal underclearance of 5.3 feet, across Salt Lick Creek (HQ-CWF). The project will permanently impact a de minimis area of wetland less than or equal to 0.05 acre, associated with placement of fill for the widened roadway. The project is located on S. R. 0492, Section 570, immediately west of the intersection of S. R. 0492 and T-613 (Hartford, PA Quadrangle N: 19.8 inches; W: 4.9 inches) in New Milford Township, **Susquehanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E58-226.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Bell Creek (CWF), consisting of a 14-foot × 9-foot precast concrete box culvert. The project is located on S. R. 2067, Section 550, Segment 0100, Offset 0044, approximately 0.6 mile north of the intersection of S. R. 2067 and S. R. 0092 (Lenoxville, PA Quadrangle N: 21.3 inches; W: 0.8 inch) in Gibson Township, **Susquehanna County** (Baltimore District, U. S. Army Corps of Engineers).

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

**E06-502.** Encroachment. **Wernersville Municipal Authority**, Brian Clements, P. O. Box 145, Clements, PA

19565. To construct a building which is partially in the floodplain of Quarry Creek at a point approximately 500 feet downstream of Fairview Street (Sinking Spring, PA Quadrangle N: 14.9 inches; W: 11.6 inches) in Wernersville Borough, **Berks County**.

**E06-503.** Encroachment. **Kutztown Borough**, Keith Hill, 45 Railroad Street, Kutztown, PA 19530. To construct settling tanks at the Kutztown Borough Sewage Treatment Plant in the floodplain of Sacony Creek at a point approximately 400 feet downstream of Route 222 (Kutztown, PA Quadrangle N: 5.0 inches; W: 4.65 inches) in Maxatawny Township, **Berks County**.

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

**E49-214.** Encroachment. **Ralpho Township**, 30 South Market St., Elysburg, PA 17824. To replace the existing structure and to construct and maintain a 6-foot to 8-foot high by 120-foot long reinforced concrete or gabion basket retaining wall depressed 3 feet below the streambed of an unnamed tributary to Shamokin Creek (locally known as Pocahontas Creek) near the intersection of Hickory and East Center Sts. (Shamokin, PA Quadrangle N: 21 inches; W: 6.9 inches) in the Village of Elysburg, Ralpho Township, **Northumberland County**. Estimated stream disturbance is 120 feet of waterway with no wetland impact; stream classification is cold water fishery.

**E59-353.** Encroachment. **Norman E. Powell Jr., Robert Powell**, 1505 Naamans Creek Rd., Boothwyn, PA 19061. To construct and maintain a 44-foot clear span steel I-beam bridge over Catlin Hollow Creek located off SR 4035, 1.3 miles southeast of SR 0287 (Keeneyville, PA Quadrangle N: 11.4 inches; W: 3.0 inches) in Charleston Township, **Tioga County**. Estimated stream disturbance is approximately 50 feet with no wetland impact; stream classification is TSF.

**E17-313.** Encroachment. **Union Township Supervisors**, c/o Val Orcutt, R. R. 2, Rockton, PA 15856. To maintain a 98-inch steel pipe culvert in the Laborde Branch of Sandy Lick Creek located on T-372, 0.45 mile north of US Rt. 322 (Luthersburg, PA Quadrangle N: 13.2 inches; W: 7.2 inches) in Union Township, **Clearfield County**. Estimated stream disturbance is 50 feet of stream with no wetland impacts; stream classification is CWF.

**E18-239.** Encroachment. **DCNR**, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105. Remove an existing structure and to construct, operate and maintain a single cell reinforced concrete box culvert to carry Robinson Road across Wilcox Branch, Young Womens Creek. The box culvert shall be cast in place with a clear single span of 14.4 feet, minimum underclearance of 4.5 feet and skew of 76 degrees left ahead. The project is located along the western right of way of SR 0044 approximately 2,000 feet south of the intersection of County Line Road and Robinson Road (Slate Run, PA Quadrangle N: 18.1 inches; W: 16.4 inches) in Chapman Township, **Clinton County**. Estimated stream disturbance is 116.25 feet of waterway with no wetland impact; stream classification is high quality-cold water fishery.

**E18-240.** Encroachment. **DCNR**, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove an existing deteriorated structure and to construct and maintain a prestressed concrete spread box beam bridge with a 27-foot normal span and an average underclearance of 5 feet across County Line

Branch which is located approximately 0.25 mile northbound on Robinson Road from its intersection with Benson Road (Slate Run, PA Quadrangle N: 17.8 inches; W: 16.6 inches) in Chapman Township, **Clinton County**. Estimated stream disturbance is 108 linear feet of stream; stream classification is HQ-CWF.

**E53-305.** Encroachment. **I. P. Timberlands Operating Co., Ltd.**, P. O. Box 190, Coudersport, PA 16915. To maintain two culvert pipes, one 6 foot in diameter and the other 6 foot 6 inches in diameter, in Nelson Run located 0.75 mile east of SR 44 and 0.25 mile south of the Sweden Township line (Ayers Hill, PA Quadrangle N: 19.8 inches; W: 6.5 inches) in Summit Township, **Potter County**. Estimated stream disturbance is 25 feet of stream with no wetland impact; stream classification is CWF.

*Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**E04-250.** Encroachment. **Zinc Corporation of America**, 300 Frankfort Road, Monaca, PA 15061-2295. To operate and maintain a barge unloading facility and a noncontract cooling water intake and outlet located in and along the left bank of the Ohio River (WWF), near River Mile 29.2 (Beaver, PA Quadrangle N: 7.7 inches; W: 13.5 inches) in Potter Township, **Beaver County**.

**E56-280.** Encroachment. **Indian Lake Borough**, Municipal Building, R. D. 1, Box 540, Central City, PA 15926-0540. To remove the existing structure and to construct and maintain four 72-inch CMP culverts in Calendars Run for the purpose of improving transportation safety and roadway standards. The crossing is located at the upstream end of Indian Lake (Central City, PA Quadrangle N: 10.7 inches; W: 156 inches) in Indian Lake Borough, **Somerset County**.

**E02-1210.** Encroachment. **Jay B. Simmons**, 1411 Parkmont Road, Allison Park, PA 15101. To place and maintain fill in 0.19 acre of wetlands (PFO) and in the floodway on the left bank side of a tributary to Lowries Run (TSF) locally known as Wittmer Run for the purpose of developing two residences. The project is located on the east side of Highland Road approximately 1,000 feet north of its intersection with Sloop Road (Emsworth, PA Quadrangle N: 12.9 inches; W: 6.8 inches) in McCandless Township, **Allegheny 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.**

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

**EA46-031C0.** Environmental Assessment. **Gambone Brothers Development Company** (1030 W. Germantown Pike, Fairview Village, PA 19409). To construct and maintain a nonjurisdictional dam across a tributary to Wissahickon Creek (TSF) for the purpose of stormwater management at the proposed Renner Tract subdivision located approximately 1,300 feet southeast of the intersection of Swedesford Road and School House Lane (Lansdale, PA Quadrangle N: 12.85 inches; W: 1.80 inches) in Lower Gwynedd Township, **Montgomery County**.

*Northcentral Regional Office, Soils and Waterways Section, 208 W. Third St., Suite 101, Williamsport, PA 17701, (717) 327-3574.*

**EA10-001NC.** DEP, Bureau of Abandoned Mine Reclamation, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18715-0790. To drain and backfill 12 stripping pits as part of a 350-acre abandoned mine reclamation and restoration project. The area is located within the Big Run watershed which is classified as CWF in Chapter 93, Water Quality Standards. 0.14 acre of wetlands is proposed to be impacted by the project and 6.2 acres of wetlands are proposed to be created at the site. The center of the work area is located approximately 0.5 mile north of the village of Locustdale (Ashland, PA Quadrangle N: 6.0 inches; W: 16.5 inches) in Conyngham Township, **Columbia County**.

#### WATER ALLOCATIONS

**Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631-641) relating to the acquisition of rights to divert waters of this Commonwealth.**

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

**WA2-589C.** Water Allocation. **Hampden Township Municipal Authority, Allegheny County**. The Hampden Township Municipal Authority has submitted an application to: Acquire water rights, 100,000 gallons per day, formerly held by O'Hara Township (Pittsburgh Water & Sewer Authority); and Acquire water rights, 600,000 gallons per day, for the acquisition of water from the Fox Chapel Authority, Allegheny County.

*Northwest Regional Office, Regional Program Manager, Water Supply Management, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6899.*

**WA 10-647C.** Subsidiary Water Allocation. **The Municipal Sewer and Water Authority of Cranberry Township**, 2525 Rochester Road, Suite 700, Cranberry Township, PA 16066-6498. Modification to increase allocation to 4,400,000 gpd for the duration of proposed agreement between applicant and the Municipal Authority of the Borough of West View. The Municipal Sewer and Water Authority of Cranberry Township operates under the Municipal Authorities Act of 1945, and serves customers located in Cranberry 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 (Department) has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35

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

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

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

**NPDES Permit No. PA-0061948.** Sewerage. **Leighton Land Co.**, 1500 Rock St., Leighton, PA 18235 is authorized to discharge from a facility (Otto's Camping Resort) located in Franklin Township, **Carbon County** to Pohopoco Creek.

**NPDES Permit No. PA-0061204.** Sewerage. **Summit Management and Utilities, Inc.**, P. O. Box 592, Lake Harmony, PA 18624 is authorized to discharge from a facility located in Kidder Township, **Carbon County** to an unnamed tributary to Shingle Mill Run.

**NPDES Permit No. PA-0061727.** Sewerage. **Passionist Nuns Monastery**, St. Gabriel's Retreat, 631 Griffin Pond Road, Clarks Summit, PA 18411-2899 is authorized to discharge from a facility located in South Abington Township, **Lackawanna County** to Wet Weather Channel Leading to Leggett's Creek.

**NPDES Permit No. PA-0070084.** Industrial waste. **Agway Petroleum Corporation**, P. O. Box 4852, Syracuse, NY 12331 is authorized to discharge from a facility located in Lower Macungie Township, **Lehigh County** to an unnamed tributary to Swabia Creek.

**NPDES Permit No. PA-0055174.** Industrial waste. **Buckeye Pipeline Company**, 3900 Hamilton Boulevard, Allentown, PA 18103 is authorized to discharge from a facility located in Lower Macungie Township, **Lehigh County** to an unnamed tributary to Swabia Creek.

**NPDES Permit No. PA-0053813.** Industrial waste. **Farm and Home Oil Company**, 100 Tank Farm Road, Macungie, PA 18062 is authorized to discharge from a facility located in Lower Macungie Township, **Lehigh County** to Brinker Pond to an unnamed tributary to Swabia Creek.

**NPDES Permit No. PA-0055361.** Industrial waste. **Carlos R. Leffler, Inc.**, P. O. Box 278, Richland, PA 17087-0278 is authorized to discharge from a facility located in Macungie Borough, **Lehigh County** to an unnamed tributary to Swabia Creek.

**NPDES Permit No. PA-0062723.** Industrial waste. **Sun Refining and Marketing Company**, 1801 Market Street, Philadelphia, PA 19103-1699 is authorized to discharge from a facility (Fullerton Terminal) located in Whitehall Township, **Lehigh County** to the Lehigh River.

**NPDES Permit No. PA-0062979.** Sewerage. **Gem Corporation & Pocono Insalaco, Inc., t/a Outletter Associates**, P. O. Box 764, Stroudsburg, PA 18360 is authorized to discharge from a facility located in Pocono Township, **Monroe County** to Pocono Creek.

**NPDES Permit No. PA-0063673.** Sewerage. **J. A. Snyder Entities, Inc.**, Fountain Court, Route 611, Bartonsville, PA 18321 is authorized to discharge from a facility located in Pocono Township, **Monroe County** to Pocono Creek.

**NPDES Permit No. PA-0011517.** Industrial waste. **Keystone Cement Company**, Route 329, P. O. Box A, Bath, PA 18014 is authorized to discharge from a facility located in East Allen Township, **Northampton County** to Monocacy Creek.

**NPDES Permit No. PA-0011801.** Industrial waste. **Ashland Chemical Company**, 400 Island Park Road, Easton, PA 18042-6899 is authorized to discharge from a facility located in Glendon Borough, **Northampton County** to the Lehigh River.

**NPDES Permit No. PA-0060348.** Sewerage. **Commonwealth of Pennsylvania, Department of Transportation**, Bureau of Design, 555 Walnut Street, Harrisburg, PA 17101-1900 is authorized to discharge from a facility (Roadside Rest Area No. 62 on I-84) located in Palmyra Township, **Pike County** to an unnamed tributary to Kleinhans Creek.

**NPDES Permit No. PA-0026476.** Sewerage. **Coaldale-Lansford-Summit Hill Sewer Authority**, 124 W. Ridge Street, Lansford, PA 18232 is authorized to discharge from a facility located in Coaldale Borough, **Schuylkill County** to Panther Creek.

**NPDES Permit No. PA-0012742.** Industrial waste. **ICI Explosives USA, Inc.**, Route 443, P. O. Box 271, Tamaqua, PA 18252 is authorized to discharge from a facility located in Walker Township, **Schuylkill County** to the Little Schuylkill River.

**NPDES Permit No. PA-0060801.** Sewerage. **Montrose Municipal Authority**, P. O. Box 306, Montrose, PA 18801 is authorized to discharge from a facility located in Bridgewater Township, **Susquehanna County** to Pettis Creek.

**NPDES Permit No. PA-0062987.** Sewerage. **David J. Bell**, 703 Lennox Court, Lansdale, PA 19446 is authorized to discharge from a facility located in Liberty Township, **Susquehanna County** to an unnamed tributary of Snake Creek.

**NPDES Permit No. PA-0061301.** Sewerage. **Starlight Inn Corporation**, P. O. Box 27, Starlight, PA 18461-0027 is authorized to discharge from a facility located in Buckingham Township, **Wayne County** to an unnamed tributary of Shehawken Creek.

**Permit No. 4597403.** Sewerage. **Pleasant Valley School District**, Routes 115 and 209, Brodheads ville, PA 18322-2002. Permit to construct additional spray field areas to the existing Middle School WWTP spray field, located in Chestnuthill Township, **Carbon County**.

**Permit No. 4897401.** Sewerage. **Bangor Area School District**, 187 Five Points-Richmond Road, Upper Mt. Bethel, PA 18013. Permit to upgrade the existing STP, located in Upper Mt. Bethel Township, **Northampton County**.

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

**NPDES Permit No. PA0039730.** Sewerage. **RRP Recreation Limited Partnership**, 100 Chipmunk Crossing, Entriiken, PA 16638 is authorized to discharge from a facility located in Lincoln Township, **Huntingdon County** to the receiving waters named Lake Raystown.

**NPDES Permit No. PA0085235. Amendment No. 1.** Sewerage. **Post Office Inn Corporation**, R. D. 1, Box 1636, Mohnton, PA 19540 is authorized to discharge from a facility located in Robeson Township, **Berks County** to the receiving waters of an unnamed tributary of Allegheny Creek.

**NPDES Permit No. PA0027014. Amendment No. 2.** Sewerage. **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16602 is authorized to discharge from a facility located in Logan Township, **Blair County** to the receiving waters named Little Juniata River.

**NPDES Permit No. PA0087491.** Industrial waste. **DI-Chem Concentrate Inc.**, 509 Fishing Creek Road, Lewisberry, PA 17339-9517 is authorized to discharge from a facility located in Newberry Township, **York County** to the receiving waters of an unnamed tributary of Fishing Creek.

*Northcentral Regional Office, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.*

**Permit No. PA0028681.** Sewerage. **Kelly Township Municipal Authority**, 299 River Road, Lewisburg, PA 17837-9703. Renewal granted to discharge from a facility located at Kelly Borough, **Union County**.

**Permit No. PA0112518-T1.** Transfer industrial waste. **Mid-Atlantic Quality Inc., dba, Mid-State Culligan**, Box 1107, State College, PA 16804. Department granted the submitted transfer application of above applicant. Facility located in College Township, **Centre County**.

**Permit No. WQM 5997201.** Industrial waste. **K & W Medical Specialties**, 115 Pritchard Hollow Road, Westfield, PA 16950. Department granted discharge from facility located in Westfield Township, **Tioga County**.

**Permit No. WQM 4197406.** Sewerage. **Marion William**, 640 Berkshire Drive, State College, PA 16801. Construction of single residence sewage treatment facility has been granted. Facility located at Halfmoon Township, **Centre County**.

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

**NPDES Permit No. PA0046671.** Sewerage, **Linden Hall United Steelworkers**, R. D. 1, Linden Hall Road, Box 225A, Dawson, PA 15428 is authorized to discharge from a facility located at Linden Hall United Steelworkers Sewage Treatment Plant, Lower Tyrone Township, **Fayette County** to an unnamed tributary of the Youghiogheny River.

**NPDES Permit No. PA0090131.** Sewerage, **Samuel Bottone**, R. D. 1, Lot 6, Beryl Acres, Scenery Hill, PA 15360 is authorized to discharge from a facility located at Beryl Acres Sewage Treatment Plant, North Bethlehem Township, **Washington County** to Unnamed Tributary South Branch Pigeon Creek.

**NPDES Permit No. PA0090913.** Sewerage, **Independence Township**, P. O. Box 156, Avella, PA 15312 is authorized to discharge from a facility located at P & W Patch STP, Independence Township, **Washington County** to unnamed tributary of Cross Creek.

**NPDES Permit No. PA0095044.** Sewerage, **Northgate Townhouses Condominium Association**, 380Z

Northgate Drive, Apollo, PA 15613 is authorized to discharge from a facility located at Northgate Townhouses STP, Washington Township, **Westmoreland County** to Unnamed Tributary of Pine Run.

**NPDES Permit No. PA0096539.** Sewerage, **Burrell Food Systems, Inc.**, 250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319 is authorized to discharge from a facility located at Burrell Food Systems, Inc. STP, Burrell Township, **Indiana County** to Unnamed Tributary of the Conemaugh River.

**NPDES Permit No. PA0096598.** Sewerage, **Lower Ten Mile Joint Sewer Authority**, R. R. 1, Jefferson, PA 15344 is authorized to discharge from a facility located at Mather Wastewater Treatment Plant, Morgan Township, **Greene County** to South Fork Ten Mile Creek.

**NPDES Permit No. PA0097942.** Sewerage, **Dunlap, Inc.**, P. O. Box 2092, Uniontown, PA 15401 is authorized to discharge from a facility located at Arctic Cove Restaurant Site Sewage Treatment Plant, North Union Township, **Fayette County** to Redstone Creek.

**NPDES Permit No. PA0098094.** Sewerage, **Mark Gruber**, P. O. Box 500, Clinton, PA 15026 is authorized to discharge from a facility located at Pittsburgh Airport Park STP, Independence Township, **Beaver County** to Raccoon Creek.

**NPDES Permit No. PA0098299.** Sewerage, **Donegal Inn, Inc.**, P. O. Box B, Donegal, PA 15628-1097 is authorized to discharge from a facility located at Laurel Highlands Lodge STP, Donegal Township, **Westmoreland County** to Unnamed Tributary of Fourmile Run.

**NPDES Permit No. PA0204455.** Sewerage, **Orchard Estates MHP LLC, c/o The Carlyle Group, Inc.**, 9073 Nemo Street, Los Angeles, CA 90069 is authorized to discharge from a facility located at Orchard Estates MHP STP, Economy Borough, **Beaver County** to Unnamed Tributary of Big Sewickley Creek.

**NPDES Permit No. PA0205966.** Sewerage, **Economy Borough Municipal Authority**, 2860 Conway-Wallrose Road, Baden, PA 15005 is authorized to discharge from a facility located at Chestnut Ridge STP, Economy Borough, **Beaver County** to Unnamed Tributary to Big Sewickley Creek in Coony Hollow.

**Permit No. 1197405.** Sewerage, **Tony and Sally Wojtarowicz**, 15125 Kingway Dr., New Berlin, WI 53151. Construction of a Sewage Treatment Plant, located in the Township of Gallitzin, **Cambria County** to serve the Wojtarowicz Residence.

**Permit No. 5697402.** Sewerage, **Gordon Mihalik**, 965 Highland Park Drive, Somerset, PA 15501. Construction of a Sewage Treatment Plant, located in the Township of Somerset, **Somerset County** to serve the Mihalik Residence.

**Permit No. 6597405.** Sewerage, **Joseph Benzinger**, 2110 Hulton Road, Verona, PA 15147. Construction of a Sewage Treatment Plant located in the Township of North Huntingdon, **Westmoreland County** to serve the Benzinger Residence.

#### 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 Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other

conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

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

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

*List of NPDES and/or other  
General Permit Type*

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
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

*General Permit Type—PAG 2*

*Facility Location*

<i>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>
Clearfield County Beccaria Township	PAR101740	DEP Bureau of Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105	Clearfield Creek, Trib. To	Clearfield CCD (814) 765-2629
Columbia County Hemlock Township	PAR102125	Pinebrook Homes, Inc. 801 Montour Blvd. Danville, PA 17821	Hemlock Creek	Columbia CD (717) 784-1310
Columbia County Briar Creek Twp. North Centre Twp.	PAR102127	Willow Run Inn & Golf Course R. R. 2, Box 2990 Berwick, PA 18603	Wetlands on Willow Run Prop.	Columbia CD (717) 784-1310
Columbia County Scott Twp.	PAR102128	John D. Klingerman R. R. 5, Box 290 Bloomsburg, PA 17815	Susquehanna River	Columbia CD (717) 784-1310
Montour County Mahoning Twp.	PAR104715	Carl Rinehimer R. R. 1, Box 1079 Berwick, PA 18603	Sechler Run	Montour CCD (717) 271-1140
Luzerne County Hazle Township	PAR10R128	Lot 45, Humboldt SW Lot 45, Oak Ridge Rd. Humboldt Industrial Park Hazle Township, PA 18201	Little Tomahichen Creek	Luzerne CD (717) 674-7991

<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>
Thornbury Township Delaware County	PAR10-J104	Glen Mills School P. O. Box 137 Concordville, PA 19331	Chester Creek	Southeast Region Office Regional Water Management Program Manager Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Skippack Township Montgomery County	PAR10-T366-R	Ronald Diesinger 63 Diesinger Road Schwenksville, PA 19473	Unnamed Tributary to Skippack Creek	Southeast Region Office Regional Water Management Program Manager Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Upper Providence Township Montgomery County	PAR10-T364-R	Regal Cinemas Inc. 2620 Egypt Road Norristown, PA 19403	Perkiomen Creek	Southeast Region Office Regional Water Management Program Manager Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
<i>General Permit Type—PAG 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>
Westmoreland County North Huntingdon Township	PAG046128	Joseph Benzinger 2110 Hulton Road Verona, PA 15147	Tributary to Brush Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Somerset County Somerset Township	PAG046137	Gordon Mihalik 965 Highland Park Drive Somerset, PA 15501	Unnamed tributary leading to Middle Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
<i>General Permit Type—PAG 7</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>
Penn Township York County	PAG-07-3501	Penn Twp. WWTP 20 Wayne Avenue Hanover, PA 17331		DEP SCRO 1 Ararat Blvd. Harrisburg, PA 17110-9333 (717) 540-5066
<i>General Permit Type—PAG 8</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>
Penn Twp. York County	PAG-08-3506	Penn Twp. WWTP 20 Wayne Avenue Hanover, PA 17331		DEP SCRO 1 Ararat Blvd. Harrisburg, PA 17110-9333 (717) 540-5066

<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>
South Hampton Twp. Franklin County	PAG-08-3507	Shippensburg WWTP 963 Avon Drive Shippensburg, PA 17257		DEP SCRO 1 Ararat Blvd. Harrisburg, PA 17110-9333 (717) 540-5066
<i>General Permit Type—PAG 9</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>
West St. Clair Twp. Bedford County	PAG-09-3509	Lang Septic Service R. D. 2, Box 176A New Paris, PA 15554		DEP SCRO 1 Ararat Blvd. Harrisburg, PA 17110-9333 (717) 540-5066
Windsor Twp. York County	PAG-09-3508	Kenneth Joins 440 Dull Road Felton, PA 17322-8808		DEP SCRO 1 Ararat Blvd. Harrisburg, PA 17110-9333 (717) 540-5066

### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Revision approval granted October 17, 1997 under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

*Regional Office, Water Management Program Manager,  
Southcentral Region, One Ararat Boulevard, Harrisburg,  
PA 17110.*

Location: **Kathryn Manspeaker Subdivision**, Single Family Residence, West Providence Township, **Bedford County**.

*Project Description:* Approval of a revision to the Official Plan of West Providence Township, Bedford County. Project involves construction of a small flow treatment facility to serve one proposed residential dwelling, with sewage flows of 400 gpd. Located on Route 30 to the north and the Juniata River to the south, approximately 3 miles east of Breezewood. Treated effluent is to be discharged via a discharge structure to the Raystown Branch of the Juniata River.

Any required NPDES Permits or Water Management Permits must be obtained in the name of the owner.

#### Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

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

Location: **Rices Landing Borough, Greene County**, Box 85, Rices Landing, PA 15357.

The Rices Landing approved revision provides for the abatement of untreated and inadequately treated sewage discharges located throughout the majority of the Borough by the construction of sewers, pump stations, force mains and a sewage treatment plant. Sewer extensions are also intended to be provided to adjoining areas of Cumberland Township, Greene County. Treated effluent is intended to be discharged to the Monongahela River.

Rices Landing Borough proposes to use Pennsylvania's State Revolving Fund administered by the Pennsylvania Infrastructure Investment Authority (PENNVEST) for the construction of these sewerage facilities. The Department's review of the Sewage Facilities Update Revision and information received has not identified any significant environmental impact resulting from this proposal.

### 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. 2397501.** Public water supply. **Silvestri & Sons, Inc.**, Frank P. Silvestri, 1168 Naamans Creek Road, Boothwyn, PA 19601. Permitting of Silvestri & Sons, Inc. existing water supply system. The system consists of one primary well, two backup wells, three bladder tanks of 86 gallon each, a 500 gallon detention tank and sodium hypochlorite disinfection in Boothwyn Township, **Delaware County**.

*Type of Facility:* Public Water Supply System

*Consulting Engineer:* Ravida Associates, 3700 Kramer Street, Harrisburg, PA 17109.

*Permit to Construct Issued:* October 17, 1997

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

**A. 5389501.** The Department issued an operating permit to **Austin Borough**, P. O. Box 297, Austin, PA 16920 (Austin Borough, **Potter County**) for operation of well 88 and associated equipment.

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

**Permit No. 3272501-A2.** Public water supply. **Central Indiana County Water Authority**, 30 East Wiley Street, Homer City, PA 15748.

*Type of Facility:* Storage tank, addition of Stern PAC, caustic soda and installation of potassium permanganate equipment.

*Permit to Operate Issued:* October 21, 1997.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

**Bristol Borough Recreation Authority**, Bristol Borough, **Bucks County**. Louis Marseglia, Chairperson, Bristol Borough Recreation Authority, 250 Pond St., Bristol, PA 19007, has submitted a Final Report concerning remediation of site soil contaminated with pesticides. The report is intended to document remediation of the site to meet the Statewide health standard.

**US Can Company** (former Ellisco Plant site) City of Philadelphia, **Philadelphia County**. Leonard G. Rafalko, Environmental Resources Management, 2666 Riva Rd., Suite 200, Annapolis, MD 21401, has submitted a Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons and groundwater contaminated with solvents. The report is intended to document remediation of the site to meet site-specific standards for soil and background standards for groundwater.

**Krouse Property**, City of Philadelphia, **Philadelphia County**. Darryl D. Borrelli, Manko, Gold & Katcher, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and polycyclic

aromatic hydrocarbons. The report is intended to document remediation of the site to meet Statewide health standards.

**Van Buren Associates, L. P.**, Norristown Borough, **Montgomery County**. Michael Gonshor, P. G., RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Final Report concerning remediation of site groundwater contaminated with volatile organic compounds. The report is intended to document remediation of the site to meet background standards.

*Northwest Regional Office: Craig Lobins, Acting Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.*

**National Forge Company**, Brokenstraw Township, **Warren County**. One Front Street, Irvin, PA 16329, has submitted a final report to remediate above ground storage tanks removal and impacted surficial soil removal/disposal, with site soils contaminated with PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

## SOLID AND HAZARDOUS WASTE

### LICENSE TO TRANSPORT HAZARDOUS WASTE

**Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Auchter Industrial Vac Service, Inc.**, 4801 South Wood Avenue, Linden, NJ 07036; License No. **PA-AH 0444**; renewal license issued October 27, 1997.

**Gloucester Iron and Metal, Inc.**, Brick and Stinson Streets, Gloucester City, NJ 08030; License No. **PA-AH S222**; renewal license issued October 27, 1997.

**McCutcheon Enterprises, Inc.**, 250 Park Road, Apollo, PA 15613-8730; License No. **PA-AH 0130**; renewal license issued October 23, 1997.

**The Environmental Service Group**, P. O. Box 242, Tonawanda, NY 14151-0242; License No. **PA-AH S144**; renewal license issued October 23, 1997.

**Amended license issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Buffalo Fuel Corp.**, 344 Vulcan Street, Buffalo, NY 14207-7196; License No. **PA-AH 0147**; amended license issued October 27, 1997.

### PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE

#### INFECTIOUS OR CHEMOTHERAPEUTIC WASTE

**Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Environmental Options Group, Inc.**, 18 Water Street-Tuckerton, Reading, PA 19605; License No. **PA-HC 0131**; renewal license issued October 27, 1997.

**License expired under the Solid Waste Management Act (35 P. S. §§ 6018.1001—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

*Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Dixie Midwest Express Inc.**, 2312 Millwood Road, Greensboro, AL 36744; License No. **PA-HC 0127**; license expired September 30, 1997.

### AIR POLLUTION OPERATING PERMITS

**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**OP-18-0005: International Paper Company** (South Highland Street, Lock Haven, PA 17745) issued a section 127.462 minor operating permit modification October 20, 1997, allowing the use of tire derived fuel in two coal fired boilers (at a rate not to exceed 30 percent of the combined fuel input on a BTU basis or 25% on a weight basis) at the company's Lock Haven Mill in Castanea Township, **Clinton County**.

*Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**OP-65-00064: Latronics Corporation** (1001 Lloyd Avenue, Box 469, Latrobe, PA 15650) issued October 10, 1997, for a metalized ceramic production process at the Latrobe Plant in Unity Township, **Westmoreland 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.**

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**21-323-014: L. B. Smith, Inc.** (2001 State Road, Camp Hill, PA 17011) issued October 24, 1997, for the construction of chrome plating tanks controlled by a fume suppressant and 3-stage mist eliminator in Lower Allen Township, **Cumberland County**. This source is subject to 40 CFR 63, Subpart N, National Emission Standards for Hazardous Air Pollutants.

**22-317-010C: Moyer Packing Company** (P. O. Box 395, Souderton, PA 18964) issued October 24, 1997, for the modification of the control system on a continuous

cooker (Dupps) controlled by an air condenser in series with a venturi scrubber (SCP) and a packed bed tower (SCP) or power boiler in Washington Township, **Dauphin County**.

*Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**PA-63-883A: PA Transformer Technology, Inc.** (P. O. Box 440, Canonsburg, PA 15317) issued September 18, 1997, for a transformer manufacturing process at the plant in Canonsburg Borough, **Washington County**.

**PA-11-289A: OMG Americas** (101 Bridge Street, Johnstown, PA 15902) issued September 5, 1997, for 3 high-speed grinding mills at the Johnstown Plant in Johnstown, **Cambria County**.

**PA-65-173A: Teledyne Rodney Metals** (P. O. Box 302, Scottdale, PA 15683) issued September 18, 1997, for a replacement degreaser tank at the Stainless Steel Division in Scottdale Borough, **Westmoreland County**.

**PA-04-483A: Interforest Corporation** (119 AID Drive, P. O. Box 444, Darlington, PA 16115) issued on October 10, 1997, for wood fired boilers at Penn-Beaver Veneers Corporation in Darlington Township, **Beaver County**.

**PA-26-486A: St. Jude Educational & Rehabilitation Services** (5340 National Pike, Markleysburg, PA 15459) issued on October 10, 1997, for a human crematory at the facility in Henry Clay Township, **Fayette County**.

**PA-11-421A: Conemaugh & Black Lick Railroad** (825 Iron Street, Johnstown, PA 15906) issued on October 20, 1997, for a B & B wheel grinder at their Locomotive Repair Shop in West Taylor Township, **Cambria County**.

**PA-32-297A: Creps United Publications** (1163 Water Street, P. O. Box 746, Indiana, PA 15701) issued on October 10, 1997, for a printing press with Tec Dryers at their facility in White Township, **Indiana County**.

### REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)

**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.**

*Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**63-000-014: Duquesne Light Company** (411 Seventh Avenue, Mail Drop 14-705, Pittsburgh, PA 15230) for Low NO<sub>x</sub> Burners on the Boilers at their Elrama Station in Union Township, **Washington 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—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66);

The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

*Coal Permits Issued*

**32970103.** Transfer from **General Mining, Inc.** to **Kent Coal Mining Company** (P. O. Box 729, Indiana, PA 15701), commencement, operation and restoration of a bituminous strip-auger mine in Young Township, **Indiana County**, affecting 113.0 acres, receiving stream Marshall Run and unnamed tributaries to Marshall Run, application received August 26, 1997, permit issued October 20, 1997.

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

**17870104. Al Hamilton Contracting Company** (R. R. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine permit in Pike Township, **Clearfield County** affecting 68.2 acres, receiving streams unnamed tributaries to West Branch Susquehanna River, application received July 21, 1997, permit issued September 23, 1997.

**17860140. Beth Contracting, Inc.** (R. D. 1, Box 208C, Glen Campbell, PA 15742), renewal of an existing bituminous surface mine permit in Beccaria Township, **Clearfield County** affecting 323 acres, receiving streams unnamed tributary to Cofinan Run and unnamed tributary to Muddy Run, application received July 29, 1997, permit issued October 2, 1997.

**17890115. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine (demonstration) permit in Boggs Township, **Clearfield County** affecting 639 acres, receiving streams unnamed tributaries to Sanbourn Run and to Camp Hope Run to Clearfield Creek to the West Branch of the Susquehanna River, application received August 7, 1997, permit issued October 2, 1997.

**17960106. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a Change in Permit Acreage from 100.2 to 111.2 acres, unnamed tributaries to Watts Creek, Watts Creek to Little Clearfield Creek to Clearfield Creek to West Branch Susquehanna River, application received July 28, 1997, permit issued October 14, 1997.

**17970106. Cloe Mining Co., Inc.** (P. O. Box I, Grampian, PA 16838), commencement, operation and restoration of a bituminous surface mine permit in Penn and Pike Townships, **Clearfield County** affecting 124.8 acres, receiving streams Porter Run to West Branch Susquehanna River; unnamed tributaries of Passmore Run to Passmore Run, Passmore Run to West Branch Susquehanna River; unnamed tributaries of Kratzer Run to Kratzer Run, Kratzer Run to Anderson Creek, Anderson Creek to West Branch Susquehanna River, application received March 31, 1997, permit issued October 6, 1997.

**17970104. E. M. Brown, Inc.** (P. O. Box 767, Clearfield, PA 16830), commencement, operation and res-

toration of a bituminous surface mine permit in Cooper Township, **Clearfield County** affecting 34 acres, receiving streams Browns Run to West Branch Susquehanna River, application received March 31, 1997, permit issued October 8, 1997.

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

*Noncoal Permits Issued*

**7774SM2A1C2. Berks Products Corporation** (726 Spring Street, Reading, PA 19603), correction to an existing quarry operation and renewal of NPDES Permit #PA0594521 in Ontelaunee Township, **Berks County** affecting 152.0 acres, receiving stream Maiden Creek. Correction/Renewal issued October 20, 1997.

**40960304. Pork Properties, Inc.** (34 Alfred Road, Wyomissing, PA 18644), commencement, operation and restoration of a large quarry operation in Plains Township, **Luzerne County** affecting 71.98 acres, receiving stream none. Permit issued October 20, 1997.

**06880302C. Rolling Rock Building Stone, Inc.** (R. D. 4, Boyertown, PA 19512), correction to an existing quarry operation in Pike Township, **Berks County** affecting 426.5 acres, receiving stream Oysterville Creek. Correction issued October 22, 1997.

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

*Large Industrial Mineral Permit Issued*

**08970301. P & P Gravel Co.** (R. R. 1, P. O. Box 228, Monroeton, PA 18832), commencement, operation and restoration of a Large Industrial Mineral (Sand/Gravel) permit in Franklin Township, **Bradford County** affecting 15.1 acres, receiving streams: no authorization to discharge, application received April 17, 1997, permit issued October 8, 1997.

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

*Small Industrial Mineral Authorizations Granted*

**08970816. Joseph M. Chaffee** (R. R. 5, Box 5367, Towanda, PA 18848), commencement, operation and restoration of a Small Industrial Mineral (Bluestone) permit in Sheshaquin Township, **Bradford County** affecting 1 acre, receiving stream: Horn Brook, application received June 11, 1997, authorization granted September 29, 1997.

**08970807. Stephen F. Pickett** (R. R. 2, Box 8A, Wyalusing, PA 18853), commencement, operation and restoration of a Small Industrial Mineral (Bluestone) permit in Wilmot Township, **Bradford County** affecting 1 acre, receiving streams: Foster Branch, application received April 29, 1997, authorization granted September 29, 1997.

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

*General Small Noncoal Authorizations Granted*

**58970851. Jay S. Norton** (R. R. 2, Box 135C, New Milford, PA 18834), commencement, operation and restoration of a bluestone quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream none. Authorization granted October 20, 1997.

**58970853. Norman N. Norton, Jr.** (1166 Lackawanna Trails, Clarks Summit, PA 18411), commencement, operation and restoration of a bluestone quarry operation in

Oakland Township, **Susquehanna County** affecting 5.0 acres, receiving stream none. Authorization granted October 20, 1997.

**58970863. Robert K. Volk** (R. R. 4, Box 56B, Montrose, PA 18801), commencement, operation and restoration of a small bluestone quarry operation in Apolacon Township, **Susquehanna County** affecting 1.0 acre, receiving stream none. Authorization granted October 23, 1997.

**40960806. Carl L. Kresge & Sons, Inc.** (1199 Laurel Run Road, Wilkes-Barre, PA 18702), commencement, operation and restoration of a small noncoal shale quarry operation in Bear Creek Township, **Luzerne County**, affecting 5.0 acres, receiving stream Bear Creek to Lehigh River. Authorization granted September 19, 1996.

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

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rule of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) 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).**

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

**E46-774.** Encroachment Permit. **Tower Bridge Land Holding Associates I**, One Tower Bridge, 100 Front Street, Suite 900, West Conshohocken, PA 19428. To extend, operate and maintain an 84-foot extension of an existing stream enclosure located in and along an unnamed tributary to the Schuylkill River, locally known as

Aramingo Creek (WWF, MF), and within the 100-year floodway of the Schuylkill River. The project consists of an extension of a 5,178-foot long stream enclosure using a 10-foot wide by 12.5-foot high precast concrete box culvert with concrete endwall. This extension will be attached to the downstream terminus of an existing 8-foot wide by 9.41-foot high stone arch stream enclosure. A riprapped energy dissipator will be provided at the end of the stream enclosure. The purpose of this project is to provide access to the proposed Four Tower Bridge Office Building and existing ASTM Building. The permittee will also install several fish enhancement structures to improve habitat along 80 linear feet of the Schuylkill River bank at this site. The site is situated along the southern bank of the Schuylkill River at the confluence with Aramingo Creek, approximately 500 feet northeast from the intersection of the Fayette Street and S. R. 23 (Norristown, PA Quadrangle N: 12.6 inches; W: 8.4 inches) in West Conshohocken Borough, **Montgomery County**.

**E09-751.** Encroachment Permit. **Pennsylvania Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To remove an existing dual pipe culvert and to install and maintain 64 linear feet of 14-foot wide × 7-foot high single cell precast concrete box culvert in and along an unnamed tributary to Neshaminy Creek (AKA Leonards Creek) WWF, MF. Also, to increase the hydraulic efficiency of the culvert, 98 feet of stream channelization will be performed. The invert of the culvert will be depressed one foot below streambed to facilitate fish passage. The proposed structure will be situated 39 feet northward of the existing culvert at a point 2,900 feet southwest of the intersection of Buck Road and Middle Holland Road (Langhorne, PA Quadrangle N: 13.9 inches; W: 11.6 inches) in Northampton Township, **Bucks County**.

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

**E40-463.** Encroachment. **Luzerne County Commissioners**, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, PA 18711. To remove the existing structure and to construct and maintain a single-span prestressed concrete box beam bridge, having a waterway opening width of approximately 30.0 feet and an average underclearance of approximately 12.5 feet, across Solomon Creek. The bridge (County Bridge No. 24005) is located on S. R. 2008 (South Main Street), near the Hanover Township/Wilkes-Barre City boundary (Wilkes-Barre West, PA Quadrangle N: 19.1 inches; W: 4.8 inches), in Hanover Township, **Luzerne County**.

**E40-465.** Encroachment. **Luzerne County Commissioners**, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, PA 18711-1001. To remove the existing structure and to construct and maintain a road crossing of the East Fork Harveys Creek, consisting of a single-span precast concrete slab bridge, having a span of approximately 16 feet and an underclearance of approximately 6 feet. The road crossing (known as County Culvert # 26108) is located on T-605, approximately 1 mile north of the intersection of S. R. 0029 and S. R. 1012 (Harveys Lake, PA Quadrangle N: 3.1 inches; W: 0.3 inch), in Jackson Township, **Luzerne County**.

**E40-467.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To construct and maintain approximately 120 linear feet of channel change in a Tributary to Huntsville Creek, for the purpose of accommodating roadway widening associated with the replace-

ment of an existing road crossing. The realigned channel section will have a trapezoidal cross-section, with R-5 riprap-lined sides having a slope of 1.5:1. The project is located immediately downstream of S. R. 1018, Section 370, Segment 0030, Offset 0000, approximately 0.3 mile northeast of the intersection of S. R. 0415 and S. R. 1018 (Harveys Lake, PA Quadrangle N: 17.7 inches; W: 0.3 inch) in Dallas Township, **Luzerne County**.

**E40-468.** Encroachment. **Conyngham Township**, 10 Pond Hill Road, Box 1, Mocanaqua, PA 18655. To remove the existing structure and to construct and maintain a road crossing of Turtle Creek, consisting of a 10.9-foot by 4.25-foot aluminum box culvert. The project is located on Paradise Avenue, approximately 400 feet northeast of the intersection of S. R. 0239 and S. R. 3004 (Shickshinny, PA Quadrangle N: 3.1 inches; W: 1.8 inches), in Conyngham Township, **Luzerne County**.

**E45-311.** Encroachment. **Pines Cafe, Inc.**, P. O. Box J, Pocono Pines, PA 18350. To place fill in approximately 0.11 acre of wetlands for the purpose of expanding the existing parking lot of the Pines Cafe Restaurant. The project is located at the northeast quadrant of the intersection of S. R. 0940 and S. R. 0423 (Pocono Pines, PA Quadrangle N: 19.2 inches; W: 12.9 inches) in Tobyhanna Township, **Monroe County**. The permittee is required to provide 0.11 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project.

**E48-253.** Encroachment. **Northeastern Equity Associates, Inc.**, 641 Market Street, Bangor, PA 18013. To reestablish an approximate 1,090 l.f. reach of a tributary to Martins Creek and to maintain the channel change and two stream enclosures to original permitted configuration. The construction of this project was authorized by Emergency Permit No. EP4897401 and consists of two 48-inch diameter R.C.P. stream enclosures having lengths of 186 l.f. and 190 l.f. and two trapezoidal, open-channel sections containing a synthetic lining with a bottom width of 4 feet, a minimum depth of 4.3 feet and 1.33 H:1V side slopes. The project is located on the north side of S. R. 0512 along the Consolidated Rail Corporation right-of-way, approximately 0.2 mile west of S. R. 1035 (Broad Street) (Stroudsburg, PA Quadrangle N: 0.7 inch; W: 9.3 inches) in East Bangor Borough, **Northampton County**.

**E58-220.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. Giving its consent to remove the existing structure and to construct and maintain a single-span prestressed concrete spread box beam bridge, having a waterway opening width of approximately 76.7 feet and an underclearance of 13.5 feet, across Starrucca Creek. The bridge is located on S. R. 1009, Section 570, Segment 0130, offset 1954, in the town of Brandt (Susquehanna PA-NY Quadrangle N: 15.5 inches; W: 6.2 inches), in Harmony Township, **Susquehanna County**.

**E64-181.** Encroachment. **Wayne County Commissioners**, Wayne County Courthouse Annex, Honesdale, PA 18431. To remove the existing superstructure and to construct and maintain a single-span steel I-Beam bridge having a span of 21 feet and an underclearance of approximately 6 feet across Wilcox Creek. This project is located along Township Route T-325 (Old Stephens Road) approximately 300 feet west of S. R. 3004 (Sterling, PA Quadrangle N: 21.5 inches; W: 8.5 inches) in Salem and Sterling Townships, **Wayne County**.

**E64-182.** Encroachment. **Russell M. and Marie H. Palmer**, R. R. 4, Honesdale, PA 18431. To place fill in

0.72 acre of wetlands to expand an existing business and construct additional parking area. This project is located in the floodplain of the Lackawaxen River along the southwest side of S. R. 0006, approximately 0.3 mile northeast of S. R. 0652 (White Mills, PA Quadrangle N: 9.2 inches; W: 12.9 inches) in Texas Township, **Wayne County**. The permittee is required to provide 0.74 acre of replacement wetlands.

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

**E08-321.** Encroachment. **Sheshequin Township**, R. R. 1, Box 138B, Ulster, PA 18850. To maintain three stream bed gravel removal sites in Spaulding Creek for a period of 5 years starting at a point 1,200 feet upstream of the S. R. 1043 bridge over Spaulding Creek and ending 3,000 feet downstream (Sayre, PA Quadrangle N: 1.00 inch; W: 1.25 inches) in Sheshequin Township, **Bradford County**.

**E41-406.** Encroachment. **Pa. Department of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To construct and maintain a 6-inch thick reinforced concrete stream bed paving 20 feet long and 13 feet wide to repair scour and to construct and maintain cutoff walls and partial heights adjustment jackets under S. R. 4002 bridge over an unnamed tributary to Hughes Run which is a tributary to Texas Creek located approximately 2 miles south of the village of Lorenton (Morris, PA Quadrangle N: 4.6 inches; W: 4.7 inches) in Pine Township, **Lycoming County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E55-148.** Encroachment. **Pa. Department of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To construct and maintain 250 linear feet of R-8 riprap on the left bank of Silver Run with the associated channel realignment of 175 linear feet located approximately 2,000 feet north on S. R. 2012 from the S. R. 11/15 (Dalmatia, PA Quadrangle N: 14.3 inches; W: 0.2 inch) in Union Township, **Snyder County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

*Southwest Regional Office, Soils & Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E11-252.** Encroachment. **Cambria County Commissioners**, P. O. Box 269, Cambria County Courthouse, Ebensburg, PA 15931. Remove the existing structure, to construct and maintain a single span bridge having a normal span of 84.7 feet and an underclearance of 11.5 feet across North Branch Blacklick Creek and to place and maintain fill in a de minimis area of wetlands less than or equal to 0.05 acre for the purpose of improving transportation safety and roadway standards. This permit also authorizes the construction and maintenance of a temporary roadway crossing consisting of nine 60-inch corrugated metal pipe culverts in North Branch Blacklick Creek at a point approximately 110 feet downstream from the proposed bridge for the purpose of accommodating local traffic during construction. The project is located on T-498, Station 24+42 (Colver, PA Quadrangle N: 11.1 inches; W: 15.1 inches) in Blacklick Township, **Cambria County**.

**E65-667.** Encroachment. **Camp Storage**, R. R. 1, Jeannette, PA 15644. To relocate and maintain approximately 150.0 linear feet of the channel of an unnamed tributary to Byers Run (TSF), to construct and maintain a stream enclosure consisting of 100.0 linear feet of an



8-foot diameter C.M.P. culvert in said stream and to construct and maintain a 12-inch diameter outfall structure on the left bank of said stream to provide access to self storage units (Camp Storage). The project is located north of the intersection of Pleasant Valley Road and Chicken Street (Murrysville, PA Quadrangle N: 1.0 inch; W: 6.8 inches) in Penn Township, **Westmoreland County**.

**E63-436.** Encroachment. **All-Clad Metal Crafters Inc.**, 424 Morganza Road, Canonsburg, PA 15317. To place and maintain fill in approximately 0.16 acre of wetlands (PEM) on the right bank of an unnamed tributary to Chartiers Creek (WWF) for the purpose of expanding an existing facility east of Morganza Road, approximately 6,000 feet south of intersection of Hahn Road and S. R. 519 (Canonsburg, PA Quadrangle N: 5.9 inches; W: 3.9 inches) in Cecil Township, **Washington County**.

**E63-435.** Encroachment. **PA American Water Company**, 410 Cooke Lane, Pittsburgh, PA 15234. To operate and maintain an approximately 100-foot long sheet pile wall and intake structure located along the left bank of the Monongahela River near River Mile 24.8 (Glassport, PA Quadrangle N: 0.0 inch; W: 6.2 inches) in Union Township, **Washington County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E63-439.** Encroachment. **Washington County Commissioners**, 701 Courthouse Square, 100 West Beau Street, Washington, PA 15301. To reconstruct and maintain a bridge (Wyt Sprows Bridge) having a span of 440 feet with a minimum underclearance of 4.4 feet across Robinson Fork Wheeling Creek (WWF). The bridge is located on T-360 and T-307 (Claysville, PA Quadrangle N: 2.1 inches; W: 12.3 inches) in West Finley Township, **Washington County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E30-181.** Encroachment. **Greene County Commissioners**, Greene County Office Building, 93 East High Street, Waynesburg, PA 15370. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 60.0 feet and an underclearance of 8.2 feet across the Pennsylvania Fork of Fish Creek for the purpose of improving transportation safety and roadway standards. The project is located on T-345 approximately 150 feet from its intersection with S. R. 3010 (Hundred, WVA-PA Quadrangle N: 22.15 inches; W: 17.1 inches) in Springhill Township, **Greene County**.

**E65-672.** Encroachment. **Ross Mountain Club**, Ross Mountain Club Road, New Florence, PA 15944-9801. To construct and maintain two bridges as follows: (1) A bridge having a clear span of 34 feet and an underclearance of 7.0 feet across Lick Run (EV) located on a proposed access road at a point approximately 2,800 feet upstream of Tubmill Reservoir. (2) A bridge having a clear span of 36.0 feet and an underclearance of 4.5 feet across Tubmill Creek (EV) located on a proposed access road at a point approximately 2,000 feet upstream of the Tubmill Reservoir. The purpose of the project is to construct a 3,000-foot road to access forest for timber harvesting and recreation (Rachelwood, PA Quadrangle N: 12.6 inches; W: 12.0 inches) in Fairfield Township, **Westmoreland County**. This permit was issued under section 105.13(e)

Small Projects. This permit also includes 401 Water Quality Certification.

#### WATER ALLOCATIONS

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

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

Permits issued on October 17, 1997.

**WA 30-587E.** Water Allocation. **Southwestern Pennsylvania Water Authority, Green County, PA.** The right to withdraw 7.0 million gallons per day of water, as a daily peak, from the Monongahela River, Greene County; and the right to expand public water supply service into Washington and Whiteley Townships.

#### SPECIAL NOTICES

**Submission Date Extension Calendar Year 1996 Applications for Municipal Recycling Program Performance Grant Applications Under Act 101, § 904 The Municipal Waste Planning, Recycling and Waste Reduction Act of 1988**

The Department of Environmental Protection (Department) announces an extension to the deadline for calendar year 1996 Recycling Program Performance Grant applications from municipalities for grant assistance under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101—4000.1904).

The deadline for submission of calendar year 1996 applications has been extended to 3 p.m., December 19, 1997. Applications must be on forms provided by the Department. Applications received by the Department after that date will not be considered. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Grant applications and inquiries concerning this notice should be directed to Carl Hursh, Chief, Recycling and Markets, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7382.

#### Request for Bond Reduction

*Regional Office—Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

On August 12, 1997, the Department of Environmental Protection received a request for a bond reduction from **McDermott, Inc.**, the parent company of the former Babcock and Wilcox facility in Koppel Borough, **Beaver County**, for its hazardous waste management facility (Permit No. PAD987335379). The Department has reviewed the request and has determined that it is consistent with 25 Pa. Code § 267.25.

Comments will be accepted on this request for up to 45 days from the date of this notice. Comments should be sent to the office listed above.

[Pa.B. Doc. No. 97-1793. Filed for public inspection November 7, 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 is listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

#### *Final Technical Guidance—Minor Revision*

DEP ID: 391-2000-002 Title: Implementation Guidance Evaluation & Process Thermal Discharge (316(a)) Federal Water Pollution Act Description: Gives criteria for permitting wastewater discharge after consideration of an evaluation under 33 U.S.C.A. § 1326. Effective Date: April 17, 1997 Page Length: 6 pages Location: Vol 29, Tab 18 Contact: Ken Barta at (717) 787-5267.

DEP ID: 560-0600-105 Title: Interagency Agreement, Waste Management Description: Delineates permitting and inspection responsibilities and establishes coordinating procedures for the mining and solid waste programs. Effective Date: October 31, 1997 Page Length: 7 pages Location: Vol 12, Tab 116 Contact: Dottie Shellehamer at (717) 787-5103.

DEP ID: 562-3900-402 Title: Investigating Citizen's Complaints Description: Describes how mining complaints will be investigated. Effective Date: October 31, 1997 Page Length: 2 pages Location: Vol 12, Tab 29 Contact: Dottie Shellehamer at (717) 787-5103.

DEP ID: 562-3900-403 Title: Citizen's Complaints—Appeal Procedure Description: Establishes guidelines for citizens to request an informal review of a Department investigation of their initial complaint. Effective Date: October 31, 1997 Page Length: 3 pages Location: Vol 12, Tab 30 Contact: Dottie Shellehamer at (717) 787-5103.

DEP ID: 563-2000-105 Title: Coal Exploration by Slope Development Description: Gives conditions under which persons may construct mine slopes or reopen mine slopes for purposes of coal exploration without the need to obtain coal mining activity permits. Effective Date: October 30, 1997 Page Length: 6 pages Location: Vol 12, Tab 43 Contact: Evan Shuster at (717) 787-7846.

DEP ID: 563-2112-212 Title: Evaluation and Approval of Land Use Changes for Surface Coal Mine Operations Description: Specifies procedures and criteria for the evaluation and approval of land use changes as part of the surface coal mine permitting process. Effective Date: October 20, 1997 Page Length: 4 pages Location: Vol 12, Tab 52 Contact: Evan Shuster at (717) 787-7846.

DEP ID: 563-2112-610 Title: Determining Eligibility of Preexisting Pollutational Discharges under Subchapter F of 25 Pa. Code Chapter 87, Subchapter G of 25 Pa. Code Chapter 88 Description: Explains conditions which must be met to qualify for Subchapter F or G authorizations. Effective Date: October 31, 1997 Page Length: 5 pages Location: Vol 12, Tab 78A Contact: Evan Shuster at (717) 787-7846.

#### *Notice of Intent to Develop—New Guidance*

Draft Title: Quality Assurance Work Plan for Unassessed Waters Surveys Description: Provides an overview of Unassessed Waters Survey work including: 1) the objective and scope of these type of surveys; 2) the rationale for survey design, parameter coverage and sampling frequency; and 3) the use of data collected. Anticipated Effective Date: June, 1997 Contact: Richard Shertzer at (717) 783-4423.

#### *Notice of Intent to Rescind*

DEP ID: Memorandum of Understanding: United States Department of Agriculture (USDA) Description: Agreement expired on June 30, 1992, and is no longer in effect or necessary for program operations. Anticipated Effective Date: October 31, 1997 Contact: M.C. McCommons at (717) 787-9582.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1794. Filed for public inspection November 7, 1997, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Changes in Managed Care: Recommendations and Public Hearing

In August, 1997, the Commonwealth began an extensive managed care review process by forming seven work groups to study seven broad issues: consumer issues; data collection; risk assessment (fiscal and financial issues); special needs populations; behavioral health; provider networks and access issues; and quality assurance and utilization standards.

The seven work groups which included representatives of consumers, providers, health insurers and purchasers have generated an initial set of recommendations. The work group recommendations will be available beginning on November 10, 1997, by contacting the Department of Health at (717) 705-0110 or on the Department's Web site @ [http://www.state.pa.us/PA\\_Exec/Health](http://www.state.pa.us/PA_Exec/Health).

The Department will hold a public hearing for the purpose of accepting comments on these recommendations. The hearing will be held on November 25, 1997, from 10 a.m. until 4 p.m. in the second floor auditorium of the Rachel Carson State Office Building, Harrisburg, PA. Persons wishing to testify at the hearing should contact the Department of Health at (717) 705-0110 by November 17, 1997, to reserve a time to present testimony. Oral testimony will be limited to 5 minutes per organization and each organization may have one indi-

vidual present testimony on its behalf. Written copies of testimony are encouraged and should be submitted at the hearing.

Persons wishing to submit written comments directly to the Department should do so by December 1, 1997. Comments should be sent to: Department of Health, Policy Office, P.O. Box 90, Harrisburg, PA 17108.

For additional information, or persons with a disability who require an alternative format of the recommendations (for example, large print, audio tape or braille) or desire to attend the meeting and require an auxiliary aide service, or other accommodation to do so, should contact the Department of Health's Policy Office at (717) 787-3488. 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. 97-1795. Filed for public inspection November 7, 1997, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The contractors referenced have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-11—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), this firm or this person, or any firms, corporations or partnerships in which the firm or person has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Boss Insulation & Roofing, Inc., and W. Max Bossert, Jr. (Fed. ER Tax I. D. Nos. 23-2410800, 23-2079872)	R. D., Box 174B Lewisburg, PA 17837	10/20/97

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 97-1796. Filed for public inspection November 7, 1997, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Peer Groups, Peer Group Medians and Peer Group Prices for General Nursing Facilities, County Nursing Facilities, Hospital-Based Nursing Facilities and Special Rehabilitation Facilities

In accordance with 55 Pa. Code § 1187.95(a)(4), the Department of Public Welfare (Department) announces its

peer groups, peer group medians and peer group prices for general nursing facilities, county nursing facilities, hospital-based nursing facilities and special rehabilitation facilities. The peer groups, peer group medians and peer group prices established under this notice have been calculated as provided by 55 Pa. Code Chapter 1187, 25 Pa.B. 4477 (October 14, 1995), and shall be effective for services rendered from July 1, 1997 through June 30, 1998.

To establish the database for the calculation of peer group medians and prices, the Department used each facility's three most recent audited cost reports that were issued by the Department on or before March 31, 1997 and indexed the costs for each report forward to the common date of December 31, 1997, using the HCFA Nursing Home Without Capital Market Basket Index.

Following is a listing, by group, of the number of facilities with a particular year-end and the inflation factor used to roll the costs of each facility forward to the common date of December 31, 1997.

#### General and County Nursing Facilities

<i>Facility Year End</i>	<i>Number of Facilities*</i>	<i>Inflation Factor</i>
December 31, 1989	1	1.3322
June 30, 1990	2	1.2915
December 31, 1990	8	1.2545
June 30, 1991	5	1.2349
December 31, 1991	25	1.2121
June 30, 1992	32	1.1889
December 31, 1992	250	1.1690
June 30, 1993	252	1.1463
December 31, 1993	303	1.1245
June 30, 1994	251	1.1087
December 31, 1994	300	1.0913
June 30, 1995	241	1.0764
December 31, 1995	57	1.0638

#### Hospital-Based Nursing Facilities

<i>Facility Year End</i>	<i>Number of Facilities*</i>	<i>Inflation Factor</i>
June 30, 1992	3	1.1889
June 30, 1993	25	1.1463
June 30, 1994	25	1.1087
June 30, 1995	22	1.0764

#### Special Rehabilitation Facilities

<i>Facility Year End</i>	<i>Number of Facilities*</i>	<i>Inflation Factor</i>
June 30, 1993	3	1.1463
June 30, 1994	3	1.1087
June 30, 1995	3	1.0764

\*As a result of using the three most recent audited cost reports, the "Number of Facilities" column reflects a number in excess of actual enrolled nursing facilities.

After the database was inflated using the above inflation values, the Department grouped the facilities in the correct geographic and bed size groupings. To establish peer groups, the Department used the most recent MSA group classification as published by the Federal Office of Management and Budget on or before April 1, 1997 to classify each nursing facility into one of three MSA groups or one nonMSA group. Then the Department used the bed complement of the nursing facility on the final day of the reporting period of the most recent audited MA-11 used in the NIS database to classify nursing facilities into one of three bed complement groups. These

groups are 3—119 beds; 120—169; and 270 and over. Peer groups 7 and 10 have been collapsed in accordance with § 1187.94(l)(iv). Peer group 13 is designated for special rehabilitation facilities only and peer group 14 is designated for hospital-based nursing facilities only, regardless of geographic location or bed-size.

Once the database was established and the peer groups determined, the Department then calculated the medians and prices for each peer group. To calculate the resident care cost medians, the Department divided the audited allowable resident care costs for each cost report by the total facility CMI from the available February 1 picture date closest to the midpoint of the cost report period to obtain case-mix neutral total resident care cost for the cost report year. The Department then divided the case-mix neutral total resident care cost for each cost report by the total audited actual resident days for the cost report year to obtain the case-mix neutral resident care cost per diem for the cost report year. The Department calculated the 3-year arithmetic mean of the case-mix neutral resident care cost per diem for each nursing facility to obtain the average case-mix neutral resident care cost per diem of each nursing facility. The Department arrayed the average case-mix neutral resident care cost per diem for each nursing facility within the respective peer groups and determined a median for each peer group.

To calculate the other resident related cost medians, the Department first divided the audited allowable other resident related costs for each cost report by the total audited actual resident days for the cost report year to obtain the other resident related cost per diem for the cost report year. The Department calculated the 3-year arithmetic mean of the other resident related cost for each nursing facility to obtain the average other resident related cost per diem of each nursing facility. The Department arrayed the average other resident related cost per diem for each nursing facility within the respective peer groups and determined a median for each peer group.

To calculate the administrative cost medians, the Department adjusted, as appropriate, the total audited actual resident days for each cost report to a minimum 90% occupancy in accordance with § 1187.23. The Department then divided the audited allowable administrative cost for each cost report by the total audited actual resident days, adjusted to 90% occupancy, if applicable, to obtain the administrative cost per diem for the cost report year. The Department calculated the 3-year arithmetic mean of the administrative cost for each nursing facility to obtain the average administrative cost per diem of each nursing facility. The Department arrayed the average administrative cost per diem for each nursing facility

within the respective peer groups to determine a median for each peer group.

After the medians were determined for each peer group, the Department set prices using the medians. To set peer group prices, the Department multiplied the resident care cost median of each peer group by 1.17 to obtain the resident care cost peer group price; multiplied the other resident related cost median of each peer group by 1.12 to obtain the other resident related peer group price; and, multiplied the administrative cost median of each peer group by 1.04 to obtain the administrative cost peer group price.

The peer groups, peer group medians and peer group prices of general and county nursing facilities, hospital-based and special rehabilitation nursing facilities effective July 1, 1997 are listed in Annex A. The Department will use the peer groups, peer group medians and peer group prices to determine case-mix rates for nursing facilities for the period July 1, 1997 through June 30, 1998.

Public comment regarding this notice may be sent to Connie L. Pretz, Medical Assistance Program Specialist, Department of Public Welfare, Division of Long Term Care Provider Services, Post Office Box 8025, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800) 654-5988 (voice users). If persons require another alternative format, contact Thomas Vracarich at (717) 783-2209.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-154. (1) General Fund; (2) Implementing Year 1997-98 is \$14,441,000; (3) 1st Succeeding Year 1998-99 is \$15,057,000; 2nd Succeeding Year 1999-00 is \$15,700,000; 3rd Succeeding Year 2000-01 is \$16,370,000; 4th Succeeding Year 2001-02 is \$17,069,000; 5th Succeeding Year 2002-03 is \$17,798,000; (4) Fiscal Year 1996-97 \$591,910,000; Fiscal Year 1995-96 \$648,549,000; Fiscal Year 1994-95 \$593,822,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. There are sufficient funds included in the 1997-1998 budget for this change.

**Annex A**

**TITLE 55. PUBLIC WELFARE**  
**PART III. MEDICAL ASSISTANCE MANUAL**  
**CHAPTER 1187. NURSING FACILITY SERVICES**  
**Subchapter G. RATE SETTING**  
**§ 1187.96. Price and rate setting computations.**

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
1	00756499	BEAVER VALLEY GERIATRIC CENTER	12/31/94	12/31/93	12/31/92
1	01116388	CARE PAVILION OF WALNUT PARK, INC	06/30/95	06/30/94	06/30/93
1	00984672	CHESTER CARE CENTER	06/30/95	06/30/94	06/30/93
1	00751859	FAIR ACRES GERIATRIC CENTER	12/31/94	12/31/93	12/31/92
1	00574825	HOME FOR THE JEWISH AGED—ROBINSON BLDG	06/30/95	06/30/94	06/30/93
1	00757093	IMMACULATE MARY HOME	06/30/95	06/30/94	06/30/93
1	00984215	INTEGRATED HLTH SRVCS—PA BROOMALL	06/30/94	06/30/93	06/30/92

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
1	00756541	JEWISH HOME AND HOSP FOR AGED—PITTSBURGH	06/30/95	06/30/94	06/30/93
1	00947848	JOHN J KANE REGIONAL CENTER—GLEN HAZEL	12/31/94	12/31/93	12/31/92
1	00947866	JOHN J KANE REGIONAL CENTER—MCKEESPORT	12/31/94	12/31/93	12/31/92
1	00934115	JOHN J KANE REGIONAL CENTER—ROSS TOWNSHIP	12/31/94	12/31/93	12/31/92
1	00936808	JOHN J KANE REGIONAL CENTER—SCOTT TOWNSHIP	12/31/94	12/31/93	12/31/92
1	00984574	MANCHESTER HOUSE NURSING AND CONV CENTER	06/30/95	06/30/94	06/30/93
1	00747758	MONTGOMERY COUNTY GERIATRIC & REHAB CTR	12/31/94	12/31/93	12/31/92
1	00748147	NESHAMINY MANOR HOME	12/31/95	12/31/94	12/31/93
1	00756158	PHILADELPHIA NURSING HOME	12/31/94	12/31/93	12/31/92
1	00755437	POCOPSON HOME	12/31/94	12/31/93	12/31/92
1	00749430	SAINT FRANCIS COUNTRY HOUSE	06/30/95	06/30/94	06/30/93
1	00755197	SAINT JOHN LUTHERAN CARE CENTER	06/30/95	06/30/94	06/30/93
1	00576202	WESTMORELAND MANOR	12/31/94	12/31/93	12/31/92
PG 1	Resident Care Median \$72.77	Other Resident Care Median \$34.91	Administrative Median \$12.17		
PG 1	Resident Care Price \$85.14	Other Resident Care Price \$39.10	Administrative Price \$12.66		
2	00633739	ASBURY HEALTH CENTER	12/31/94	12/31/93	12/31/92
2	00756210	ASHTON HALL NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	01027036	ATTLEBORO NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
2	01185670	BALA NURSING AND RETIREMENT CENTER	06/30/95	06/30/94	06/30/93
2	00914319	BALDOCK HEALTH CARE CENTER	06/30/95	06/30/94	06/30/93
2	01104387	BALDWIN HEALTH CENTER, INC	06/30/95	06/30/94	06/30/93
2	00745083	BAPTIST HOME OF PHILADELPHIA, THE	06/30/95	06/30/94	06/30/93
2	00974694	BAPTIST HOMES NURSING CENTER	06/30/95	06/30/94	06/30/93
2	00857301	BEAVER VALLEY NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	01599337	BELVEDERE NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	00972493	BEVERLY MANOR—MONROEVILLE	12/31/95	12/31/94	12/31/93
2	00984583	BISHOP NURSING HOME, THE	06/30/95	06/30/94	06/30/93
2	01084640	BOULEVARD NURSING HOME	06/30/94	06/30/93	06/30/92
2	00987164	BRANDYWINE HALL	06/30/95	06/30/94	06/30/93
2	00940856	BRIARCLIFF PAVILION FOR SPECIALIZED CARE	12/31/94	12/31/93	12/31/92
2	00790866	BRIARLEAF NURSING AND CONVAL CENTER	06/30/95	06/30/94	06/30/93
2	00757422	BROOMALL PRESBYTERIAN HOME	12/31/94	12/31/93	12/31/92
2	01129330	BUCKINGHAM VALLEY REHAB AND NURSING CTR	06/30/95	06/30/94	06/30/93
2	00757549	CATHEDRAL VILLAGE	06/30/94	06/30/93	06/30/92
2	01599346	CHAPEL MANOR NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	00751017	CHATHAM ACRES, INC	06/30/95	06/30/94	06/30/93

## NOTICES

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
2	01217710	CHELTENHAM NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
2	01145559	CHELTENHAM YORK ROAD NSG & REHAB CENTER	06/30/95	06/30/94	06/30/93
2	01458553	CLIVEDEN CONVALESCENT CENTER	06/30/95	06/30/93	06/30/92
2	01396808	COBBS CREEK NURSING CENTER MANAGER	06/30/95	06/30/94	06/30/93
2	00982838	COUNTRY MEADOWS OF SOUTH HILLS	12/31/94	12/31/93	12/31/92
2	00833284	CRESTVIEW CENTER	06/30/95	06/30/94	06/30/93
2	01113519	DOYLESTOWN MANOR	12/31/95	12/31/94	12/31/93
2	00860272	DRESHER HILL HEALTH AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	01440307	ELMIRA JEFFRIES MEMORIAL HOME MGR	12/31/94	12/31/92	12/31/91
2	00744970	EVANGELICAL MANOR	12/31/94	12/31/93	12/31/92
2	00987155	FAIRVIEW CARE CENTER OF BETHLEHEM PIKE	06/30/95	06/30/94	06/30/93
2	00987173	FAIRVIEW CARE CENTER OF PAPERMILL ROAD	06/30/95	06/30/94	06/30/93
2	00974273	FAYETTE HEALTH CARE CENTER	12/31/95	12/31/94	12/31/93
2	00912074	FORBES NURSING CENTER	06/30/95	06/30/94	06/30/93
2	00974854	GERMANTOWN HOME	06/30/95	06/30/94	06/30/93
2	01005048	GOLDEN SLIPPER CLUB UPTOWN HOME FOR AGED	06/30/95	06/30/94	06/30/93
2	00951214	GREEN ACRES—IVY HILL NURSING HOME	06/30/95	06/30/94	06/30/93
2	01458141	GREENERY REHAB AND SNC AT MEADOWLAND	06/30/95	12/31/91	12/31/90
2	00791095	GREENLEAF NURSING HOME AND CONVAL CENTER	06/30/95	06/30/94	06/30/93
2	00931561	GREENSBURG NURSING AND CONVAL CENTER INC	12/31/93	12/31/92	12/31/91
2	00757487	GWYNEDD SQUARE CTR FOR NSG & CONVAL CARE	06/30/95	06/30/94	06/30/93
2	01150343	HARSTON HALL NURSING AND CONVAL HOME	06/30/95	06/30/94	06/30/93
2	01005093	HEARTLAND HEALTH CARE CENTER	06/30/95	06/30/94	06/30/93
2	01268915	HEMPFIELD MANOR	12/31/94	12/31/93	12/31/91
2	01248609	HERITAGE SHADYSIDE, THE	06/30/95	06/30/94	06/30/93
2	00810495	HILLCREST CENTER	06/30/95	06/30/94	06/30/93
2	00899203	HOMESTEAD CENTER	06/30/94	06/30/93	06/30/92
2	00998892	HUMBERT LANE HEALTH CARE CENTER	06/30/95	06/30/94	06/30/93
2	01470511	INTEGRATED HLTH SRVCS—BRYN MAWR CHTEAU	12/31/93	12/31/92	12/31/91
2	00984224	INTEGRATED HLTH SRVCS—CHESTNUT HILL	06/30/94	06/30/93	06/30/92
2	01239593	INTEGRATED HLTH SRVCS—GRTR PITTSBURGH	12/31/94	12/31/93	12/31/92
2	01075875	INTEGRATED HLTH SRVCS—MOUNTAIN VIEW	12/31/94	12/31/93	12/31/92
2	01468649	INTEGRATED HLTH SRVCS—PA MARPLE	12/31/93	12/31/92	12/31/91
2	01470520	INTEGRATED HLTH SRVCS—PA PLYMOUTH	06/30/94	06/30/93	06/30/92

## NOTICES

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
2	00985938	INTEGRATED HLTH SRVCS—WHITEMARSH	06/30/94	06/30/93	06/30/92
2	01291299	LAFAYETTE, THE	06/30/95	06/30/94	06/30/93
2	00860675	LANGHORNE GARDENS REHAB AND NURSING CTR	06/30/95	06/30/94	06/30/93
2	00757413	LEMINGTON CENTER	06/30/95	06/30/94	06/30/93
2	01096599	LIFEQUEST NURSING CENTER	06/30/93	06/30/92	06/30/91
2	00756532	LITTLE FLOWER MANOR	06/30/95	06/30/94	06/30/93
2	00986532	LOGAN SQUARE EAST	12/31/94	12/31/93	12/31/92
2	00935408	LUTHER WOODS CONVALESCENT CENTER	12/31/94	12/31/93	12/31/92
2	00750815	LUTHERAN WELFARE CONCORDIA HOME	06/30/95	06/30/94	06/30/93
2	01296876	MAIN LINE NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/92
2	00988635	MAJESTIC OAKS	06/30/95	06/30/94	06/30/93
2	00747346	MANATAWNY MANOR INC	06/30/95	06/30/94	06/30/93
2	01085530	MANORCARE HEALTH SVCS—BETHEL PARK	12/31/94	12/31/93	12/31/92
2	01106149	MANORCARE HEALTH SVCS—GREEN TREE	12/31/94	12/31/93	12/31/92
2	01434990	MANORCARE HEALTH SVCS—HUNTINGDON VALLEY	12/31/94		
2	01211592	MANORCARE HEALTH SVCS—KING OF PRUSSIA	12/31/94	12/31/93	12/31/92
2	01169621	MANORCARE HEALTH SVCS—LANSDALE	12/31/94	12/31/93	12/31/92
2	01155671	MANORCARE HEALTH SVCS—MCMURRAY	12/31/94	12/31/93	12/31/92
2	01223379	MANORCARE HEALTH SVCS—NORTH HILLS	12/31/94	12/31/93	12/31/92
2	00855100	MANORCARE HEALTH SVCS—POTTSTOWN	12/31/94	12/31/93	12/31/92
2	01191909	MANORCARE HEALTH SVCS—YARDLEY	12/31/94	12/31/93	12/31/92
2	00857286	MANORCARE HEALTH SVCS—YEADON	12/31/94	12/31/93	12/31/92
2	01460257	MAPLEWOOD MANOR CONVALESCENT CENTER	06/30/95	06/30/93	12/31/91
2	00748951	MARIAN MANOR CORPORATION	06/30/95	06/30/94	06/30/93
2	01470683	MARINER HEALTH CARE OF WEST HILLS	06/30/95	06/30/94	06/30/93
2	00969504	MAYO CENTER	06/30/95	06/30/94	06/30/93
2	00747687	MERCY DOUGLASS HUMAN SERVICES CENTER	06/30/95	06/30/94	06/30/93
2	01616170	METHODIST HOSPITAL NURSING CENTER	06/30/95	06/30/94	06/30/93
2	01113036	MOUNT LEBANON MANOR CONVALESCENT CENTER	12/31/95	12/31/94	12/31/93
2	00752112	MOUNT MACRINA MANOR NURSING HOME	06/30/95	06/30/94	06/30/93
2	01113466	MURRAY MANOR HEALTH AND REHAB CENTER	12/31/95	12/31/94	12/31/93
2	01113045	NORTH PENN CONVALESCENT CENTER	12/31/95	12/31/94	12/31/93
2	01506131	NORTHWOOD NURSING AND CONVALESCENT CTR	12/31/93	12/31/92	12/31/91
2	00751204	OXFORD HEALTH CENTER	12/31/94	12/31/93	12/31/92
2	00757600	PARK PLEASANT HEALTH CARE FACILITY	06/30/95	06/30/94	06/30/93
2	00756640	PASSAVANT RETIREMENT AND HEALTH CENTER	06/30/95	06/30/94	06/30/93
2	01293963	PAUL'S RUN	12/31/94	12/31/93	
2	01177329	PEMBROOKE HEALTH AND REHAB RESIDENCE	06/30/95	06/30/94	06/30/93

## NOTICES

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
2	01064325	PENN CENTER FOR REHABILITATION AND CARE	06/30/95	06/30/94	06/30/93
2	01440924	PENNSBURG MANOR	06/30/95	06/30/93	06/30/92
2	01113500	PHOENIXVILLE CONVALESCENT MANOR	12/31/95	12/31/94	12/31/93
2	01294817	PINE RUN HEALTH CENTER	06/30/95	06/30/94	12/31/91
2	00974489	PRESBYTERIAN MED CENTER—WASHINGTON, PA	12/31/94	12/31/93	12/31/92
2	01033893	PRESBYTERIAN MEDICAL CENTER AT OAKMONT	12/31/94	12/31/93	12/31/92
2	01177347	PROSPECT PARK HEALTH AND REHAB RESIDENCE	06/30/95	06/30/94	06/30/93
2	01217685	PROVIDENCE HEALTH CARE CENTER	12/31/94	12/31/93	12/31/92
2	01193912	QUAKERTOWN MANOR CONVAL AND REHAB CENTER	12/31/94	12/31/93	12/31/92
2	00757262	REGENCY HALL NURSING HOME, INC	06/30/95	06/30/94	06/30/93
2	00750744	REGINA COMMUNITY NURSING CENTER	06/30/95	06/30/94	06/30/93
2	01201783	RIDGE CREST NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	00969999	RITTENHOUSE CARE CENTER	06/30/95	06/30/94	06/30/93
2	00993831	RIVER'S EDGE NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
2	01056092	RIVERSIDE NURSING CENTER, INC	12/31/94	06/30/93	06/30/92
2	01207938	ROCHESTER MANOR	06/30/95	06/30/94	06/30/93
2	01402315	ROSLYN NURSING AND REHAB CENTER	06/30/94	06/30/92	06/30/91
2	00749251	RYDAL PARK OF PHILADELPHIA PRSBYTR HOMES	12/31/94	12/31/93	12/31/92
2	00756980	SACRED HEART MANOR	06/30/95	06/30/94	06/30/93
2	00755295	SAINT ANNE HOME	06/30/95	06/30/94	06/30/93
2	00750987	SAINT BARNABAS, INC	06/30/95	06/30/94	06/30/93
2	01150684	SAINT FRANCIS NURSING CENTER, EAST	06/30/95	06/30/94	06/30/93
2	01233052	SAINT FRANCIS NURSING CENTER, NORTH	06/30/95	06/30/94	06/30/93
2	00750824	SAINT IGNATIUS NURSING HOME	06/30/94	06/30/93	06/30/92
2	00751269	SAINT JOHN NEUMANN NURSING HOME	06/30/95	06/30/94	06/30/93
2	01279703	SAINT JOSEPH NURSING AND HEALTH CARE CTR	12/31/94	12/31/93	12/31/92
2	00751349	SAINT JOSEPH'S MANOR	06/30/94	06/30/93	06/30/92
2	01163341	SAINT MARGARET SENECA PLACE	06/30/95	06/30/94	06/30/93
2	01186041	SAINT MARTHA MANOR	06/30/95	06/30/94	06/30/93
2	00749162	SAINT MARY'S MANOR	06/30/95	06/30/94	06/30/93
2	01419822	SANATOGA MANOR	06/30/95		
2	00751920	SAUNDERS HOUSE	06/30/95	06/30/94	06/30/93
2	01004846	SHADYSIDE NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	01220519	SIDNEY SQUARE CONVALESCENT CENTER	12/31/94	12/31/93	12/31/92
2	00748011	SILVER LAKE CENTER	06/30/94	06/30/93	06/30/92
2	00969513	SILVER STREAM NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
2	0748568	SIMPSON HOUSE, INC	12/31/94	12/31/93	12/31/92
2	01035539	STAPELEY IN GERMANTOWN	06/30/95	06/30/94	06/30/93
2	01002547	STEPHEN SMITH HOME FOR THE AGED	06/30/95	06/30/94	06/30/93



## NOTICES

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
	2 00750851	SUNNYVIEW HOME—BUTLER COUNTY HOME	12/31/94	12/31/93	12/31/92
	2 0931543	SYCAMORE CREEK NURSING CENTER	06/30/95	06/30/94	06/30/93
	2 00749108	TEL HAI NURSING CENTER, INC	06/30/95	06/30/94	06/30/93
	2 01426157	TOWNE MANOR EAST	12/31/94	12/31/92	12/31/91
	2 01426371	TOWNE MANOR WEST	12/31/94	12/31/92	12/31/91
	2 00860307	TOWNSHIP MANOR HEALTH AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	2 01184557	TUCKER HOUSE	06/30/95	06/30/94	06/30/93
	2 00943624	VALLEY CARE NURSING HOME, INC	06/30/95	06/30/94	06/30/93
	2 00860263	VALLEY MANOR NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	2 01024956	VALLEY VIEW NURSING HOME	12/31/95	12/31/94	12/31/93
	2 00756971	VINCENTIAN HOME	06/30/95	06/30/94	06/30/93
	2 01006199	WALLINGFORD NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	2 00757048	WASHINGTON COUNTY HEALTH CENTER	12/31/94	12/31/93	12/31/92
	2 00987870	WEST HAVEN NURSING HOME	06/30/95	06/30/94	06/30/93
	2 00958930	WEXFORD HOUSE	06/30/95	06/30/94	06/30/93
	2 01213550	WIGHTMAN CENTER FOR NURSING AND REHAB	12/31/94	12/31/93	12/31/92
	2 01592793	WOODHAVEN CARE CENTER	06/30/95	06/30/94	06/30/93
	2 00754959	ZOHLMAN NURSING HOME	06/30/95	06/30/94	06/30/93
PG 2	Resident Care Median	Other Resident Care Median	Administrative Median		
	\$61.01	\$26.82	\$12.70		
PG 2	Resident Care Price	Other Resident Care Price	Administrative Price		
	\$71.38	\$30.04	\$13.21		
	3 01432495	AMBLER REST CENTER	06/30/95		
	3 00965461	AMERICAN TRANSITIONAL CARE—OAKMONT	12/31/95	12/31/94	12/31/93
	3 00755301	ARTMAN LUTHERAN HOME	06/30/92	06/30/91	06/30/90
	3 00757333	AUTUMN GROVE CARE CENTER	06/30/95	06/30/94	06/30/93
	3 01013335	BELAIR HEALTH AND REHABILITATION CENTER	06/30/95	06/30/94	06/30/93
	3 01149772	BELLE HAVEN	12/31/94	12/31/93	12/31/92
	3 00747060	BETHLEN HM OF THE HUNGARIAN RFRMD FED	12/31/95	12/31/94	12/31/93
	3 01439727	BRINTON MANOR	12/31/94		
	3 01297256	BRITTANY POINTE ESTATES	12/31/94	12/31/93	12/31/91
	3 01030200	CANTERBURY PLACE	12/31/95	12/31/94	12/31/93
	3 00748174	CHICORA MEDICAL CENTER	06/30/95	06/30/94	12/31/92
	3 00745790	CHRIST'S HOME RETIREMENT CENTER	06/30/95	06/30/94	06/30/93
	3 01098575	COLLINS HEALTH CENTER	12/31/95	12/31/94	12/31/93
	3 00912092	CONNER-WILLIAMS NURSING HOME	06/30/95	06/30/94	06/30/93
	3 00891143	COVENTRY MANOR NURSING HOME	06/30/95	06/30/94	06/30/93
	3 00887928	DOCK TERRACE	06/30/95	06/30/94	06/30/93
	3 01493427	EDGEHILL NURSING AND REHAB CENTER	06/30/94	06/30/93	06/30/92
	3 00756013	EDGEWOOD NURSING CENTER	06/30/95	06/30/94	06/30/93
	3 01233606	ELDERCREST NURSING CENTER	06/30/95	06/30/94	06/30/93

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
3	00756864	ELIZA CATHCART HEALTH CENTER	12/31/94	12/31/93	12/31/92
3	00795441	ELM TERRACE GARDENS	06/30/95	06/30/94	06/30/93
3	00906489	EVERGREEN NURSING CENTER	12/31/94	12/31/93	12/31/92
3	01465692	FAIR WINDS MANOR	06/30/95	06/30/94	06/30/93
3	00745092	FREDERICK MENNONITE COMMUNITY	12/31/94	12/31/93	12/31/92
3	01145601	FRIENDSHIP VILLAGE OF SOUTH HILLS	12/31/93	12/31/92	12/31/90
3	00858050	GOLFVIEW MANOR NURSING HOME	06/30/95	06/30/94	06/30/93
3	01188556	HARMON HOUSE CONVALESCENT CENTER	12/31/94	12/31/93	12/31/92
3	00746939	HAVENCREST NURSING CENTER	06/30/95	06/30/94	06/30/93
3	01455847	HAVERFORD NURSING & REHABILITATION CTR	06/30/95		
3	01541480	HENRY CLAY VILLA	06/30/93	06/30/92	06/30/91
3	01003580	HERITAGE TOWERS	12/31/94	12/31/93	12/31/92
3	01120863	HICKORY HOUSE NURSING HOME	12/31/94	12/31/93	12/31/92
3	01289165	HIGHLAND CENTER, GENESIS ELDERCARE NTWRK	06/30/94	06/30/93	06/30/92
3	00747186	HOLY FAMILY HOME	12/31/94	12/31/93	12/31/92
3	01194820	HOPKINS HOUSE NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
3	01118408	HORIZON SENIOR CARE	06/30/95	06/30/94	06/30/93
3	01473667	JEFFERSON HILLS MANOR	06/30/95		
3	00941700	KADE NURSING HOME	12/31/94	12/31/93	12/31/92
3	00754574	KEARSLEY LONG TERM CARE CENTER	06/30/95	06/30/94	06/30/93
3	00747990	LAFAYETTE MANOR, INC	12/31/94	12/31/93	12/31/92
3	01193171	LAUREL RIDGE NURSING AND REHAB CENTER	06/30/95	12/31/93	12/31/92
3	01625929	LGAR HEALTH AND REHABILITATION CENTER	12/31/94	12/31/93	12/31/92
3	00750790	LITTLE SISTERS OF THE POOR	12/31/95	12/31/94	12/31/93
3	01258140	LOYALHANNA CARE CENTER	12/31/94	12/31/93	12/31/92
3	00750388	LUTHERAN COMM AT TELFORD HLTHCRE CTR INC	06/30/95	06/30/94	06/30/93
3	00754897	MARWOOD REST HOME, INC	06/30/95	06/30/94	06/30/93
3	00746385	MARY J DREXEL HOME	12/31/94	12/31/93	12/31/92
3	00747874	MASONIC HOME OF PENNSYLVANIA	12/31/94	12/31/93	12/31/92
3	01275876	MCMURRAY HILLS MANOR	12/31/94	12/31/93	
3	01118426	MEADOWCREST NURSING CENTER	06/30/95	06/30/94	06/30/93
3	01514803	NAAMANS CREEK COUNTRY MANOR	12/31/94	12/31/93	12/31/92
3	01036170	OAK HILL NURSING CENTER	06/30/95	06/30/94	06/30/93
3	01177392	PENNSYLVANIA HOSPITAL SNF	06/30/95	06/30/94	06/30/92
3	00654855	PETER BECKER COMMUNITY	06/30/95	06/30/94	06/30/93
3	00749476	PHILADELPHIA PROTESTANT HOME	12/31/94	12/31/93	12/31/92
3	00750771	PICKERING MANOR HOME	06/30/95	06/30/94	06/30/93
3	00795183	PRESBYTERIAN HOME AT 58TH STREET	12/31/94	12/31/93	12/31/92
3	00757511	REDSTONE HIGHLANDS HEALTH CARE CENTER	06/30/95	06/30/94	06/30/93
3	00798677	REFORMED PRESBYTERIAN HOME	12/31/94	12/31/93	12/31/92
3	00749850	REGINA COMMUNITY NURSING CENTER	06/30/95	06/30/94	06/30/93

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
	3 01129340	RICHBORO CARE CENTER	06/30/95	06/30/94	06/30/93
	3 00750931	ROCKHILL MENNONITE COMMUNITY	06/30/95	06/30/94	06/30/93
	3 01113223	ROSEMONT MANOR	12/31/95	12/31/94	12/31/93
	3 00749940	SAINT JOSEPH HOME FOR THE AGED	06/30/95	06/30/94	06/30/93
	3 01019704	SAXONY HEALTH CENTER	12/31/94	12/31/93	12/31/92
	3 00882411	SHERWOOD OAKS	06/30/95	06/30/94	06/30/93
	3 01005039	SKY VUE TERRACE	06/30/95	06/30/94	06/30/93
	3 01017002	SOUDERTON MENNONITE HOMES	06/30/95	06/30/94	06/30/93
	3 01451688	SOUTH FAYETTE NURSING CENTER	06/30/95	06/30/93	12/31/90
	3 01113439	SOUTH HILLS HEALTH AND REHAB CENTER	12/31/95	12/31/94	12/31/93
	3 01101732	SOUTHWESTERN NURSING HOME & REHAB CENTER	06/30/95	12/31/93	12/31/92
	3 00860290	STATESMAN HEALTH AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	3 01291510	STENTON HALL NURSING AND CONVAL CENTER	12/31/95	12/31/94	12/31/93
	3 01216795	VALENCIA WOODS NURSING CENTER	06/30/95	06/30/94	06/30/93
	3 00750207	VILLA DEMARILLAC NURSING HOME, INC	06/30/95	06/30/94	06/30/93
	3 01026825	WAYNE CENTER	06/30/94	06/30/93	06/30/92
	3 01301134	WILKINS HOUSE, THE	12/31/94		
	3 00991944	WILLIS NURSING CENTER	06/30/95	06/30/94	06/30/93
	3 00756523	WYNCOTE CHURCH HOME	06/30/95	06/30/94	06/30/93
PG 3	Resident Care Median \$59.10	Other Resident Care Median \$27.68	Administrative Median \$12.03		
PG 3	Resident Care Price \$69.15	Other Resident Care Price \$31.00	Administrative Price \$12.51		
	4 01157700	ALLIED SERVICES SKILLED NURSING CENTER	06/30/95	06/30/94	06/30/93
	4 00576310	BERKS HEIM	12/31/94	12/31/93	12/31/92
	4 01112997	BLUE RIDGE HAVEN CONVAL CENTER—WEST	12/31/95	12/31/94	12/31/93
	4 00755473	BRETHREN HOME, THE	06/30/95	06/30/94	06/30/93
	4 00745299	CEDAR HAVEN	12/31/94	12/31/93	12/31/92
	4 00575770	CEDARBROOK	12/31/94	12/31/93	12/31/92
	4 00745922	CONESTOGA VIEW	12/31/94	12/31/93	12/31/92
	4 00749064	CUMBERLAND COUNTY NURSING HOME	12/31/94	12/31/93	12/31/92
	4 00744872	DAUPHIN MANOR	12/31/94	12/31/93	12/31/92
	4 00751151	GRACEDALE—NORTHAMPTON COUNTY HOME	12/31/94	12/31/93	12/31/92
	4 00751741	LAUREL CREST MANOR, THE	12/31/94	12/31/93	12/31/92
	4 00754636	MASONIC HOMES	12/31/94	12/31/93	12/31/92
	4 00754814	MOUNTAIN VIEW MANOR	12/31/94	12/31/93	12/31/92
	4 01039117	PHOEBE HOME, INC	06/30/95	06/30/94	06/30/93
	4 00754583	PLEASANT RIDGE MANOR EAST/WEST	12/31/94	12/31/93	12/31/92
	4 00752275	VALLEY CREST NURSING HOME	12/31/94	12/31/93	12/31/92
	4 00750940	YORK COUNTY NURSING HOME	12/31/94	12/31/93	12/31/92
PG 4	Resident Care Median \$75.68	Other Resident Care Median \$30.90	Administrative Median \$ 9.67		
PG 4	Resident Care Price \$88.55	Other Resident Care Price \$34.61	Administrative Price \$10.06		

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
5	01007632	ABINGTON MANOR	12/31/93	12/31/92	12/31/91
5	01113546	ADAMS MANOR	12/31/95	12/31/94	12/31/93
5	00925715	BEVERLY MANOR	12/31/95	12/31/94	12/31/93
5	01113009	BEVERLY MANOR OF LANCASTER	12/31/95	12/31/94	12/31/93
5	00942091	BIRCHWOOD NURSING AND REHAB CENTER	12/31/94	06/30/93	12/31/91
5	00910131	BLOOMSBURG HEALTH CARE CENTER	12/31/94	12/31/93	12/31/92
5	00744059	BRETHREN VILLAGE	06/30/95	06/30/94	06/30/93
5	00745477	CARBON COUNTY HOME FOR THE AGED	12/31/94	12/31/93	12/31/92
5	01009870	CARPENTER CARE CENTER	12/31/95	12/31/94	12/31/93
5	00746240	COLONIAL MANOR NURSING HOME	12/31/94	12/31/93	12/31/92
5	00747426	CORNWALL MANOR	12/31/94	12/31/93	12/31/92
5	01076228	CORRY MANOR	12/31/94	12/31/93	12/31/92
5	01426291	DORRANCE MANOR	12/31/92	12/31/91	12/31/90
5	01024606	EAST MOUNTAIN MANOR	12/31/95	12/31/94	12/31/93
5	01145675	EASTON NURSING CENTER	06/30/95	06/30/94	06/30/93
5	01076237	EDINBORO MANOR	12/31/94	12/31/93	12/31/92
5	01253725	EPHRATA MANOR	12/31/94	12/31/93	12/31/92
5	00744999	EVANGELICAL CONG CHURCH RETRMNT VILLAGE	12/31/95	12/31/94	12/31/93
5	01076246	FAIRVIEW MANOR	12/31/94	12/31/93	12/31/92
5	01416043	FAIRVIEW RETIREMENT COMMUNITY, INC	06/30/93	06/30/92	12/31/90
5	01134930	FELLOWSHIP MANOR	06/30/95	06/30/94	06/30/93
5	00949145	FREY VILLAGE	12/31/94	12/31/93	12/31/92
5	00969489	HAMILTON ARMS CENTER	06/30/95	06/30/94	06/30/93
5	00886297	HANOVER HALL	12/31/94	12/31/93	12/31/92
5	01525487	HARRISON HOUSE	12/31/94	12/31/93	12/31/92
5	00908394	HAZLETON NURSING & GERIATRIC CENTER	06/30/95	06/30/94	06/30/93
5	00756720	HEATHERBANK	12/31/94	12/31/93	12/31/92
5	00889744	HIGHLAND MANOR NURSING AND CONVAL CENTER	06/30/95	06/30/94	06/30/93
5	00755240	HOLIDAY MANOR	06/30/95	06/30/94	06/30/93
5	00965229	HOLY FAMILY MANOR, INC	12/31/94	12/31/93	12/31/92
5	01568180	HOMEWOOD AT PLUM CREEK	12/31/94	12/31/93	12/31/92
5	01060157	INTEGRATED HLTH SRVCS—ERIE BAYSIDE	12/31/94	12/31/93	12/31/92
5	00974700	INTEGRATED HLTH SRVCS—HERSHEY WDLNDS	12/31/94	12/31/93	12/31/92
5	00747284	JEWISH HOME OF EASTERN PENNSYLVANIA	12/31/94	12/31/93	12/31/92
5	00747275	JEWISH HOME OF GREATER HARRISBURG	06/30/95	06/30/94	06/30/93
5	00985197	KUTZTOWN MANOR	06/30/95	06/30/94	06/30/93
5	00757182	LACKAWANNA COUNTY HEALTH CARE CENTER	12/31/94	12/31/93	12/31/92
5	00756926	LANCASHIRE HALL	12/31/94	12/31/93	12/31/92
5	00756612	LAUREL HILL, INC	06/30/95	06/30/94	06/30/93
5	01283608	LAUREL NURSING AND REHABILITATION CENTER	12/31/94	12/31/93	12/31/91
5	00946090	LIBERTY NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93

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5	00751302	LITTLE FLOWER MANOR OF DIOCESE SCRANTON	12/31/94	12/31/93	12/31/92
5	00750898	LUTHERAN HOME AT TOPTON	12/31/94	12/31/93	12/31/92
5	00755277	MAHONING VALLEY NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
5	01134985	MANORCARE HEALTH SVCS—ALLENTOWN	12/31/94	12/31/93	12/31/92
5	00860657	MANORCARE HEALTH SVCS—BETHLEHEM I	12/31/94	12/31/93	12/31/92
5	00855174	MANORCARE HEALTH SVCS—BETHLEHEM II	12/31/94	12/31/93	12/31/92
5	01106891	MANORCARE HEALTH SVCS—CARLISLE	12/31/94	12/31/93	12/31/92
5	00854490	MANORCARE HEALTH SVCS—DALLASTOWN	12/31/94	12/31/93	12/31/92
5	00879022	MANORCARE HEALTH SVCS—EASTON	12/31/94	12/31/93	12/31/92
5	00854480	MANORCARE HEALTH SVCS—HARRISBURG	12/31/94	12/31/93	12/31/92
5	00854604	MANORCARE HEALTH SVCS—KINGSTON	12/31/94	12/31/93	12/31/92
5	00960518	MANORCARE HEALTH SVCS—KINGSTON COURT	06/30/95	06/30/94	06/30/93
5	00855094	MANORCARE HEALTH SVCS—LAURELDALE	12/31/94	12/31/93	12/31/92
5	00854542	MANORCARE HEALTH SVCS—LEBANON	12/31/94	12/31/93	12/31/92
5	00882402	MANORCARE HEALTH SVCS—SINKING SPRING	12/31/94	12/31/93	12/31/92
5	00855067	MANORCARE HEALTH SVCS—WEST READING NORTH	12/31/94	12/31/93	12/31/92
5	00854515	MANORCARE HEALTH SVCS—WHITEHALL	12/31/94	12/31/93	12/31/92
5	00952060	MANORCARE HEALTH SVCS—YORK NORTH	06/30/95	06/30/94	06/30/93
5	00952051	MANORCARE HEALTH SVCS—YORK SOUTH	06/30/95	06/30/94	06/30/93
5	01508771	MAPLE FARM NURSING CENTER	12/31/94	12/31/93	
5	00916242	MEADOWS NURSING CENTER	06/30/95	06/30/94	06/30/93
5	00751554	MENNONITE HOME, THE	06/30/95	06/30/94	06/30/93
5	00747981	MESSIAH VILLAGE	06/30/95	06/30/94	06/30/93
5	00993199	MIFFLIN CENTER	12/31/93	12/31/92	12/31/91
5	00755535	MORAVIAN MANOR	12/31/94	12/31/93	12/31/92
5	01071974	MOUNTAIN CITY CONVALESCENT AND REHAB CTR	06/30/95	06/30/94	06/30/93
5	01390555	MOUNTAIN VIEW CARE CENTER	06/30/94		
5	01247871	MUHLENBERG REHABILITATION CARE CENTER	06/30/95	06/30/94	06/30/93
5	00892964	ORANGEVILLE NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
5	00949207	PERRY VILLAGE	12/31/94	12/31/93	12/31/92
5	01304216	PHOEBE BERKS HEALTH CARE CENTER, INC	06/30/95	06/30/94	
5	00751311	PLEASANT VIEW RETIREMENT COMMUNITY	12/31/94	12/31/93	12/31/92
5	00749681	QUARRYVILLE PRESBYTERIAN HOME	06/30/95	06/30/94	06/30/93
5	00750566	REST HAVEN—YORK	06/30/95	06/30/94	06/30/93
5	00993484	RIVERSTREET MANOR	12/31/93	12/31/92	12/31/91
5	00749396	SAINT ANNE'S HOME	06/30/95	06/30/94	06/30/93
5	00924683	SAINT LUKE PAVILION	12/31/94	12/31/93	12/31/92
5	00750904	SAINT MARY'S HOME OF ERIE	12/31/94	12/31/93	12/31/92

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	5 00776123	SLATE BELT NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	5 00854613	SPRUCE MANOR NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	5 01005164	SUMMIT HEALTH CARE CENTER, INC	12/31/95	12/31/94	12/31/93
	5 01240790	SUSQUEHANNA CENTER	06/30/95	06/30/94	06/30/93
	5 00949136	SUSQUEHANNA LUTHERAN VILLAGE	12/31/94	12/31/93	12/31/92
	5 00887712	TAYLOR NURSING AND REHAB CENTER	06/30/94	06/30/93	06/30/92
	5 01005440	TWINBROOK MEDICAL CENTER	06/30/95	06/30/94	06/30/93
	5 00755965	VILLA TERESA	12/31/94	12/31/93	12/31/92
	5 00750664	WESLEY VILLAGE	12/31/94	12/31/93	12/31/92
	5 00886448	WESTERN RESERVE HEALTH AND REHAB CENTER	12/31/95	12/31/94	12/31/93
PG 5	Resident Care Median \$54.57	Other Resident Care Median \$24.46	Administrative Median \$11.01		
PG 5	Resident Care Price \$63.85	Other Resident Care Price \$27.40	Administrative Price \$11.45		
	6 01013308	ABINGTON CREST NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	6 00914266	AUDUBON VILLA	06/30/95	06/30/94	06/30/93
	6 00747927	BALL PAVILION, THE	06/30/95	06/30/94	06/30/93
	6 00881610	BEAR CREEK HEALTH CARE CENTER INC	06/30/95	06/30/94	06/30/93
	6 00746590	BETHANY VILLAGE RETIREMENT CENTER	12/31/94	12/31/93	12/31/92
	6 01630633	BLAKELY-PINE HEALTH CARE CENTER	12/31/93	12/31/92	06/30/90
	6 01112988	BLUE RIDGE HAVEN CONVAL CENTER—EAST	12/31/95	12/31/94	12/31/93
	6 00751581	BONHAM NURSING CENTER	12/31/94	12/31/93	12/31/92
	6 00985571	BUTLER VALLEY MANOR	06/30/95	06/30/94	06/30/93
	6 00745243	CALVARY FELLOWSHIP HOMES, INC	06/30/95	06/30/94	06/30/93
	6 01391490	CAMP HILL CARE CENTER	12/31/95	12/31/94	12/31/93
	6 00745593	CARBONDALE NURSING HOME, INC	12/31/94	12/31/93	12/31/92
	6 00745163	CHAPEL POINTE AT CARLISLE	12/31/95	12/31/94	12/31/93
	6 00747604	CHURCH OF GOD HOME, INC	12/31/94	12/31/93	12/31/92
	6 01281640	CUMBERLAND CROSSINGS	06/30/95	06/30/94	06/30/93
	6 00744890	DAVIS MANOR	06/30/95	06/30/94	06/30/93
	6 00891125	DENVER NURSING HOME	06/30/95	06/30/94	06/30/93
	6 01113027	ERIE REHABILITATION AND NURSING CENTER	12/31/95	12/31/94	12/31/93
	6 00756686	FAIRMOUNT HOMES	06/30/95	06/30/94	06/30/93
	6 00755894	FOREST PARK HEALTH CENTER	12/31/94	12/31/93	12/31/92
	6 01095635	GETHSEMANE RETIREMENT COMM AND REHAB CTR	06/30/95	06/30/94	06/30/93
	6 00985188	GREEN RIDGE NURSING HOME	06/30/95	06/30/94	06/30/93
	6 01004855	HAMPTON HOUSE	06/30/95	06/30/94	06/30/93
	6 01474243	HEALTHSOUTH REHAB—MECHANICSBURG RENOVA	12/31/93	12/31/91	12/31/90
	6 00747551	HERITAGE HOUSE	06/30/95	06/30/94	06/30/93
	6 00750996	HOLY FAMILY RESIDENCE	12/31/94	12/31/93	12/31/92
	6 00757594	HOMELAND CENTER	06/30/95	06/30/94	06/30/93

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
6	01063650	HOMESTEAD VILLAGE, INC	06/30/95	06/30/94	06/30/93
6	00757370	KEPLER HOME, INC, THE	12/31/94	12/31/93	12/31/92
6	01630642	KINGSTON HEALTH CARE CENTER	12/31/91	12/31/90	12/31/89
6	00757530	KINKORA PYTHIAN HOME	06/30/95	06/30/94	06/30/93
6	00989463	LAKESIDE NURSING CENTER	06/30/95	06/30/94	06/30/93
6	00838351	LANDIS HOMES	06/30/95	06/30/94	06/30/93
6	00752177	LEADER NRC—ELIZABETHTOWN	12/31/94	12/31/93	12/31/92
6	00747005	LEBANON VALLEY BRETHERN HOME	12/31/94	12/31/93	12/31/92
6	00749126	LEBANON VALLEY HOME, THE	12/31/94	12/31/93	12/31/92
6	00752210	LUTHER ACRES MANOR	12/31/94	12/31/93	12/31/92
6	00915693	LUTHER CREST NURSING FACILITY	12/31/94	12/31/93	12/31/92
6	00751966	LUTHERAN HOME FOR THE AGED	12/31/94	12/31/93	12/31/92
6	00747669	MANORCARE HEALTH SVCS—CAMP HILL	12/31/94	12/31/93	12/31/92
6	00757450	MARY ELLEN CONVALESCENT HOME, INC	06/30/95	06/30/94	06/30/93
6	01238854	MERCY CENTER NURSING UNIT, INC	12/31/94	12/31/93	12/31/92
6	00983049	MERCY HEALTH CARE CENTER	12/31/93	12/31/92	12/31/91
6	00755179	MIDDLETOWN HOME, THE	12/31/94	12/31/93	12/31/92
6	00754485	MILFORD VALLEY CONVALESCENT HOME, INC	12/31/94	12/31/93	12/31/92
6	01207929	MILLCREEK MANOR	06/30/95	06/30/94	06/30/93
6	00989089	MILLVILLE HEALTH CENTER	06/30/95	06/30/94	06/30/93
6	00747972	MISERICORDIA CONVALESCENT HOME	12/31/94	12/31/93	12/31/92
6	00754888	MOUNT HOPE DUNKARD BRETHERN CHURCH HOME	06/30/95	06/30/94	06/30/93
6	01493436	MOUNTAIN REST NURSING HOME	06/30/94	06/30/93	06/30/92
6	00947258	NIPPLE CONVALESCENT HOME	12/31/94	12/31/93	12/31/92
6	00891134	PALMYRA NURSING HOME	06/30/95	06/30/94	06/30/93
6	01582465	PINNACLE HEALTH ECF	06/30/95	06/30/94	06/30/93
6	01143518	PRAXIS NURSING HOME	06/30/95	06/30/94	06/30/93
6	00756819	PRESBYTERIAN LODGE	12/31/94	12/31/93	12/31/92
6	01232977	RHEEMS NURSING CENTER, INC	12/31/94	12/31/93	12/31/92
6	00750753	SAINT LUKE MANOR	12/31/94	12/31/93	12/31/92
6	00754940	SAINT MARY'S VILLA NURSING HOME, INC	12/31/94	12/31/93	12/31/92
6	01106793	SARAH A REED RETIREMENT CENTER, THE	06/30/94	06/30/93	06/30/92
6	00755114	SARAH A TODD MEMORIAL HOME	12/31/95	12/31/94	12/31/93
6	00749592	SHREWSBURY LUTHERAN RETIREMENT VILLAGE	12/31/94	12/31/93	12/31/92
6	00757146	SMITH NURSING & CONVAL HOME—MOUNTAINTOP	06/30/93	06/30/92	06/30/91
6	00750261	SPANG CREST MANOR	12/31/94	12/31/93	12/31/92
6	00750430	SWAIM HEALTH CENTER	12/31/94	12/31/93	12/31/92
6	01119719	THAELER HEALTH CARE CENTER	06/30/95	06/30/94	06/30/93
6	00767142	THORNWALD HOME	12/31/94	12/31/93	12/31/92
6	00891116	TWIN OAKS NURSING HOME	06/30/95	06/30/94	06/30/93
6	00748853	UNITED ZION RETIREMENT COMMUNITY	12/31/94	12/31/93	12/31/92
6	00920700	WESTMINSTER VILLAGE	12/31/94	12/31/93	12/31/92
6	00754556	YORK LUTHERAN HOME	12/31/94	12/31/93	12/31/92

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
	6 01418781	YORK UNITED METHODIST HOME	12/31/94		
	6 00756407	ZERBE SISTERS NURSING CENTER, INC.	06/30/95	06/30/94	06/30/93
PG 6	Resident Care Median \$53.37	Other Resident Care Median \$25.74	Administrative Median \$11.31		
PG 6	Resident Care Price \$62.44	Other Resident Care Price \$28.83	Administrative Price \$11.76		
	8 00754977	ARBUTUS PARK MANOR	06/30/95	06/30/94	06/30/93
	8 00583842	CENTRE CREST HOME	12/31/94	12/31/93	12/31/92
	8 00752041	CHURCH OF THE BRETHREN HOME	06/30/95	06/30/94	06/30/93
	8 00748343	GARVEY MANOR	12/31/94	12/31/93	12/31/92
	8 00908563	GILMORE'S WHITE CLIFF NURSING HOME	12/31/94	12/31/93	12/31/92
	8 01513243	HILLCREST NURSING CENTER	06/30/94	06/30/93	12/31/91
	8 01391534	HILLVIEW HEALTH AND REHAB CENTER	12/31/95	12/31/94	12/31/93
	8 00854524	MANORCARE HEALTH SVCS—JERSEY SHORE	12/31/94	12/31/93	12/31/92
	8 00858579	MANORCARE HEALTH SVCS—WILLIAMSPORT NORTH	12/31/94	12/31/93	12/31/92
	8 00854533	MANORCARE HEALTH SVCS—WILLIAMSPORT SOUTH	12/31/94	12/31/93	12/31/92
	8 01539947	MEADOW VIEW NURSING CENTER	12/31/94	12/31/93	12/31/92
	8 00751026	MERCER COUNTY LIVING CENTER	12/31/94	12/31/93	12/31/92
	8 00750969	ORCHARD MANOR, INC	06/30/95	06/30/94	06/30/93
	8 00750305	PRESBYTERIAN HOME OF THE MOSHANNON VLLY	12/31/94	12/31/93	12/31/92
	8 01140365	ROSE VIEW MANOR, INC	06/30/95	06/30/94	06/30/93
	8 00748666	SAINT PAUL HOMES	12/31/94	12/31/93	12/31/92
	8 00748620	SIEMONS' LAKEVIEW MANOR ESTATE	06/30/95	06/30/94	06/30/93
	8 00756775	SYCAMORE MANOR HEALTH CENTER	12/31/94	12/31/93	12/31/92
	8 01263768	UNIVERSITY PARK NURSING CENTER	12/31/94	12/31/93	12/31/92
	8 00754663	VALLEY VIEW HOME	12/31/94	12/31/93	12/31/92
	8 01402852	VALLEY VIEW NURSING CENTER	12/31/94		
	8 00749298	WILLIAMSPORT HOME, THE	12/31/94	12/31/93	12/31/92
PG 8	Resident Care Median \$51.16	Other Resident Care Median \$25.66	Administrative Median \$ 9.61		
PG 8	Resident Care Price \$59.86	Other Resident Care Price \$28.74	Administrative Price \$ 9.99		
	9 00745870	CLEPPER CONVALESCENT HOME INC	12/31/95	12/31/94	12/31/93
	9 01299009	COUNTRYSIDE CONVAL HOME LTD PARTNERSHIP	06/30/95	06/30/94	06/30/92
	9 00749000	EPWORTH MANOR	12/31/94	12/31/93	12/31/92
	9 00989507	GOOD SAMARITAN NSG CARE CTR—JOHNSTOWN	12/31/94	12/31/93	12/31/92
	9 00756766	GROVE MANOR	06/30/95	06/30/94	06/30/93
	9 00970640	HAIDA MANOR	12/31/95	12/31/94	12/31/93
	9 01568205	HOMEWOOD AT MARTINSBURG PA INC	12/31/94	12/31/93	12/31/92
	9 00897272	HOSPITALITY CARE CENTER OF HERMITAGE INC	12/31/94	12/31/93	12/31/92
	9 00747328	JOHN XXIII HOME	12/31/94	12/31/93	12/31/92
	9 01398900	LAUREL VIEW VILLAGE	06/30/95	06/30/94	



<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
	9 01562201	LAUREL WOOD CONVALESCENT CENTER	12/31/95	12/31/94	12/31/93
	9 00755070	LUTHERAN HOME AT HOLLIDAYSBURG, THE	12/31/94	12/31/93	12/31/92
	9 00754761	LUTHERAN HOME AT JOHNSTOWN, THE	12/31/94	12/31/93	12/31/92
	9 00970612	MEYERSDALE MANOR	12/31/95	12/31/94	12/31/93
	9 01148200	MORAN'S HOME, INC	12/31/95	12/31/94	12/31/93
	9 00747220	MORRISONS COVE HOME	12/31/94	12/31/93	12/31/92
	9 01132980	NUGENT CONVALESCENT HOME	12/31/94	12/31/93	12/31/92
	9 00757164	PRESBYTERIAN HOME OF REDSTONE PRESBYTERY	12/31/94	12/31/93	12/31/92
	9 00755428	PRESBYTERIAN HOMES—PRESBYTERY—HUNTINGDON	12/31/94	12/31/93	12/31/92
	9 00970597	RICHLAND MANOR	12/31/95	12/31/94	12/31/93
	9 01586778	SOMERSET PATRIOT MANOR	06/30/93		
PG 9	Resident Care Median \$47.84	Other Resident Care Median \$23.98	Administrative Median \$10.51		
PG 9	Resident Care Price \$55.97	Other Resident Care Price \$26.86	Administrative Price \$10.93		
	11 00928038	ALLEGHENY MANOR	12/31/95	12/31/94	12/31/93
	11 00755357	ARMSTRONG COUNTY HOME	12/31/94	12/31/93	12/31/92
	11 01586769	BEACON MANOR	06/30/93	06/30/92	12/31/90
	11 00751287	BRADFORD COUNTY MANOR	12/31/94	12/31/93	12/31/92
	11 01076219	BRADFORD MANOR	12/31/94	12/31/93	12/31/92
	11 00747640	BROAD ACRES NURSING HOME ASSOCIATION	12/31/94	12/31/93	12/31/92
	11 00854622	BROAD MOUNTAIN NURSING AND REHAB CENTER	06/30/95	06/30/94	06/30/93
	11 00745762	CHRIST THE KING MANOR	06/30/95	06/30/94	06/30/93
	11 01391516	CLARION CARE CENTER	12/31/95	12/31/94	12/31/93
	11 00754903	CLARVIEW NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
	11 00747622	CRAWFORD COUNTY CARE CENTER	12/31/94	12/31/93	12/31/92
	11 00951706	CURWENSVILLE NURSING HOME, INC	12/31/94	12/31/93	12/31/92
	11 00746349	DUBOIS NURSING HOME	06/30/95	06/30/94	06/30/93
	11 00747480	ELK HAVEN NURSING HOME	06/30/95	06/30/94	06/30/93
	11 00755446	ELLEN MEMORIAL HEALTH CARE CENTER	06/30/94	06/30/93	06/30/92
	11 00884004	FOREST CITY NURSING CENTER	06/30/95	06/30/94	06/30/93
	11 01391525	FRANKLIN CARE CENTER	12/31/95	12/31/94	12/31/93
	11 00745074	FRANKLIN COUNTY NURSING HOME	12/31/94	12/31/93	12/31/92
	11 01626292	GETTYSBURG VILLAGE GREEN NURSING CENTER	06/30/95	06/30/94	06/30/93
	11 00745261	GOLDEN HILL NURSING HOME, INC	06/30/95	06/30/94	06/30/93
	11 00941989	GRANDVIEW ADVANCED HEALTH SERVICES	12/31/95	12/31/94	12/31/93
	11 00755375	GRANDVIEW HEALTH HOMES, INC	06/30/95	06/30/94	06/30/93
	11 00756891	GREEN ACRES—ADAMS COUNTY HOME	12/31/94	12/31/93	12/31/92
	11 00756579	GREEN HOME, INC, THE	06/30/95	12/31/93	12/31/92
	11 00747337	HILLVIEW MANOR—LAWRENCE COUNTY HOME	12/31/94	12/31/93	12/31/92
	11 01274805	HOMETOWN NURSING AND REHAB CENTER	12/31/94	12/31/93	

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<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
11	00751886	INDIAN HAVEN NURSING CENTER	12/31/94	12/31/93	12/31/92
11	01468907	INTEGRATED HLTH SRVCS—JULIA RIBAUDO	12/31/93	12/31/92	12/31/91
11	01033463	JEFFERSON MANOR HEALTH CENTER	06/30/95	06/30/94	06/30/93
11	00887623	JULIA POUND CARE CENTER	12/31/94	12/31/93	12/31/92
11	00893729	KRAMM HEALTHCARE CENTER, INC	06/30/95	06/30/94	06/30/93
11	00989150	LAPORTE UNITED METHODIST HOME	12/31/94	12/31/93	12/31/92
11	00754707	LEWISBURG UNITED METHODIST HOMES	12/31/94	12/31/93	12/31/92
11	00854570	MANORCARE HEALTH SVCS—CHAMBERSBURG	12/31/94	12/31/93	12/31/92
11	00855165	MANORCARE HEALTH SVCS—POTTSVILLE	12/31/94	12/31/93	12/31/92
11	00854506	MANORCARE HEALTH SVCS—SUNBURY	12/31/94	12/31/93	12/31/92
11	01391543	MEADVILLE HEALTH AND REHAB CENTER	12/31/95	12/31/94	12/31/93
11	00748512	MENNO-HAVEN, INC.	12/31/94	12/31/93	12/31/92
11	00913302	MOUNT CARMEL NURSING AND REHAB CENTER	12/31/94	12/31/93	12/31/92
11	00963799	MOUNTAIN LAUREL NRC	06/30/95	06/30/94	06/30/93
11	00790570	NOTTINGHAM VILLAGE	12/31/94	12/31/93	12/31/92
11	00949163	OHESON MANOR	12/31/94	12/31/93	12/31/92
11	00776642	OIL CITY PRESBYTERIAN HOME	12/31/94	12/31/93	12/31/92
11	01301303	ORWIGSBURG MANOR	06/30/95	06/30/94	
11	00997509	PENN LUTHERAN VILLAGE	12/31/94	12/31/93	12/31/92
11	00949216	PENKNOLL VILLAGE NURSING HOME	12/31/94	12/31/93	12/31/92
11	00754547	PINEY MOUNTAIN HOME	06/30/95	06/30/94	06/30/93
11	00861959	PLEASANT VALLEY MANOR, INC	12/31/94	12/31/93	12/31/92
11	00749627	QUINCY UNITED METHODIST HOME	12/31/94	12/31/93	12/31/92
11	00749073	REST HAVEN	12/31/94	12/31/93	12/31/92
11	00749117	ROLLING FIELDS, INC	12/31/94	12/31/93	12/31/92
11	01505063	ROLLING MEADOWS	12/31/94	12/31/93	12/31/92
11	00756793	ROUSE WARREN COUNTY HOME	12/31/94	12/31/93	12/31/92
11	01205791	SCHUYLKILL MANOR	06/30/95	06/30/94	06/30/93
11	00754850	SENA-KEAN MANOR	12/31/94	12/31/93	12/31/92
11	00886081	SHENANDOAH MANOR NURSING CENTER	12/31/94	12/31/93	12/31/92
11	01113493	STROUD MANOR	12/31/95	12/31/94	12/31/93
11	00949557	SUSQUE VIEW HOME, INC	12/31/94	12/31/93	12/31/92
11	01076255	SWEDEN VALLEY MANOR	12/31/94	12/31/93	12/31/92
11	00860245	TREMONT HEALTH AND REHABILITATION CENTER	06/30/95	06/30/94	06/30/93
11	00756560	VALLEY VIEW HAVEN, INC	12/31/94	12/31/93	12/31/92
11	00575896	VENANGO MANOR	12/31/94	12/31/93	12/31/92
11	01076264	WARREN MANOR	12/31/94	12/31/93	12/31/92
11	00982408	WESBURY UNITED METHODIST COMMUNITY	12/31/94	12/31/93	12/31/92
11	01113018	WILLIAM PENN NURSING CENTER	12/31/95	12/31/94	12/31/93
11	01263089	WOODLAND RETIREMENT CENTER	12/31/94	12/31/93	12/31/92

PG 11

Resident Care Median  
\$50.50

Other Resident Care Median  
\$22.70

Administrative Median  
\$ 9.30

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Second Third</i>		
			<i>Most Recent Cost Report End Date</i>	<i>Most Recent Cost Report End Date</i>	<i>Most Recent Cost Report End Date</i>
PG 11	Resident Care Price \$59.09	Other Resident Care Price \$25.42	Administrative Price \$ 9.67		
	12 01169200	BRADFORD ECUMENICAL HOME, INC	12/31/95	12/31/94	12/31/93
	12 01090002	BRADFORD NURSING PAVILION	06/30/95	06/30/94	06/30/93
	12 01535008	BROOKLINE MANOR	06/30/95	06/30/94	06/30/93
	12 00835411	BROOKMONT HEALTH CARE CENTER INC	06/30/95	06/30/94	06/30/93
	12 00948809	BUFFALO VALLEY LUTHERAN VILLAGE	12/31/94	12/31/93	12/31/92
	12 01429631	CALEDONIA MANOR	12/31/95	12/31/94	12/31/92
	12 01631407	CARLETON SENIOR CARE AND REHAB CENTER	06/30/95	12/31/92	12/31/91
	12 01391507	CENTRAL CARE CENTER	12/31/95	12/31/94	12/31/93
	12 00755992	DAR WAY NURSING HOME, INC	06/30/95	06/30/94	06/30/93
	12 00746447	DONAHOE MANOR	06/30/95	06/30/94	06/30/93
	12 01553131	FRIENDLY NURSING HOME—PITMAN	06/30/95	06/30/94	06/30/93
	12 00754476	GETTYSBURG LUTHERAN HOME	12/31/94	12/31/93	12/31/92
	12 00746957	GOLD STAR NURSING HOME	06/30/95	06/30/94	06/30/93
	12 00752103	GUY AND MARY FELT MANOR, INC	06/30/95	06/30/94	06/30/93
	12 00751035	HAVEN CONVALESCENT HOME, INC	12/31/95	12/31/94	12/31/93
	12 01011770	HEIGHTS NURSING HOME AT LOCUST MOUNTAIN	06/30/95	06/30/94	06/30/93
	12 00897165	HIGHLAND HALL CARE CENTER	06/30/95	06/30/94	06/30/93
	12 01285433	HIGHLAND VIEW	06/30/95	06/30/94	06/30/93
	12 01526457	HUNTINGDON MANOR	06/30/94	12/31/92	12/31/91
	12 00860791	INDIAN CREEK NURSING CENTER	06/30/94	06/30/93	06/30/92
	12 00981429	KINZUA VALLEY HEALTH CARE	12/31/95	12/31/94	12/31/93
	12 01590654	KITTANNING CARE CENTER	06/30/95	06/30/94	06/30/93
	12 01013291	KRAMM HEALTHCARE—BROADWAY	06/30/95	06/30/94	06/30/93
	12 00747266	KRAMM NURSING HOME, INC	06/30/95	06/30/94	06/30/93
	12 00754799	LAUREL MANOR	06/30/95	06/30/94	06/30/93
	12 00949225	LOCUST GROVE RETIREMENT VILLAGE	12/31/94	12/31/93	12/31/92
	12 00746993	LUTHERAN HOME AT KANE, THE	12/31/94	12/31/93	12/31/92
	12 00747364	MALTA HOME FOR THE AGING	12/31/94	12/31/93	12/31/92
	12 00901670	MANSION NURSING AND CONVALESCENT HOME	12/31/95	12/31/94	12/31/93
	12 01121548	MARIA JOSEPH MANOR	12/31/94	12/31/93	12/31/92
	12 01633180	MEADOW VIEW SENIOR LIVING CARE	12/31/94	12/31/93	12/31/92
	12 00754734	MEDA NIPPLE CONVALESCENT HOME	12/31/94	12/31/93	12/31/92
	12 01411341	MICHAEL MANOR	12/31/95	12/31/94	12/31/92
	12 01126689	MOUNTAIN VIEW MANOR	12/31/95	12/31/94	12/31/93
	12 01630230	MULBERRY SQUARE	12/31/94	12/31/93	12/31/92
	12 00906504	OVERLOOK MEDICAL CLINIC INC	12/31/94	12/31/93	12/31/92
	12 00755230	PENNSYLVANIA MEMORIAL HOME	06/30/95	06/30/94	06/30/93
	12 00749725	RATHFON CONVALESCENT HOME	06/30/95	06/30/94	06/30/93
	12 01493445	ROLLING HILLS MANOR	06/30/94	06/30/93	06/30/92
	12 00757226	SAYRE HOUSE, INC	06/30/95	06/30/94	06/30/93
	12 00756031	SCENERY HILL MANOR	12/31/94	12/31/93	12/31/92
	12 01473273	SHENANGO PRESBYTERIAN HOME	12/31/95		

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	12 00755221	SHOOK HOME, THE	12/31/94	12/31/93	12/31/92
	12 00906498	SILVER OAKS NURSING CENTER	12/31/94	12/31/93	12/31/92
	12 01092974	SNYDER MEMORIAL HEALTH CARE CENTER	12/31/94	12/31/93	12/31/92
	12 01391552	SPRINGS MANOR CARE CENTER	12/31/95	12/31/94	12/31/93
	12 00966807	SUGAR CREEK REST	06/30/95	06/30/94	06/30/93
	12 01391561	SUNSET MANOR	12/31/95	12/31/94	12/31/93
	12 00895920	YORK TERRACE NURSING CENTER	12/31/95	12/31/94	12/31/93
	12 01553140	ZENDT HOME, THE	06/30/95	06/30/94	06/30/93
PG 12	Resident Care Median \$47.67	Other Resident Care Median \$22.82	Administrative Median \$10.00		
PG 12	Resident Care Price \$55.77	Other Resident Care Price \$25.56	Administrative Price \$10.40		
	13 00756701	GOOD SHEPHERD HOME LTC FACILITY, INC	06/30/95	06/30/94	06/30/93
	13 00756040	INGLIS HOUSE WHEELCHAIR COMMUNITY	06/30/95	06/30/94	06/30/93
	13 00879013	MARGARET E. MOUL HOME	06/30/95	06/30/94	06/30/93
PG 13	Resident Care Median \$101.85	Other Resident Care Median \$64.48	Administrative Median \$19.20		
PG 13	Resident Care Price \$119.16	Other Resident Care Price \$72.22	Administrative Price \$19.97		
	14 00747140	BARNES-KASSON COUNTY HOSPITAL SNF	06/30/95	06/30/94	06/30/93
	14 00745824	BERWICK RETIREMENT VILLAGE NRSNG HOME	06/30/95	06/30/94	06/30/93
	14 00744630	BUCKTAIL MEDICAL CENTER	06/30/95	06/30/94	06/30/93
	14 00918677	CANONSBURG GENERAL HOSPITAL SNF	06/30/95	06/30/94	06/30/93
	14 00754832	CHARLES COLE MEMORIAL HOSPITAL ECF	06/30/95	06/30/94	06/30/93
	14 01092240	CHESTNUT HILL REHABILITATION HOSP SNU	06/30/95	06/30/94	06/30/93
	14 00756550	FULTON COUNTY MEDICAL CENTER LTCU	06/30/95	06/30/94	06/30/93
	14 00751643	GEORGE L HARRISON HOUSE OF EPISCOPAL HSP	06/30/95	06/30/94	06/30/93
	14 00746723	GNADEN HUETTEN NURSING AND CONVAL CENTER	06/30/95	06/30/94	06/30/93
	14 00747631	GRAND VIEW HOSPITAL SKILLED NURSING FAC	06/30/95	06/30/94	06/30/93
	14 00756882	HOME FOR THE JEWISH AGED—SLEY BLDG	06/30/95	06/30/94	06/30/93
	14 00747041	LOCK HAVEN HOSPITAL E.C.U.	06/30/94	06/30/93	06/30/92
	14 01631480	MEDICAL CENTER, BEAVER, PA, THE	06/30/95	06/30/94	06/30/93
	14 00754654	MEMORIAL HOSPITAL INC SNU	06/30/95	06/30/94	06/30/93
	14 01275268	MINERS MEMORIAL GERIATRIC CENTER	06/30/95	06/30/94	06/30/93
	14 00751438	MOSES TAYLOR HOSPITAL S.N.F.	06/30/95	06/30/94	06/30/93
	14 00748100	MUNCY VALLEY HOSPITAL SNU	06/30/94	06/30/93	06/30/92
	14 00747239	PINECREST MANOR	06/30/95	06/30/94	06/30/93
	14 01582456	PINNACLE HEALTH ECF HB	06/30/95	06/30/94	06/30/93
	14 01588683	PINNACLE HEALTH SNU—SEIDLE	06/30/95	06/30/94	06/30/93
	14 01073692	SAINT FRANCIS HOSPITAL OF NEW CASTLE SNC	06/30/95	06/30/94	06/30/93
	14 00749369	SOMERSET HOSPITAL CENTER FOR HEALTH	06/30/95	06/30/94	06/30/93
	14 01179074	SUBURBAN GENERAL SKILLED NURSING UNIT	06/30/95	06/30/94	06/30/93

<i>Median Peer Group</i>	<i>Current Provider Number</i>	<i>Current Provider Name</i>	<i>Most Recent Cost Report End Date</i>	<i>Second Most Recent Cost Report End Date</i>	<i>Third Most Recent Cost Report End Date</i>
	14 00749387	SUNBURY COMMUNITY HOSPITAL SNF	06/30/95	06/30/94	06/30/93
	14 00836230	WILLOWCREST—BAMBERGER	06/30/94	06/30/93	06/30/92
PG 14	Resident Care Median \$78.46	Other Resident Care Median \$46.85	Administrative Median \$15.31		
PG 14	Resident Care Price \$91.80	Other Resident Care Price \$52.47	Administrative Price \$15.92		

[Pa.B. Doc. No. 97-1797. Filed for public inspection November 7, 1997, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Retention of Engineering Firms

#### Westmoreland and Washington Counties Project Reference No. 08430AG2136

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately fourteen (14) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on the following seven (7) projects in Westmoreland and Washington Counties:

1. S.R. 0030, Section 136 in Westmoreland County. This project involves the widening and resurfacing of Route 30 in North Huntingdon Township (Norwin Shopping Center).
2. S.R. 0130, Section N01 in Westmoreland County. This project involves the bridge replacement of the Humphrey Bridge over a branch of Sewickley Creek in Unity Township.
3. S.R. 0056, Section 145 in Westmoreland County. This project involves adding turning lanes and traffic signal improvements on Route 56 from Seventh Street North to Route 780/Valley High School in New Kensington.
4. S.R. 3071, Section A01 in Westmoreland County. This project involves the bridge replacement of the New Stanton Bridge No. 1 over small stream in Hempfield Township.
5. S.R. 3089, Section G02 in Westmoreland County. This project involves the bridge replacement of the Hunker Bridge over Sewickley Creek in East Huntingdon.
6. S.R. 0119, Section U10 in Westmoreland County. This project involves the bridge replacement of Crabtree Bridge No. 2 over Crabtree Creek.
7. S.R. 0088, Section 00D in Washington County. This project involves the bridge replacement of the Mingo Creek Bridge over Mingo Creek in New Eagle.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present Letters of Interest in accordance with the "General Requirements and Information" section.
- b. Number of available inspectors in each payroll classification.
- c. Number of NICET certified inspectors in each payroll classification.
- d. Inspectors experience and availability of inspectors.
- e. Knowledge and familiarity of Department's specifications, requirements and policies.
- f. Past performance and workload.
- g. Location of project sites.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	13 (8)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering

Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCI)	\$33.44
(TA)	\$22.98

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License
- 1 Vehicle for the Transportation of Nuclear Gauges

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCI	16

No resumes are required for the TA Classification.

The second copy of the letter of interest and required forms, (see general requirements and information section) shall be sent to: Mr. Michael H. Dufalla, P.E., District Engineer, District 12-0, P.O. Box 459, North Gallatin Avenue, Extension, Uniontown, PA 15401.

Any technical questions concerning the requirements for this project should be directed to Mr. Anthony M. Dzurko, P.E., District 12-0, at (412) 439-7137.

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. 08430AG2137**

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 turnaround time is expected.
- g. Relative size of firm to size of projects that may be completed under each contract.
- h. Ability to meet all of the needs, duties, and requirements listed in this advertisement.

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), traffic studies and design, 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; bridge inspections; complete structure designs including type, size and location reports, hydraulic reports, core boring layouts and foundation designs and reports; develop traffic control plans with narratives; conduct soils investigations; prepare core borings 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. Consistent with applicable State and Federal regulations, guidelines and policies.

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; underground storage tanks; 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. Identify and include cultural resource personnel qualified under the Department of Interior Standards.

Provide electronic survey data for in-house design projects. Survey information must be directly compatible with District's in-house design capabilities. The Department will supply data collection software. The engineering firm is required to have a data collection with a DOS operating system such as Corvallis MC-V or compatible.

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 this Open-end Contract 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. Alwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P.O. Box 3060, Harrisburg, Pennsylvania 17105-3060. Note: The Zip Code for express Mailing is 17101-1900.

The Letter of Interest and required information must be received within 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*

[Pa.B. Doc. No. 97-1798. Filed for public inspection November 7, 1997, 9:00 a.m.]



## ENVIRONMENTAL QUALITY BOARD

### Cancellation of November 18, 1997, Meeting

The November 18, 1997, Environmental Quality Board meeting has been cancelled. The next meeting is scheduled for December 16, 1997, in the First Floor Meeting Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

JAMES M. SEIF,  
*Chairperson*

[Pa.B. Doc. No. 97-1799. Filed for public inspection November 7, 1997, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Request for Information

The Pennsylvania Health Care Cost Containment Council (Council) has issued a Request for Information (RFI) in response to the following Motion unanimously adopted by the Council on September 4, 1997: "to assess the costs, administrative burden and benefits of replacing the MediQual mandate with an alternative severity adjustment methodology that considers the cost burden to data suppliers and increases the relevancy, accuracy, timeliness and usefulness of PHC4 data collection, analysis and reporting." The purpose of the RFI is to obtain information on risk adjustment/severity adjustment systems that would allow the Council to analyze the performance, reliability, operational cost, and financial viability of potential systems with regard to meeting the Council's risk adjustment/severity adjustment requirements. Council staff will review the responses to this Request for Information as part of a larger assessment of severity adjustment systems and make recommendations to the Council.

Copies of the Request for Information are available from the Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6787. The deadline for responses to the RFI is December 15, 1997.

DONALD L. ZIMMERMAN,  
*Executive Director*

[Pa.B. Doc. No. 97-1800. Filed for public inspection November 7, 1997, 9:00 a.m.]

## HISTORICAL AND MUSEUM COMMISSION

### National Register Nominations to be Reviewed at the Historic Preservation Board Meeting

Following is a list of properties to be considered at the November 18, 1997 meeting of the Historic Preservation Board for nomination to the National Register of Historic Places.

The meeting will be held in the State Farm Show Building, Meeting Room B, Cameron and Maclay Streets (2301 North Cameron Street), Harrisburg, PA beginning at 9:45 a.m.

BRENT D. GLASS,  
*Executive Director*

1. *Gue/Sisley Blacksmith Shop*. Laurel and Union Streets, Perryopolis, Fayette County
2. *Burnt Cabins Historic District*. LR23905 and U. S. Route 522, Dublin Township, Fulton County (Lincoln Highway Heritage Corridor Historic Resources: Franklin to Westmoreland Counties, PA)
3. *Lindsey, Christiana, House*. 313 East Butler Street, Mercer, Mercer County
4. *Grace Church, Mt. Airy*. 224 East Gowen Street, Philadelphia
5. *Henry Albertson Subdivision Historic District*. Roughly bounded by North Lansdowne, Clover, Wycombe, Price, and Stewart Avenues and Balfour Circle, Lansdowne, Delaware County.
6. *Pennsylvania State Farm Show Complex*. Cameron and Maclay Streets, Harrisburg, Dauphin County.
7. *Honesdale Residential Historic District*. Roughly bounded by the Lackawaxen River, Dyberry Creek, Overlook and 18th Streets, and including the Dyberry Cemetery, Honesdale, Wayne County

[Pa.B. Doc. No. 97-1801. Filed for public inspection November 7, 1997, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, October 23, 1997, and took the following actions:

#### *Regulations Approved:*

Executive Board #42-1: Personnel Rules (rescinds Board's Personnel Rules under 4 Pa. Code Chapters 23 and 30)

Pennsylvania Horse Racing Commission #34-62: Jockeys and Apprentices (amends 58 Pa. Code §§ 163.171, 163.182, 163.187, 163.188, 163.190 and 163.191)

Department of Health #10-147: Repeal of Hotline and Drop-In Shelter Regulations (amends 28 Pa. Code Chapters 701, 709, 711 and 713)

Department of Health #10-144: Drugs Which May Be Used by Qualified Optometrists; Schedules of Controlled Substances (amends 28 Pa. Code §§ 6.1 and 25.72)

Environmental Quality Board #7-302: Bonding, Civil Penalties and Areas Unsuitable for Mining (amends 25 Pa. Code Chapter 86)

Environmental Quality Board #7-304: Amendments to Municipal and Residual Waste Recordkeeping and Report-

ing Requirements; Substantial Plan Revisions (amends 25 Pa. Code Chapters 271—273, 277—285, 287—299)

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*Executive Board Personnel Rules; Doc. No. 42-1*

#### Order

On September 25, 1997, the Independent Regulatory Review Commission (Commission) received this proposed deletion of a regulation from the Executive Board (Board). This rulemaking rescinds the Board's Personnel Rules under 4 Pa. Code Chapters 23 (General Provisions) and Chapter 30, Subchapter B (Leave with Pay). The authority for this rulemaking is contained in section 249(e) of The Administrative Code of 1929, as amended (71 P. S. § 249(e)). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The proposed deletions will eliminate the last two remaining chapters in the Board's Personnel Rules regulation in 4 Pa. Code. At present, the Board can change all of its other Personnel Rules, including those for leave without pay and compensation structures, and immediately publish them through the Directives Management System without being subject to the regulatory review process. These changes will apply to all Pennsylvania government employees who are subject to the authority of the Executive Board regarding paid leave. There is an exception where the Board has approved a labor agreement and a provision thereof is inconsistent with the Board's Personnel Rules. In such cases, the labor agreement provision takes precedence insofar as it applies to employees covered by the agreement.

We have reviewed this rulemaking and find it to be in the public interest. The deletions will eliminate unnecessary regulatory provisions and enable the Board to more expeditiously implement future changes to its general rules and those relating to leave with pay.

*Therefore, It Is Ordered That:*

1. Regulation No. 42-1 from the Executive Board, as submitted to the Commission on September 25, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*State Horse Racing Commission; Jockeys and Apprentices; Doc. No. 34-62*

#### Order

On September 25, 1997, the Independent Regulatory Review Commission (Commission) received this regulation from the State Horse Racing Commission (SHRC). This rulemaking would amend 58 Pa. Code §§ 163.171, 163.182, 163.187, 163.188, 163.190 and 163.191. The authority for this regulation is section 202(a) of the Race

Horse Industry Reform Act (4 P. S. § 325.202(a)). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This regulation will clarify the SHRC's rules for jockeys and apprentices, and bring them into greater conformity with the rules in neighboring racing jurisdictions, such as Maryland, New York and Delaware. For example, the amendments in this regulation will reduce the mandatory age for a jockey from 17 to 16 years of age. In neighboring states, the lower age requirement is the standard. The regulation will not impose any additional costs on State or local government, or private entities.

We have reviewed this regulation and find it to be in the public interest. This proposal will bring the Commonwealth's regulations into greater conformity with other states. Young apprentices and jockeys will now compete under rules similar to those in neighboring states.

*Therefore, It Is Ordered That:*

1. Regulation No. 34-62 from the State Horse Racing Commission, as submitted to the Commission on September 25, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*Department of Health; Repeal of Hotline and Drop-In Shelter Regulations; Doc. No. 10-147*

#### Order

On March 18, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Health). This rulemaking amends 28 Pa. Code Chapters 701, 709, 711 and 713. The authority for this regulation is Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25), Reorganization Plan No. 4 of 1981 (71 P. S. § 751-31), and the Pennsylvania Drug and Alcohol Abuse Control Act (71 P. S. § 1690 et seq.). The proposed regulation was published in the April 12, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 29, 1997.

The proposal rescinds standards for the operation of shelters, drop-in centers and hotline activities as well as the general matrix and definitions relating to the activities to be rescinded. The Department is rescinding provisions for shelters, drop in centers and hotline activities because the facilities do not actually provide substance abuse prevention, intervention or treatment services.

We have reviewed this regulation and find it to be in the public interest. Eliminating licensing requirements for hotlines, shelters and drop-in centers will allow the Department to focus its resources on the facilities which do provide treatment and eliminate paperwork requirements for these facilities.

*Therefore, It Is Ordered That:*

1. Regulation No. 10-147 from the Department of Health, as submitted to the Commission on September 29, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*Department of Health; Drugs Which May Be Used by Certain Optometrists; Schedule of Controlled Substances; Doc. No. 10-144*

#### Order

On April 9, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking would amend 28 Pa. Code §§ 6.1 and 25.72. The authority for this regulation is contained in sections 3 and 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-103 and 780-104); section 3(b)(14) of the Optometric Practice and Licensure Act, as amended (63 P. S. § 244.3(b)(14)); and section 2102(g) of The Administrative Code of 1929, as amended (71 P. S. § 532(g)). The proposed version of this regulation was published in the April 19, 1997 edition of the *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 29, 1997.

The Department of Health (Department) proposes to amend its existing regulations to: add "Rev-Eyes" (Dipiprazole HCL) to the list of drugs at 28 Pa. Code § 6.1 which qualified optometrists may use in their practice; and further amend the schedules of controlled substances at 28 Pa. Code § 25.72.

We have reviewed this regulation and find it to be in the public interest. The amendments will update the Department's drug and controlled substances list. Optometrists and optometrists' patients will benefit from the use of "Rev-Eyes." Rescheduling Levo-Acetyl Methodol (LAAM) will beneficially impact existing narcotic treatment programs in the Commonwealth by allowing the programs to use LAAM as an alternative treatment to methadone. The Office of Attorney General will benefit from the additions to the list of prohibited controlled substances by being able to institute more criminal prosecutions under State law.

*Therefore, It Is Ordered that:*

1. Regulation No. 10-144 from the Department of Health, as submitted to the Commission on September 29, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*Environmental Quality Board; Bonding, Civil Penalties, and Areas Unsuitable for Mining; Doc. No. 7-302*

#### Order

On January 29, 1997, the Independent Regulatory Review Commission (Commission) received this proposed

regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 86. The authority for this regulation is Title 30 Chapter VII of the Code of Federal Regulations, and the general rulemaking authorities of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.4d and 1396.4b(a)); The Clean Streams Law (35 P. S. §§ 691.5(b) and 691.315(b)); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.53b(a) and 30.56(a)); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. § 1406.7(b)); and The Administrative Code of 1929 (71 P. S. § 510-20). The proposed regulation was published in the February 8, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 24, 1997.

The proposed regulation is a result of the Department of Environmental Protection's (DEP) Regulatory Basics Initiative. DEP developed this rulemaking by soliciting public input through a notice in the *Pennsylvania Bulletin* and DEP's website. As a result, this proposed rulemaking is a collection of independent amendments within the scope of 25 Pa. Code Chapter 86. Most of the proposed amendments are either word for word from the Federal regulations or similar to Federal regulations.

We have reviewed this regulation and find it to be in the public interest. The proposed amendments provide for prior notice of DEP actions on bond adjustments and forfeiture, and an opportunity to provide additional information concerning circumstances related to civil penalty assessments. Penalties will also be more consistent with Federal penalties. From the Commonwealth's perspective, the loss of \$88,000 per year in penalty payments can easily be saved in litigation costs.

*Therefore, It Is Ordered that:*

1. Regulation No. 7-302 from the Environmental Quality Board, as submitted to the Commission on September 24, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
October 23, 1997

*Environmental Quality Board; Amendments to Municipal and Residual Waste Recordkeeping and Reporting Requirements; Substantial Plan Revisions; Doc. No. 7-304*

#### Order

On February 4, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking would amend 25 Pa. Code Chapters 271-273, 277-285, 287-299. The authority for this regulation is contained in section 105 of the Solid Waste Management Act (35 P. S. § 6018.105), section 302 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.302) and in section 4(b) of the Infectious and Chemotherapeutic Wastes Law (35 P. S. § 6019.4(b)). The proposed regulation was published in the February 15, 1997 edition of the *Pennsylvania Bulletin*, with a 60-day public comment period. The final-form regulation was submitted to the Commission on September 24, 1997.

The EQB proposes to amend its municipal and residual waste regulations as part of the Regulatory Basics Initiative of the Department of Environmental Protection. The rulemaking involves comprehensive revisions to reporting and planning requirements for municipal, residual, infectious and chemotherapeutic wastes. The regulated community will benefit from this revised regulation because it is anticipated that approximately 2,500 facilities will have to complete 185,508 fewer pages of reports per year.

We have reviewed this regulation and find it to be in the public interest. The amendments will reduce the costs associated with recordkeeping and reporting requirements for municipal, residual, infectious and chemotherapeutic waste and further update the regulation.

*Therefore, It Is Ordered That:*

1. Regulation No. 7-304 from the Environmental Quality Board, as submitted to the Commission on September 24, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 97-1802. Filed for public inspection November 7, 1997, 9:00 a.m.]

### 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>
2-97	Department of Agriculture Agricultural Conservation Easement Purchase Program	10/24/97
12-50	Department of Labor and Industry General Provisions of Act 57 of 1996	10/29/97
12-43	Department of Labor and Industry General Require- ments	10/29/97

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 97-1803. Filed for public inspection November 7, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire AGL Life Assurance Company

The Guarantee Life Companies, Inc. has filed an application to acquire all of the issued and outstanding common stock of AGL Life Assurance Company, a Pennsylvania domiciled stock life insurance company. The

filing was made under the requirements set forth under section 1402 of the Insurance Holding Companies Act (40 P. S. § 991.1402). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days of the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Pennsylvania Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, or by fax to (717) 787-8557.

M. DIANE KOKEN,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1804. Filed for public inspection November 7, 1997, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Peterson, Michael and Tracey; file no. 97-407-91199; Erie Insurance Group; doc. no. E97-10-035; December 4, 1997, at 2 p.m.;

Appeal of Mazur, Lee J.; file no. 97-308-72225; Erie Insurance Group; doc. no. PI97-10-023; December 10, 1997, at 1 p.m.;

Appeal of Fumey, Wisdom; file no. 97-267-35384; Hartford Insurance Co. of the Midwest; doc. no. PH97-10-024; December 16, 1997, at 1 p.m.;

Appeal of Bills, Kevin A.; file no. 97-121-05848; Nationwide Insurance; doc. no. P97-10-028; December 16, 1997, at 2 p.m.;

Appeal of Kasmir, Jan Rose; file no. 97-121-06086; Progressive Insurance Co.; doc. no. P97-10-029; December 16, 1997, at 3 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. 97-1805. Filed for public inspection November 7, 1997, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurer has requested a hearing as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with the termination of the insured's automobile policy.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of State Farm Insurance Companies; file no. 97-198-05501; Rinehuls, Peter and Gloria; doc. no. P97-10-025; December 16, 1997, at 11 a.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, 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 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. 97-1806. Filed for public inspection November 7, 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 Plante, Roger; file no. 97-121-06327; State Farm Fire & Casualty Company; doc. no. P97-10-027; December 10, 1997, at 10 a.m.;

Appeal of Liggon, Elizabeth H.; file no. 97-198-06282; Allstate Insurance Company; doc. no. P97-10-026; December 10, 1997, at 2 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 procedure). 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. 97-1807. Filed for public inspection November 7, 1997, 9:00 a.m.]

### Title Insurance Rating Bureau of Pennsylvania

On October 22, 1997, the Insurance Department (Department) received from the Title Insurance Rating Bureau of Pennsylvania a filing for a rate level change for title insurance.

The Rating Bureau requests an overall 7.76% increase amounting to \$18,300,000 annually, to be effective January 1, 1998.

Unless formal administrative action is taken prior to December 21, 1997, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's offices in Harrisburg, Philadelphia, Pittsburgh, and Erie.

All interested parties are invited to submit written comments, suggestions, or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Har-

risburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1808. Filed for public inspection November 7, 1997, 9:00 a.m.]

## MILK MARKETING BOARD

### Hearing, Presubmission Schedule and Prehearing Conference for Milk Marketing Area No. 1

Under the Milk Marketing Law (31 P. S. § 700j-101 et seq.) the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 1 on January 21, 1998, commencing at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA. If necessary, the hearing will be continued on January 22 at the same time and location.

The sole purpose of the hearing is to receive evidence concerning whether the current discount system for school milk in Milk Marketing Area No. 1 should be modified. "School" is defined as a public or private educational institution serving any grade levels between kindergarten and grade 12.

To ensure a complete hearing record, the Board has established the following evidentiary guidelines. This list is not intended to be inclusive or to discourage parties from presenting additional relevant evidence.

#### *Milk dealers and Board staff*

1. Delivery costs and points—broken down into controlled points and noncontrolled points—for products sold to a cross-section of schools. The cross-section shall include only schools receiving limited service delivery as defined in Official General Order A-890A and shall be stratified based on various categories of average weekly delivery volumes. If a cross-section receiving only limited service delivery cannot easily be established—for example, if milk truck drivers typically place milk in the schools' coolers—a cross-section receiving additional services is acceptable. Evidence shall then identify these additional services. Verification of delivery procedures and services should be obtained from interviews with the milk truck drivers.

2. For September 1997, a comparison between prices milk dealers charged the cross-section schools and the minimum prices available to schools (taking into account the 18% discount, the stop charge shown on the October 1997 Area 1 wholesale price schedule, and the \$0.0128 deduction per half pint for school milk).

3. A comparison between delivery characteristics of the cross-section schools during September 1997 and during September 1996 under the previous discount system for school milk. These characteristics shall include number of deliveries per week, volume per delivery and whether any deliveries are exclusively for noncontrolled products.

4. For dealers that sell to out-of-State schools, a comparison between the price charged to each school (along with associated delivery volumes) and the minimum discounted price available to schools in the adjacent Pennsylvania Milk Marketing Area during the same time period.

5. Proposals for revising or retaining the current discount system for school milk.

#### *Schools and Board staff*

6. A break-even analysis of costs (for example, for an additional milk cooler) and savings (for example, lower milk prices) to the cross-section schools (see paragraph 1 for information on the cross-section) associated with consolidated school deliveries—that is, the point at which it is economically worthwhile for schools to receive fewer deliveries.

#### *Schools*

7. For schools that wish to offer testimony concerning costs and related profitability of milk:

a. Price charged for milk sold a la carte.

b. Amount school receives for milk sold as part of a meal. This amount is found by applying the formula "B divided by the sum of (B plus C) times A" when:

**A** is the amount the school receives for the entire meal (taking into account prices paid by students for full- and reduced-price meals, and reimbursements from State and Federal sources for full-price, reduced-price and free meals)

**B** is the cost of milk, including the cost to purchase and handle (receive, store, rotate and sell) milk

**C** is the cost of other food items, including the cost to purchase, prepare and handle these items

*Example:* **A** is \$1.50. **B** is \$.25. **C** is \$.75. The amount received for the milk portion of the meal is \$.375:

$$$.25 \div ($.25 + $.75) \times \$1.50 = $.375$$

8. For schools that wish to offer testimony on the cost of obtaining milk out of State, documentation (for example, signed bid sheets) of the out-of-State price, including delivery costs, for milk and for other products, such as juices, that are included in the bid.

9. Proposals for revising or retaining the current discount system for school milk.

The staff of the Board is deemed to be a party to this hearing, and the staff's attorney is deemed to have entered her appearance on their behalf. Other persons that may be affected by the Board order establishing a discount system for school milk in Area 1 may be included on the Board's list of parties by:

- Having their counsel file with the Board, on or before November 17, 1997, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made. Thereafter, documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

- If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with the Board, on or before November 17, 1997, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

A. Each party shall file with the Board seven copies and serve on all other parties one copy of the following on or before December 10, 1997:

1. A list of witnesses who will testify for the party. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

2. A statement of the subjects concerning which each witness will testify.

3. Each exhibit to be presented, including testimony to be offered in written form.

B. Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office on or before November 21, 1997.

C. A list of rebuttal witnesses and copies of rebuttal exhibits shall be filed with the Board (seven copies) and served on all other parties (one copy) on or before December 22, 1997.

D. Parties shall have available in the hearing room at least 20 copies of the exhibits described in paragraphs A and C for distribution to nonparties attending the hearing.

E. Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code §§ 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The Board may exclude witnesses, exhibits or other evidence of a party that fails to comply with the requirements of paragraph A, C or E.

A prehearing conference for all parties will be held at 1:30 p.m. on January 15, 1998, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA. Parties shall come prepared to address requests for the production of documents relied on in formulating their testimony and exhibits.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

If this information is required in an alternate format, call (717) 787-4194 or 1 (800) 654-5984 (PA Relay Service for TDD Users).

O. FRANK DE GARCIA,  
*Executive Secretary*

[Pa.B. Doc. No. 97-1809. Filed for public inspection November 7, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Investigation of Flexible Ratemaking for the Bus and Limousine Industries; Doc. No. I-00960063

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

Public Meeting held  
October 2, 1997

#### Order

By Order entered July 23, 1996, this Commission initiated an investigation into flexible ratemaking for the

bus and limousine industries. That investigation revealed that given the current state of competition in these industries, market forces are better suited than this Commission to set appropriate rates for these industries. By Order entered May 16, 1997, we directed, *inter alia*, that the Bureau of Transportation and Safety, in conjunction with the Law Bureau, prepare procedures allowing for the filing of flexible rates by group and party carriers (charter service, tour and sightseeing service and special excursion service) and limousine carriers. Those Bureaus have developed procedures in accordance with our directive (Appendix A). We hereby approve and adopt those procedures.

The procedures provide that a group and party or limousine carrier may establish rates with 1 day's notice to the Commission. Changes to rates need not be supported by financial data, but must be physically filed with the Commission 1 day prior to becoming effective. Unless specifically waived by the procedures, all other Commission tariff regulations remain applicable to tariff changes.

Finally, we emphasize that these procedures are voluntary and may be utilized by a group or party or limousine carrier if it so chooses. A carrier who wishes to utilize these procedures shall provide for the same in its tariff, which shall be deemed a request for waiver of relevant tariff regulations; *Therefore, It Is Ordered That:*

1. The Rate Filing Procedures for group and party and limousine carriers, as set forth in Appendix A, are hereby approved and adopted.

2. A copy of this Order shall be served on all commentators.

3. The Secretary shall cause a copy of this Order and Appendix A to be published in the Pennsylvania Bulletin.

*By the Commission*

JAMES J. MCNULTY,  
*Acting Secretary*

#### Statement of Commissioner David W. Rolka

I cannot support Staff's recommendation to allow complete flexible pricing for the bus and limousine industries and offer the following reasons for my dissent.

This investigation came on the heels of a unanimous vote to reject the Pennsylvania Bus Association's Petition seeking regulatory reform in various areas governing group and party service. In our Order entered June 6, 1996, in *In Re: Petition of the Pennsylvania Bus Association*, Docket No. P-00950983, we stated at p. 2,

One of the Commission's primary roles is to ensure that rates charged by public utilities be just and reasonable... Contrary to the Bus Association's argument, the Commission cannot [sic] shift its responsibility to the carrier to ensure that rates are just and reasonable. Group and party carriers operate in an environment where open competition is restricted by barriers to entry. See 52 Pa. Code § 41.14. Under these circumstances, *the market place is not a viable option for setting rates*. No protections would be afforded the public from unscrupulous operators who have no or limited competition in their service areas. Under these circumstances, the Commission would be remiss in its statutory duty to ensure that rates be just and reasonable if it entrusted that duty to the individual carrier.

(Emphasis added). Although we denied the Bus Association's Petition outright, I supported the Chairperson's Motion to open a proceeding to explore the possibility of

flexible rates in both the limousine and bus industries which would allow both industries a forum through which to produce evidence to support changing their current rate structures. The limousine industry was added to the proceeding since we approved a Final Rulemaking at L-00930090 which essentially rejected a proposed change in the rate structure for that industry as well.

That investigation attracted the comments of only two parties representing the bus industry one party representing the limousine industry, and two opposing commentators representing the taxicab industry. Despite such sparse evidence, the Commission concluded that, given the current state of competition, market forces will do a better job than we can of determining what bus and limousine service should cost and directed Staff to prepare procedures allowing for the filing of flexible rates. See *Investigation of Flexible Ratemaking for the Bus and Limousine Industries*, Docket No. I-00960063 (Opinion and Order entered May 16, 1997), at p. 5. I did not support that decision. There was no basis on which we could reasonably conclude that there is sufficient competition in either market. There were 325 certificated limousine operators in Pennsylvania at that time and 225 group and party carriers. I cannot accept one limousine commentator and two group and party commentators as adequate representatives of their respective industries. While there may well be competition in the Philadelphia, Pittsburgh and Harrisburg metropolitan areas, I am not convinced that competition exists on a Statewide basis.

I am very concerned that we presume the existence of a competitive market when we have no evidence to support the presumption. By relinquishing oversight of pricing for those carriers who "voluntarily" choose to adopt flexible rates, our statutory mandate to assure just and reasonable rates cannot be met. I believe this action will not promote competition but will protect incumbents, especially since nothing is being done to ease our entry requirements which, at this point in time, are viewed as barriers. It is my opinion that deregulation must proceed through the proper legislative channels and not by a mere waiver of some of our regulations.

#### **Statement of Commissioner Nora Mead Brownell**

Before us for consideration is an Order which delineates new procedures for the implementation of flexible ratemaking for the bus and limousine industries. Based on the current state of competition in these industries, it appears that rates will be set more appropriately by market forces. Group and party carriers, charter service, tour and sightseeing service, special excursion service and limousine carriers will be allowed to file flexible rates with the Commission, effective on 1 day's notice. The Order as proposed provides that changes to rates need not be supported by financial data.

I support the concept of competition and ratemaking flexibility; however, I would prefer the provision of some justification to support the new rates when filed. Nonetheless, the Commission has the authority to seek such justification in the event the filed tariff contains rates of questionable validity. Accordingly, I will concur.

Furthermore, it is important that the new pricing flexibility not result in less attention to vehicular maintenance or other safety concerns. This Commission retains its full authority to address safety concerns up to and including suspension or revocation of a carrier's Certificate of Public Convenience.

### **Appendix A**

#### **Rate Filing Procedures for Group and Party and Limousine Carriers**

Under the Commission's Order adopted at a public meeting on April 24, 1997, the following rate filing procedures may be utilized by group and party carriers (charter service, tour and sightseeing service and special excursion service) and limousine carriers.

##### *1. Changes to Existing Rates:*

a. Any changes to existing and duly established rates for group and party carriers and limousine carriers must be filed with the Commission at least 1 day before the date upon which the change is to become effective. The filing date is the date of receipt by the Commission.

b. Group and party carriers and limousine carriers shall not change any existing and duly established rate unless the rate has been in operation and effect for at least 1 day.

##### *2. Establishment of Initial Rates:*

a. On newly constructed lines of road or upon the inauguration of newly certificated service, group and party carriers and limousine carriers shall file a tariff with the Commission at least 1 day before the effective date of the tariff.

##### *3. Notice of Tariff Changes:*

a. Group and party carriers and limousine carriers are not required to publicly post changes in fares, as prescribed by 52 Pa. Code § 23.61.

##### *4. Data Required for Tariff Changes or New Tariffs:*

a. Group and party carriers and limousine carriers are not required to file supporting financial justification for tariff changes or new tariffs as provided at 52 Pa. Code §§ 23.62—23.64.

[Pa.B. Doc. No. 97-1810. Filed for public inspection November 7, 1997, 9:00 a.m.]

#### **Petition of Conestoga Telephone & Telegraph Company and Buffalo Valley Telephone Company for Commission Action Under Sections 251(f)(2) and 253(b) of the Telecommunications Act of 1996; Doc. No. P-00971244**

On September 2, 1997, Conestoga Telephone & Telegraph Company and Buffalo Valley Telephone Company (Petitioners) filed a Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking relief from the interconnection obligations of section 251(b) and (c) of the Telecommunications Act of 1996 (TA-96), under sections 251(f)(2) and 253(b) of the TA-96. Under the TA-96, the Commission must make a determination under section 251(f)(2) within 180 days of submission.

The Petitioners seek relief similar in form and substance to that provided to other, similarly situated, Petitioners in Doc. No. P-00971177 by Order and Opinion entered July 10, 1997. Upon consideration and review, the Commission has determined that public notice and solicitation of comment is appropriate.

The Commission is soliciting comments and reply comments to the Petitions. Interested parties must submit comments on the Petitions within 7 days of publication in



the *Pennsylvania Bulletin*. Reply Comments must be resubmitted within 14 days of publication in the *Pennsylvania Bulletin*.

Copies of the Petition may be obtained from Lisa Higley at (717) 787-1013 in the Office of the Prothonotary at the Commission's offices in Harrisburg. The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau, (717) 787-3663.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1811. Filed for public inspection November 7, 1997, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from 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 December 1, 1997 as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

#### **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-00114363. Daniel M. Hall, t/d/b/a Blue Mountain Limousine Service** (1065 Pennsylvania Avenue, Pen Argyl, Northampton County, PA 18072)—persons, in limousine service, between points in the counties of Lehigh, Northampton and Monroe, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Gary Asteak, 726 Walnut Street, Easton, PA 18042.

**A-00114365. Edward R. Emery, t/d/b/a Penn Trolley** (661 Brownsville Road, Sinking Spring, Berks County, PA 19608)—persons, in group and party service, between points in the borough of Boyertown, Berks County, and within an airline distance of 20 statute miles of the limits of said borough, and from points in said territory, to points in Pennsylvania, and return; subject to the following condition: That all transportation is to be provided in trackless, trolley style vehicles.

**A-00114370. Starride Limousine Service, Inc.** (100 Ridge Road, Delta, York County, PA 17314), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the borough of Delta, York County, and within an airline distance of 10 statute miles of the limits of said borough, and from points in said territory, to points in Pennsylvania, and return.

#### **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-00105786, F. 1, Am-A. Smith Bus Company, Inc.** (R. D. 1, Box 622 B, Blairsville, Indiana County, PA 15717), a corporation of the Commonwealth of Pennsylvania—groups and parties of persons, from points in the township of Burrell and the facilities of Homer Center High School in the township of Centre, Indiana County, and the borough of Elderton, Armstrong County, to points in Pennsylvania within an airline distance of 100 statute miles of the point of origin; subject to the following conditions: (1) That the service herein authorized is limited to charter service with no right, power or privilege granted to provide tour, sightseeing or special excursion service; and (2) That all transportation herein authorized is limited to the use of school bus type equipment: *so as to permit* the transportation of persons in group and party service, between points in the townships of Burrell and Centre, Indiana County, and the borough of Elderton, Armstrong County, and from points in the said townships and borough, to points in Pennsylvania, and return. *Attorney:* Dennis S. Shilobod, 617 Grant Building, 330 Grant Street, Pittsburgh, PA 15219.

**A-00109668, F. 1, Am-C. Kirk Livery, Inc.** (126 McClellan Drive, Pittsburgh, Allegheny County, PA 15236), a corporation of the Commonwealth of Pennsylvania—inter alia, persons in limousine service between points in the counties of Armstrong and Indiana, and from points in said counties, to points in Pennsylvania, and return: *so as to permit* the transportation of persons in limousine service, between points in the county of Lawrence, and from points in the said county, to points in Pennsylvania, and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**A-00107942, Folder 2, Am-A. Maple City Transit, Incorporated** (1371 Bridge Street, Honesdale, Wayne County, PA 18431), a corporation of the Commonwealth of Pennsylvania—persons, upon call or demand in the borough of Honesdale, Wayne County, and points in the counties of Wayne and Pike within an airline distance of 25 statute miles of the limits of said borough: *so as to permit* the transportation of persons upon call or demand in the counties of Wayne and Pike, and the city of Carbondale, Fell Township, the boroughs of Jermyn and Mayfield and The Martz Trailways Bus Terminal located at 23 Lackawanna Avenue, Scranton, all located in Lackawanna County, the Wilkes-Barre-Scranton International Airport located in the borough of Avoca and the township of Pittston, Luzerne County and the borough of Forest City, Susquehanna County.

**A-00107942, Folder 1, Am-A. Maple City Transit Incorporated** (1371 Bridge Street, Honesdale, Wayne County, PA 18431), a corporation of the Commonwealth of Pennsylvania—persons, in paratransit service, in vehicles having a seating capacity of 20 persons or less, excluding the driver, between points in the counties of Wayne and Pike, and from points in the said counties to points in Pennsylvania, and vice versa: *so as to permit* the transportation of persons in paratransit service, between points in the counties of Wayne and Pike, and the city of Carbondale, the township of Fell, the boroughs of Jermyn and Mayfield, all located in Lackawanna County, the Martz Trailways Bus Terminal located at 23 Lackawanna Avenue, Scranton, Lackawanna County, the Wilkes-Barre-Scranton International Airport located in the borough of Avoca and the township of Pittston, Luzerne County, and the borough of Forest City, Susquehanna County, and from points in the said territory and locations, to points in Pennsylvania, and vice versa.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00114339. Kenneth Sharer and Connie Sharer, Husband and Wife** (Route 6 East, P.O. Box 790, Wyalusing, Bradford County, PA 18853)—(1) persons in group and party service, in school bus-type equipment, from points in the township of McIntyre, Lycoming County, to points in Pennsylvania, and return; (2) persons in group and party service from points in the county of Wyoming, to points in the counties of Allegheny, Luzerne, Northumberland and the city and county of Philadelphia, and return; (3) persons in group and party service, between points in the county of Sullivan, and from said county to points in Pennsylvania; and from the borough of Mansfield, Tioga County, to points in Pennsylvania, and return; subject to the following condition: That no right, power or privilege is granted to transport persons for Mansfield University of Pennsylvania in university-sponsored or related activities; which is to be a transfer of part of the rights granted to Krise's Bus Service, Inc., under the certificate issued at A-00109607, Folder 1 and Folder 2, subject to the same limitations and conditions. *Attorney:* Kenneth Zielonis, P.O. Box 12090, Harrisburg, PA 17108-2090.

**A-00114366. Deanna Kyle** (122 Allendale Road, Beaver Falls, Beaver County, PA 15010)—persons, in limousine service, between points in the county of Butler, and from points in said county, to points in Pennsylvania, and return; which is to be a transfer of the right granted to Jerry Burr, t/d/b/a Burr's Personal Driving Service, under the certificate issued at A-00107543, subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**A-00114286, Folder 2. Bertline's Cab Co.** (304 East Bertsch Street, Lansford, Carbon County, PA 18232), a corporation of the Commonwealth of Pennsylvania—a corporation upon call or demand in the boroughs of Lansford, Summit Hill and Nesquehoning, Carbon County, and the borough of Coaldale, Schuylkill County; which is to be a transfer of the right authorized under the certificate issued at A-00079143, F. 8, Am-A to Harrisburg Taxicab & Baggage Co., t/a Yellow Cab, a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions. *Attorney:* John Fullerton, 212 Locust Court, Suite 500, Harrisburg, PA 17101.

**Applications of the following for approval amendment of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00096279, Folder 2, Am-D. G.G.&C. Bus Co., Inc., t/d/b/a Washington Tours** (2896 Jefferson Avenue, Washington, Washington County, PA 15301), a corporation of the Commonwealth of Pennsylvania—inter alia, to transport, groups and parties of persons from the township of Upper St. Clair, Allegheny County, to points in Pennsylvania, excluding service between points in Allegheny County: so as to permit the transportation of persons in group and party service, from that part of the city of Pittsburgh bounded and described as follows: Beginning at the intersection of Interstate Route 579 (Crosstown Boulevard) and Bigelow Boulevard; thence via Bigelow Boulevard to North Craig Street; thence via

North Craig Street to Baum Boulevard; then via Baum Boulevard to its intersection with Negley Avenue; then north on Negley Avenue to its intersection with East Liberty Boulevard; thence via East Liberty Boulevard to its intersection with Collins Street; then north on Collins Street to its intersection with Negley Run Boulevard; then via Negley Run Boulevard to its intersection with Washington Boulevard; then north on Washington Boulevard to its intersection with Allegheny River Boulevard; then east on Allegheny River Boulevard to the city line of the city of Pittsburgh; then south via the city line to Penn Avenue; then west on Penn Avenue to Penn Circle South; then via Penn Circle South to Center Avenue; then via Center Avenue to its intersection with Morgan Street; then via Morgan Street to its intersection with Aliquippa Street; then via Aliquippa Street to its intersection with Robinson Street; then via Robinson Street to its intersection with Fifth Avenue; then west via Fifth Avenue to the Crosstown Boulevard; then via Crosstown Boulevard to the point of beginning, to points in Pennsylvania; subject to the following condition: That no right, power or privilege is granted to transport between points in Allegheny County or to transport groups and parties of persons in charter service (but not including persons on special excursions and tours or sightseeing service) from points in Allegheny County to points outside Allegheny County within an airline distance of 40 statute miles of the city-county building in the city of Pittsburgh, Allegheny County; which is to be a transfer of all of the rights authorized to Seneca Charter Tours, Inc., under the certificate issued at A-00110760, subject to the same limitations and conditions. *Attorney:* Gary L. Sweat, Southpoint, 101 Hillpointe Drive, Suite 120, Canonsburg, PA 15317.

**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 November 24, 1997.

- |            |  |
|------------|--|
| A-00114364 | Dean A. Snyder, t/d/b/a D.A. Snyder<br>Trucking<br>R. D. 1, Box 41-D, Avonmore, PA 15618   |
| A-00114367 | Farm & Home Oil Company<br>3115 State Road, Box 389, Telford, PA<br>18969  |
| A-00114371 | M & G Trucking, Inc.<br>P. O. Box 1215, Stroudsburg, PA 18301  |
| A-00114372 | Wm., III, & Daniel V., Sr. Paull t/d/b/a<br>B & T Trucking Company<br>P. O. Box 383, Uniontown, PA 15401                                   |
| A-00114373 | Spisak Trucking & Repair, Inc.<br>3381 Elton Road, Johnstown, PA 15904:<br>Bradley Blackington, 938 Mt. Airy<br>Drive, Johnstown, PA 15904 |
| A-00114374 | Bradley A. Sumey, t/d/b/a Sumey Trucking<br>R. D. 5, Box 118-B, Uniontown PA<br>15401  |
| A-00114375 | Neil D. Snyder<br>R. R. 3, Box 398-G, Alverton, PA 15612   |

- A-00114376 B. K. Trucking, Inc.  
598 Lutz School Road, Indiana, PA  
15701: Michael J. Toretti, 134 South  
Sixth Street, Indiana, PA 15701
- A-00114377 Ron Catalano, t/d/b/a Catalano Trucking  
P. O. Box 110, Analomink, PA 18320
- A-00114378 MJR Messenger, Inc.  
2705 Blacklake Place, Philadelphia, PA  
19154: Mel Staffin, 531 Plymouth Bou-  
levard, Suite 500, Plymouth Meeting,  
PA 19462
- A-00114379 Alexander Mill Services, Inc.  
1155 Business Center Drive, Horsham,  
PA 19044-3454: William A. Gray, 2310  
Grant Building, Pittsburgh, PA  
15219-2383
- A-00114380 Ted G. Brown, t/d/b/a T. J. Brown  
Transport  
301 Lamparter Road, Quarryville PA  
17566
- A-00114381 Malone Freight Lines, Inc.  
P. O. Box 101029, Birmingham, AL  
35210-9936: Jeff J. Goedken, P. O. Box  
1943, Cedar Rapids, IA 52406-1943
- A-00114382 Michail A. Anthony, t/d/b/a Canchona  
Transport  
417 Electric Street, Scranton, PA 18509  
  
JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1812. Filed for public inspection November 7, 1997, 9:00 a.m.]

## TURNPIKE COMMISSION

### Retention of an Engineering Firm; Request for Expanded Letters of Interest

#### Preliminary Engineering and Environmental Work for Widening Two Sections of the Turnpike in Montgomery County, PA

##### Reference No. 4-048

The Turnpike Commission (Commission) will retain an engineering firm to perform a feasibility study of widening the Turnpike from four travel lanes to six along two sections of the Turnpike in Montgomery County. The sections are from the Valley Forge Interchange (#24) to the Junction with the Northeast Extension and from the Junction to the Lansdale Interchange (#31). These two sections of highway are heavily traveled with volumes exceeding 55,000 ADT.

The study will include preliminary engineering for bridge and roadway widening (including study for median widening on the Northeast Extension), the need for replacing overhead bridges for horizontal clearance, side road impacts, right-of-way and utility impacts, potential environmental impacts such as wetlands and stream impacts, noise and air as well as other relevant issues. The study will also address potential construction phasing and the development of construction cost estimates.

Direct inquiries to Jeffrey C. Davis, P.E., at (717) 939-9551, extension 5160. Selection will be based on Expanded Letters of Interest submitted.

### General Requirements and Information

Firms interested in performing the above services are invited to submit Expanded Letters of Interest to Barry L. Troup, P.E., Assistant Chief Engineer—Design, Administration Building, located on Eisenhower Boulevard at the Harrisburg-East Interchange near Highspire, PA. Mailing Address: P.O. Box 67676, Harrisburg, PA 17106-7676.

The Expanded Letters of Interest must include in the heading the project reference number indicated in the advertisement. A Standard Form 254, "Architect-Engineer and Related Services Questionnaire," not more than 1 year old as of the date of this advertisement, and Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project," must accompany each letter of interest. If the firm has multiple offices, the location of the office performing the work must be identified.

Firms with out-of-State headquarters or corporations not incorporated in this Commonwealth must include with each letter of interest a copy of their registration to do business in this Commonwealth as provided by the Department of State.

The Commission currently limits its participation in the remuneration of principals or consultant employees performing work on projects to \$72,800 per annum or \$35 per hour or their actual audited remuneration, whichever is less. The Commission currently limits its participation in the consultant's indirect payroll costs (overhead) on design projects to 130% or the consultant's actual audited overhead rate, whichever is less.

The following factors should be identified by the Consultant in their submission:

(A) Specialized experience and technical competence of firm.

(B) Past record of performance with respect to cost control, work quality and ability to meet schedules. The specific experience of individuals who would be involved in the project shall be identified, including the Project Manager.

(C) Expanded Letters of Interest should include an indication of the prime consultant's and subconsultant's current work load for all Department of Transportation and Turnpike Commission projects.

(D) Location of consultant's office where the work will be performed.

(E) Listing of subconsultants intended. Any deviation from the subconsultants listed in the letter of interest will require written approval from the Commission, if selected.

(F) Special requirements of the project.

(G) An organizational chart for the project identifying key personnel. Only resumes of key personnel should be included.

(H) Other factors, if any, specific to the project.

Each firm shall demonstrate in their Expanded Letter of Interest their ability to perform the specific requirements indicated for this project by including a maximum three page report on this subject.

There will not be a DBE/WBE/MBE requirement for this project.

The Expanded Letters of Interest and required forms must be received by 12 noon, Friday, November 21, 1997. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Expanded Letters of Interest in response to this advertisement, one firm will be selected for this project. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Selection Committee. Technical Proposals will not be requested for final selection.

The Commission reserves the right to reject all Letters of Interest submitted, to cancel the solicitation requested under this notice and/or to readvertise solicitation for these services.

JAMES F. MALONE, III  
*Chairperson*

[Pa.B. Doc. No. 97-1813. Filed for public inspection November 7, 1997, 9:00 a.m.]

### **Retention of Information Technology Consulting Firms; Request for Expanded Letters of Interest; Reference No. 3-099**

The Turnpike Commission (Commission) will retain four Information Technology consulting firms to provide information technology related services on various projects for the Commission.

The services will encompass a wide range of information technology consulting, study, analysis and design and programming efforts with the possibility of several different projects undertaken with short completion schedules. The anticipated types of projects include Year 2000 compliance, Business Process Re-Engineering, Desk Top Environment Replacement, Data Warehousing, Project Management Process Implementation (including GIS), Computer Aided Dispatch and Intelligent Highway Systems (ITS) Implementation. Each contract will be for a maximum cost of \$500,000 for a 2 year period.

Each firm may be required to: Provide a high level of technical support for development of information technology projects; perform project life cycle activities that involve the study, analysis, design, programming, testing and installation of computer based applications and their associated equipment; analyze existing program logic to determine the best method of accomplishing required changes or cause of program malfunctions; design program logic to meet the performance and processing needs of the Commission; test all developed and modified programs; interact with customers when applicable to determine system requirements and resolve problems; report status or progress of projects or tasks and record actual time spent for each assigned task; insure conformance with information technology standards, procedures and policies; perform other related duties as assigned or needed. Personnel will be required to work under the direction of Commission employees in the performance of their day-to-day activities. The Commission will also require a weekly status report which will be submitted and approved by the designated PTC Project Manager.

Direct inquiries and questions to Sam J. Boyer at (717) 986-9641.

### **General Requirements and Information**

Firms interested in performing the above services are invited to submit Expanded Letters of Interest to Robert L. Brown, Deputy Executive Director, Information Technology, Administration Building, located on Eisenhower Boulevard at the Harrisburg-East Interchange near Highspire, PA. Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676. Inquiries may be directed to Samuel J. Boyer, Director of Project/Process Management at (717) 986-9641.

The Expanded Letters of Interest must include in the heading the project reference number indicated in the advertisement. If the firm has multiple offices, the location of the office performing the work must be identified. A cost rate per hour schedule must be submitted for each of the professional positions listed:

Business Process Re-Engineering Consultant  
Management Consultant  
Year 2000 Consultant  
Year 2000 Programmer/Analyst  
Wan/LAN Communication Specialist  
Business Systems Analyst  
Project Manager  
Systems Analyst  
Programmer Analyst  
Data Base Analyst

Firms with out-of-State headquarters or corporations not incorporated in this Commonwealth must include with each Letter of Interest a copy of their registration to do business in this Commonwealth as provided by the Department of State.

The following factors will be considered by the committee during their evaluation of the firms submitting Expanded Letters of Interest:

1. Capability of the firm to supply needed skills and level of experience.
2. Ability of the firm to work remotely. Office space is limited at our facility.
3. Resumes of the individuals submitted and their capabilities.
4. Hourly rates submitted for the professional positions submitted.
5. Past record of firm with respect to work quality, ability to meet schedules and ability to work in a team environment.
6. Physical location of consultant's office where the work will be performed.
7. Listing of subconsultants intended. Any deviation from the subconsultants listed in the Letter of Interest will require written approval from the Commission.
8. Willingness to submit candidates to an interview process prior to work assignments.

Each firm shall demonstrate in its expanded Letter of Interest its ability to perform the specific requirements indicated for these projects by including a maximum three page report on this subject.

The Expanded Letters of Interest and required rate schedule must be received by 12 p.m., Friday, November 21, 1997. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Expanded Letters of Interest received in response to this solicitation, the order will be established for the purpose of entering into

an Open-End Agreement with the four highest ranked firms. Technical Proposals or Request for Proposals will not be requested.

The assignment of the above services will be made to four of the firms responding to this notice, but the Commission reserves the right to review all Letters of Interest submitted, to cancel the solicitation requested

under this notice and/or to readvertise solicitation for these services.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-1814. Filed for public inspection November 7, 1997, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

**Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340**

### Commodities

**1401117** Hardware (Security Related)—2,000 each zinc No. JPR 3547 3/4 10" x 2" security bolt, round head break off screw steel maximum security large diameter; 6,500 security bolt, round head break off screw steel zinc JPR No. 3545 1/2 x 13 x 1 1/2" maximum security large diameter break off fasteners; 1,100 security bolt round head break off screw steel zinc JPR No. 3923 3/8 16 x 1 1/2".

**Department:** Corrections  
**Location:** Houtzdale, Clearfield County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1322227** Motor vehicles, trailers and cycles—1 each 1998 model utility body truck.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1417157** Paper and printing—2,100 M STD 330 Requests for Leave 3 part snap set overall size 3 1/4 x 7 1/8 size with stub/s detached.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1403117** Recreational and athletic equipment and supplies—1 each safety/gym mat 51' x 51' 1" minimum to 1.25" maximum core thickness.

**Department:** Corrections  
**Location:** Elizabethtown, Lancaster County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1263117** Textiles—10,000 yards raincoating materials; 100% nylon, 200 denier, durable water repellent finish dyed black coated with pigmented fluorescent orange urethane on reversible side.

**Department:** Corrections  
**Location:** Huntingdon, Huntingdon County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

## SERVICES

### Agricultural Services—02

**23-60003-029** Provide fish food products used in a Statewide fish culture program during the period January 01, 1998 through March 31, 1998. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

**Department:** Fish and Boat Commission  
**Location:** Statewide to various fish culture stations as requested  
**Duration:** January 01, 1998—March 31, 1998  
**Contact:** Dennis C. Ricker, (814) 358-5141

### Audio/Video—04

**300926** Videotaping of training sessions: videotaping of annual Dysphagia and biannual Food Safety in-service, taping of religious services, teaching conferences, psychology training, personnel and/or other needed hospital related training.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** February 01, 1998 to June 30, 2000, a period of 30 months  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

## Computer Related Services—08

**33-7-001** This contract will provide for network security that is required to protect the Department's network information resources, as well as the privacy and integrity of network communications across the internet, intranet and extranet. PennDOT is requesting product specific, no substitution acquisition of Checkpoint Enterprise Center, installation, plus maintenance support and upgrades.

**Department:** Transportation  
**Location:** Harrisburg Area  
**Duration:** 2 years with three 1-year renewals  
**Contact:** Becky Young, (717) 787-7602

**ME 80000** Commonwealth Libraries, Educational Resources and Learning Technologies Office (ERLTO) is seeking interested contractors regarding the continuing development, maintenance, storage and implementation of a bibliographic union database with records in full U. S. MARC II format. The bibliographic union database contains the holdings of school, public, academic and special libraries. Approximately 3.4 million U. S. MARC II records are at the site of the current contractor. Successful contractor will be required to merge, dedupe, apply authority control and index these records to create compact laser disc and World Wide Web products.

**Department:** Education  
**Location:** Commonwealth Libraries, ERLTO, 333 Market Street, 11th Floor, Harrisburg, PA 17126-0333  
**Duration:** One (1) year with the option of four 1-year renewals  
**Contact:** Gayle Shimmel, (717) 783-4413

**SP 322468** Professional Help Desk (PHD) Software. PHD is a help desk software package that will be used to run a help desk for the Department of General Services.

**Department:** General Services  
**Location:** Bureau of Management Information Systems, 22nd and Forster Streets, Room G6, Harrisburg, PA  
**Duration:** 1 year plus extension  
**Contact:** Stephanie A. Decker, (717) 705-0087

## Construction—09

**040CMI 043272**—Luzerne County—S. R. 1013 (350).

**Department:** Transportation  
**Location:** District 4-0  
**Duration:** FY 1997—98  
**Contact:** V. C. Shah, (717) 787-5914

**C 02990** Services required to upgrade bridge crossing in Parker Dam State Park including clearing site, backfilling, removing existing wheel guide, relocating existing paddle boards and supply and installation of wooden guide rails on the roadway.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Facility Design and Construction, Parker Dam State Park, Huston Township, Clearfield County, PA  
**Duration:** Within 30 days of notice to proceed  
**Contact:** Cory Gaiski, (717) 783-0760

**DGS 211-5** Project title: PA State Police. Brief description: Renovations include new membrane roofing, thermal windows, doors, ceilings, new plumbing fixtures and piping. HVAC includes new piping, equipment and asbestos abatement. Electrical includes new lighting, fire alarm system and IIVAC wiring. General, HVAC, plumbing and electrical construction. Plans deposit: \$280 per set. Payable to: Benatec 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 to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Benatec Associates, 200 Airport Road, New Cumberland, PA 17070, (717) 901-7055. Bid date: Wednesday, December 10, 1997 at 2 p.m.

**Department:** General Services  
**Location:** PA State Police Academy, Hershey, Dauphin County, PA  
**Duration:** 270 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-104** Project title: New Fuel Facility. Brief description: Removal of underground storage tank and replacement with aboveground storage tanks, dispenser island, fuel truck pad and site modifications as part of a fuel facility upgrade. Install new circuits and equipment for power distribution and lighting. Electrical and underground storage tank construction. Plans deposit: \$78 per set. Payable to: Paul C. Rizzo Associates, Inc. Refundable within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Paul C. Rizzo Associates, Inc., 300 Oxford Drive, Monroeville, PA 15146, (412) 856-9700. Bid date: Wednesday, December 10, 1997 at 2 p.m. A prebid conference has been scheduled for Tuesday, November 25, 1997 at 10:30 a.m. at the PennDOT Shed in the Manager's Office, Smethport, PA. Contact: Stephen Adams, (412) 856-9700. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Smethport, McKean County, PA  
**Duration:** 115 calendar days from March 16, 1998  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-450** Project title: Roof Replacement. Brief description: Remove all existing EPDM roofing, insulation, built-up roof system and fiberboard. Install new insulation, recovery board and new single-ply thermoplastic roofing system and provide 15 year warranty. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 1 p.m.

**Department:** General Services  
**Location:** PA Department of Transportation, Maintenance Building, West Chester, Chester County, PA  
**Duration:** 100 calendar days from March 16, 1998  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-454** Project title: Roof Replacement. Brief description: Remove built-up roofing and rubber roofing. Install new insulation and single ply roofing. General Construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m.

**Department:** General Services  
**Location:** PA Department of Transportation, Maintenance Building, District 8-7, Lancaster, Lancaster County, PA  
**Duration:** 130 calendar days from March 16, 1998  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A999-102** Project title: Repairs and Improvements to Site. Brief description: Repairs to porches, repair stone gutter, repair brick chimneys and repair fireplace. Site drainage improvements. Demolish existing craft shop and build new storage building. Restoration skills qualifications are required for this project. General construction. Plans deposit: \$25. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Bureau of Professional Selections and Administrative Services, Room 107, 18th and Herr Streets, Harrisburg, PA 17125. Bid date: Wednesday, December 3, 1997 at 11 a.m., (717) 787-3923. A prebid conference has been scheduled for Wednesday, November 19, 1997 at 9 a.m. Meet at the Old Stone House, Slippery Rock, PA, Front Porch. Meeting will be inside the building. Contact: John Callan, (717) 787-6242. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Old Stone House, Slippery Rock, Butler County, PA  
**Duration:** 120 calendar days from March 16, 1998  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 999-103** Project title: Restoration of the Dennison House. Brief description: Complete exterior renovations of the Dennison House and maintenance building, includes new roofs, siding, trim, new air exhaust and dehumidification system. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, 18th and Herr Streets, Room 107, Headquarters Building, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m. Prebid conference Wednesday, November 14, 1997 at 11 a.m. at the Nathan Dennison House, Visitor's Center, Forty Fort, PA. Contact person: Dave GeeGee, (717) 787-6014. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Nathan Dennison House, Forty Fort, Luzerne County, PA  
**Duration:** 120 calendar days from March 16, 1998  
**Contact:** Contract Bidding Unit, (717) 787-6556



**DGS A 1570-16 Rebid** Project title: Replace Sallyport Gates. Brief description: Replace existing electric sliding gates and controls at two sally ports. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 11 a.m.

**Department:** General Services  
**Location:** State Correctional Institution, Greensburg, Westmoreland County, PA  
**Duration:** 150 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS 1572-4** Project title: Warehouse. Brief description: Work includes bituminous paving, new preengineered steel framed building with metal siding and roof, concrete masonry, concrete foundations and floor slab involving HVAC, plumbing and electrical work. Plans deposit: \$110 per set. Payable to: Kurtanich Engineers & Associates, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Kurtanich Engineers & Associates, Inc., 6124 East State Street, P. O. Box 1267, Hermitage, PA 16148-9452, (412) 981-4570. Bid date: Wednesday, December 10, 1997 at 11 a.m. Prebid conference Thursday, November 13, 1997 at 2 p.m. at SCI in the Staff Training Room, Building 27, Mercer, PA. Contact: Guy Harper or Marie Whyte at (412) 662-1837, ext. 172. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** State Correctional Institution, Mercer, Mercer County, PA  
**Duration:** 210 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**FDC-005-393** Installation of guide rails connected to two bridges on Bear Meadows Road, Huntingdon County.

**Department:** Conservation and Natural Resources  
**Location:** State Parks Region No. 3, Forest District No. 5, Rothrock Lane, Box 403, Huntingdon, PA 16652  
**Duration:** Completion time—45 days after Notice to Proceed  
**Contact:** Gene Strick, (814) 733-9123

**RFP 10-97** Architectural services. Bloomsburg University of the State System of Higher Education, will select a firm for the purpose of professional design services, through all phases of construction for the Scranton Commons renovations. Interested professional should call Joe Quinn, (717) 389-4311 prior to November 22, 1997 to obtain a request for proposal packet for this project. The services required will be renovations to an existing food services operation presently located at the university. The System encourages responses from small firms, minority firms, women owned firms and firms which have not previously worked for the System. Nondiscrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education. The proposal packages will be released in the latter part of November, and all required information including, prebid dates, bid response dates, and information related to the responses will be included in that package.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA 17815  
**Duration:** 18 months  
**Contact:** Joseph C. Quinn, (717) 389-4311

### Elevator Maintenance—13

**IN-740.5** Elevator upgrade Elkin and Gordon Halls. Work consists of elevator upgrade, Elkin and Gordon Halls consisting of removing existing controller, pump fixtures, cab, wiring, and the like, to furnish and install new controller, door operating equipment, door edges, fireman's service, signal fixtures, and the like. Notice to Contractors may be requested from IUP or <http://www.iup.edu/phyfac/list.html>. Phone: (412) 357-2289. Fax: (412) 357-6480.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Indiana, PA 15705-1087  
**Duration:** Six (6) months  
**Contact:** Ronald E. Wolf, Procurement Specialist, (412) 357-4851

### Engineering Services—14

**08430AG2136** To provide supplementary construction inspection staff of approximately 14 inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on seven projects in Westmoreland and Washington Counties, Engineering District 12-0.

**Department:** Transportation  
**Location:** Engineering District 12-0  
**Duration:** Fifteen (15) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2137** Two Open-end contracts 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:** District 8-0  
**Duration:** Sixty (60) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

### Environmental Maintenance Services—15

**FDC-202-318R** Construct one 8-inch, cased well, approximately 300 feet deep; conduct all testing; provide connections to existing water and electrical systems. All work is at Cook Forest State Park.

**Department:** Conservation and Natural Resources  
**Location:** Farmington Township, Clarion County, PA  
**Duration:** 60 days  
**Contact:** Construction Management Section, (717) 787-5055

**HSCP 02-012-101.1** Soil remediation, Crown Industries Site involves 12,320 tons of materials handling, transportation and off site disposal of 1,430 tons of residual waste, 3,944 tons of RCRA hazardous and TSCA regulated waste, 5,140 tons of TSCA regulated waste and 350 tons of RCRA hazardous waste.

**Department:** Environmental Protection  
**Location:** Lackawaxen Township, Pike County, PA  
**Duration:** 180 days after Notice to Proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**OSM 63(6633)101.1** Abandoned mine reclamation, King's Creek involves grading an estimated 188 l. f. of 18" diameter pipe and 20 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:** Hanover, Washington County, PA  
**Duration:** 210 days after Notice to Proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**Extermination Services—16**

**LH-SER-046** Extermination service—Contractor to provide all equipment, supplies, labor necessary for pest control to all buildings and State owned houses (2) at the State Correctional Institution at Laurel Highlands. Bid on file at institution.

**Department:** Corrections  
**Location:** State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631  
**Duration:** February 01, 1998 to January 31, 2001  
**Contact:** Carole Kolesko, Purchasing Agent I, (814) 443-0366

**Firefighting Services—18**

**Project No. 907** On-call maintenance of fire alarm system.

**Department:** Military and Veterans Affairs  
**Location:** PAANG, Harrisburg International Airport, Middletown, Dauphin County, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Food—19**

**174** Estimated need: enriched white bread, Texas toast, wheat bread, cinnamon/raisin bread, Italian bread, hamburger rolls, frankfurter rolls, soft dinner rolls, semi-hard rolls, hard rolls, English muffins, assorted pastries, individual size pies.

**Department:** Public Welfare  
**Location:** Youth Development Center at New Castle, R. R. 6, Box 21A, New Castle, Lawrence County, PA 16101  
**Duration:** January 1, 1998—March 31, 1998  
**Contact:** Kathy Zeigler, Purchasing Agent, (412) 656-7308

**1000** Fresh fruit and vegetables. Bids will be done on a monthly basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Frackville, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** January 1, 1998—December 31, 1998  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (717) 874-4516, ext. 112

**1001** Food stuffs, including but not limited to meat, fish, poultry (including turkey products), frozen vegetables, fresh eggs, cheeses, margarine (excluding all milk), waffles, pizza and ice cream. Bids will be done on a monthly basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Frackville, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** January 1, 1998—December 31, 1998  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (717) 874-4516

**6992** Milk—chocolate, low fat, buttermilk, skim milk.

**Department:** Military and Veterans Affairs  
**Location:** Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, P. O. Box 319, Hollidaysburg, PA 16648  
**Duration:** January 1, 1998 through December 31, 1998  
**Contact:** Becky Clapper, Purchasing Agent, (814) 696-5210

**97-MP0218** 30 mm Collagen for fresh products. Approximately 360,000 feet for the next 12 months.

**Department:** Corrections  
**Location:** Bureau of Correctional Industries, Meat Processing Plant at State Correctional Institution Camp Hill, Camp Hill, PA 17001-8837  
**Duration:** December 1997 to June 1998  
**Contact:** Linda Malinak (717) 975-4931

**AA-10117** Groceries and frozen foods. Additional information can be obtained by contacting this facility.

**Department:** Military and Veterans Affairs  
**Location:** PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239  
**Duration:** January 1, 1998 through March 30, 1998  
**Contact:** Jeanette Gualtieri, (814) 878-4930

**HVAC—22**

**Project No. 904** Inspect fire pump and wet pipe system, foam system, antifreeze system.

**Department:** Military and Veterans Affairs  
**Location:** PA Air National Guard, Willow Grove, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 905** On-call air conditioning.

**Department:** Military and Veterans Affairs  
**Location:** PA Air National Guard, Willow Grove, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 906** On-call maintenance on air compressor.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG, Harrisburg International Airport, Middletown, Dauphin County, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Lodging/Meeting—27**

**BOOT-98-001** Conference facility required for September 18, 19, 20 and 21, 1998 consisting of one conference room to accommodate 400 persons and other various breakout rooms. All conference rooms must be equipped with podium, overhead projector, screen, sound system and TV/VCR. All lodging must be in the same facility as conference meeting space to accommodate 400 persons. Breakfast, lunch, breaks, dinners onsite for up to 450 persons. Facility must comply with Americans with Disabilities Act and have a fire sprinkler system. Location to be in Dauphin, Cumberland, Lebanon, Lancaster or York Counties. For bid package, contact Chris Nolan at (717) 651-2191 or (717) 651-2189.

**Department:** PA Emergency Management Agency  
**Location:** Commonwealth of Pennsylvania  
**Duration:** September 18—21, 1998  
**Contact:** Christopher Nolan or Jackie Hill, (717) 651-2189

**Medical Services—29**

**MS-1-1998/99** Consultant to provide training courses for hospital emergency departments on the evaluation and treatment of radiological contaminated injured individuals and training courses for emergency medical services personnel who recover, provide initial first aid to and transport radiation contaminated injured persons to designated medical treatment facilities.

**Department:** Pennsylvania Emergency Management Agency  
**Location:** Various locations within the Commonwealth, Bureau of Operations and Training  
**Duration:** January 1, 1998 to June 30, 1999 (optional 2nd year)  
**Contact:** John Bahnweg, (717) 651-2123

**SPC-321160** Contractor shall provide Psychiatric Evaluation Services for youth of this facility, age 15 to 20. Estimated hours of service approximately 100 hours for each 12 month contract period.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020  
**Duration:** January 1, 1998 through June 30, 2001  
**Contact:** Dorthia Claud-Williams, (215) 953-6412 or 6405

**SP-351223 (Rebid)** Medical tests for employes to perform asbestos abatement work—Service shall include the following: Health and occupational history (monitoring, evaluation, and the like), physical exams by a physician licensed to practice medicine in Pennsylvania, radiologic services (chest x-ray) by a certified radiology technician and x-ray to be interpreted and classified by a Class B Reader, pulmonary function spirometry screen (performed by a certified pulmonary function technologist or an individual who has completed a training course in spirometry), written interpretation of medical exams/tests for each individual employe, comparison of exam results and the like. Exams to be performed at the contractor's place of business if within 15-mile radius of WSH, if beyond 15 mile radius they shall be performed at WSH with contractor providing his/her own equipment. Certified mobile units are acceptable. Approximately 18 employes covered by this contract. Complete details and specifications of services can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Box 300, Route 422, Wernersville, Berks County, PA 19565  
**Duration:** January 1, 1998 through December 31, 2000  
**Contact:** Karl Koenig, Purchasing Agent, (610) 670-4127

**SP 351226 (Rebid)** Psychological rehabilitative specialist—The contractor shall provide psychological rehabilitative training for patients and staff to assist the chronically mentally ill patient to reside successfully in the community. The provider/contractor must have a current Pennsylvania Psychology License, Ph.D. in clinical psychology, experience working in a State mental hospital as well as documented experience in current patient care activities with community mental health/mental retardation facilities. The provider/contractor is to spend 2 full day sessions (7.5 hours each) every month on a schedule mutually agreed upon between the contractor and the hospital. Complete details and specifications of services can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Box 300, Route 422, Wernersville, Berks County, PA 19565  
**Duration:** January 1, 1998 through December 31, 1999  
**Contact:** Karl Koenig, Purchasing Agent, (610) 670-4127

**Personnel—31**

**SWIF-04-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** SWIF Home Office, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Lackawanna County, PA 18503  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**SWIF-05-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** Philadelphia SWIF Office, 444 North 3rd Street, Philadelphia, Philadelphia County, PA 19123-4186  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**SWIF-06-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** Pottsville SWIF Office, 500 A South Centre Street, Pottsville, Schuylkill County, PA 17901-3512  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**SWIF-07-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** Sunbury SWIF Office, 216 North 6th, P. O. Box 706, Sunbury, Northumberland County, PA 17801-0706  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**SWIF-08-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** Pittsburgh SWIF Office, 710 Bingham Street, 3rd Floor, Pittsburgh, Allegheny County, PA 15203-1094  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**SWIF-09-97** Provide temporary clerical services to State Workers' Insurance Fund (SWIF) on an as needed basis.

**Department:** Labor and Industry  
**Location:** Johnstown SWIF Office, Fisher Building, 607 Main Street, Johnstown, Cambria County, PA 15901-2196  
**Duration:** December 1, 1997 to November 30, 1998  
**Contact:** Brian J. Finnerty, (717) 963-3130

**Property Maintenance—33**

**97-7** Installation of a new roof at Bryner Ranger Headquarters' residence in Toboyne Township, Perry County, in accordance with specifications which can be obtained from calling the District Office at (717) 536-3191.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Bryner Ranger Headquarters' Residence, Toboyne Township, Perry County, PA  
**Duration:** Commence upon execution and terminate May 31, 1998  
**Contact:** Robert T. Popielski, (717) 536-3191

**Project No. 904** Clear and cultivate flower beds, prune, lime and feed bushes, apply weed control, plant new junipers and annuals, apply mulch.

**Department:** Military and Veterans Affairs  
**Location:** PA Air National Guard, Willow Grove Naval Air Station, Willow Grove, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**5471** Snow removal—Contractor to furnish equipment and operators for back-up service for snow removal at Haverford State Hospital. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Haverford, Delaware County, PA 19041, for the grounds at Haverford State Hospital.  
**Duration:** January 1, 1998—April 30, 1998  
**Contact:** Jacqueline Newson, Purchasing Agent, (610) 526-2627

**Real Estate Services—35**

**27A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Human Relations Commission with 14,045 useable square feet of new or existing office space, with parking for 22 vehicles within the Corporate City limits of Harrisburg, Dauphin County, PA, and within three blocks of public transportation. Proposals due: December 8, 1997. Solicitation No.: 92576.

**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

**28A** Master Space Plan—Commonwealth of Pennsylvania. The Bureau of Real Estate is soliciting interested contractors to prepare and submit proposals for consideration by the Commonwealth of Pennsylvania. The proposals are for the evaluation of current and future space requirements in space owned and leased by the Commonwealth in the City of Harrisburg (including the Capitol Complex) and adjacent municipalities. Proposals must be submitted by 3 p.m., January 26, 1998. Proposals due: January 26, 1998. Solicitation No.: 28.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17105  
**Duration:** Indeterminate 1997-98  
**Contact:** Doris Deckman or George P. Manakos, (717) 787-4394

**Sanitation—36**

**001** Refuse handling, collection and disposal of solid waste material with recycling of aluminum cans, paper and organic waste. The contract would be with the new State Correctional Institution in Chester, PA.

**Department:** Corrections  
**Location:** State Correctional Institution Chester, 500 East 4th Street, Chester, PA 19013  
**Duration:** January 1, 1998 to June 30, 2001  
**Contact:** David Mulhern, (610) 447-3040

**Vehicle, Heavy Equipment—38**

**Project No. 906** Inspection to repair of overhead cranes, hoists.

**Department:** Military and Veterans Affairs  
**Location:** PA Air National Guard, Willow Grove, PA  
**Duration:** January 1, 1998—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**4610** Repairs to excavator main boom and main boom area. (Specs are available upon request.)

**Department:** Transportation  
**Location:** Equipment Division; Excavator will be taken to awarded vendor for repairs  
**Duration:** Indeterminate 1997-98  
**Contact:** Rick Dolbin, (717) 787-2110

**010327** Repair parts for traffic line paint machine.

**Department:** Transportation  
**Location:** 1140 Liberty Street, Franklin, PA 16323  
**Duration:** 2 weeks ARO  
**Contact:** Tom Moore, (814) 437-4237

**Miscellaneous—39**

**300925** Provide camping facilities for approximately 32 residents and 8 hospital staff. Camp must be within 30 minutes of Harrisburg State Hospital for day camp. Camp facility must provide the following: First Aid Station for emergency treatment of minor injuries, area for distribution of daily medications as supplies, inground swimming pool with camp lifeguard, hiking trails, lake or pond for fishing, boating, game court for softball, volleyball and basketball, stables for horseback riding and also daily special interest activities like berry picking, pretzel making, nature crafts, barbecue cooking classes and/or as needed/determined.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** June 1, 1999 through June 30, 2002, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**PSERS-9704** The Public School Employees' Retirement System is soliciting bids for a vendor to conduct two regular elections per year (and special elections as needed) for the next 5 years 1998 to 2002. Purpose of these elections is to elect members to the System's Board of Trustees. Number of ballots mailed over 5 years estimated 979,000. Number of ballots to be tabulated over 5 years estimated 322,190. Complete RFP specifications may be obtained by contacting agency, Donna Peterson (717) 720-4690.

**Department:** Public School Employees' Retirement System  
**Location:** 5 North Fifth Street, Harrisburg, PA 17101  
**Duration:** January 1998—June 2002  
**Contact:** Donna Peterson, (717) 720-4690

[Pa.B. Doc. No. 97-1815. Filed for public inspection November 7, 1997, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
1218217-01	10/21/97	Unionvale Coal Com- pany	15,760.97
1253307-01	10/21/97	Delta Designs Ltd.	30,960.00
1268117-01	10/21/97	Bontex Corp.	13,189.50
1335157-01	10/24/97	Morefield Communica- tions	16,621.00
1597116-01	10/24/97	United Res- taurant Equipment, Inc.	18,254.00

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
7210-01	10/29/97	Leggett & Platt	140,640.00
7210-01	10/29/97	Chestnut Ridge Foam, Inc.	35,000.00
7210-01	10/29/97	United Moving and Hauling Plus	442,400.00
8970450-01	10/27/97	Groff Tractor and Equip- ment, Inc.	10,900.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 97-1816. Filed for public inspection November 7, 1997, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [34 PA. CODE CH. 203]

#### Lead Occupation Accreditation and Certification

The Department of Labor and Industry (Department), by this order, adopts Chapter 203 (relating to lead-based paint occupations accreditation and certification) to read as set forth in Annex A.

##### A. *Effective Date*

These regulations are effective immediately upon publication in the *Pennsylvania Bulletin*.

##### B. *Contact Person*

For further information, the contact person is Sharon Lawson, Administrator, Asbestos Division, Bureau of Occupational and Industrial Safety, 1402 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717)772-3396.

##### C. *Statutory Authority*

These regulations are adopted under the authority contained in section 4 of the Lead Certification Act (act) (35 P. S. § 5904) and section 1002 of the Lead-Based Paint Hazard Reduction Act (42 U.S.C.A. § 4851.)

##### D. *Background and Purpose*

The act was adopted to protect the public health and safety by prevention of exposure to lead through the regulation of lead-based paint activity. The purpose of the regulations is to establish a program to: train individuals engaged in lead-based paint activities to ensure that they have the necessary skill, training, experience and competence to perform these activities; accredit training providers to ensure that appropriate instruction is provided to persons engaged in lead-based paint abatement occupations; and to enforce work practices standards.

##### E. *Public Comments*

Notice of proposed rulemaking was published at 26 Pa.B. 1133 (March 16, 1996) and set forth a 30-day public comment period.

##### F. *Summary of Comments and Changes From Proposed Rulemaking*

The Department received 17 public comments and comments from the Independent Regulatory Review Commission (IRRC).

##### *Purpose of Proposed Rulemaking*

Several of the commentators raised questions and suggested changes to the purpose of proposed rulemaking section in the Preamble. The Department chose to concentrate its review and changes in the substantive regulations rather than on the form of the Preamble.

One commentator stated that the regulations should state specific goals. The Legislative intent of the act which is also the purpose of the regulations is stated in the act (35 P. S. § 5902).

One commentator also seemed to suggest that there should be public hearings on these regulations. The Department has determined that written comments dur-

ing the public comment period gave individuals and groups an adequate forum in which to make comments and suggestions concerning these regulations. The Department, prior to publication of the proposed rulemaking, solicited comments from the lead-based paint abatement industry and attempted (when appropriate) to incorporate some of the comments and suggestions made by the industry.

##### *Section 203.1—Definitions.*

Several individuals questioned why the definitions of "abatement" did not include "renovation and remodeling or landscaping activities." Section 4(b) of the act (35 P. S. § 5904(b)) specifically states that the regulations can be no more stringent than the Environmental Protection Agency's (EPA) model plan. The EPA's model plan does not include renovation, remodeling or landscaping. The Department, therefore cannot regulate these activities.

Several commentators and IRRC stated that the definition of "accessible surface" used the term "young child," which is not defined. The Department has amended the definition of "accessible surface" to use the term "child," which is defined in the regulation.

Several commentators questioned the definition of "contractor." One stated that it was not defined. It is defined in § 203.1 as "certified contractor." The EPA model plan definitions are also incorporated by reference in § 203.2(d). One commentator stated that the definition of "person" does not include a contractor or firm. The definition of "certified contractor" includes both contractors and firms.

Two commentators suggested changes in the definition of "friction surface." This definition is from the EPA model plan. To avoid confusion or conflict between State and Federal regulatory definitions, the Department has determined that a change to this definition would not be appropriate.

Several commentators stated that inspector and risk assessor occupations should be treated as separate and distinct occupations. Two comments were received regarding the planner-project designer occupational title. Several commentators and IRRC stated that the EPA's rulemaking and the act have different occupational titles with different training requirements. To deal with these differences, the Department has amended its regulations using the act's occupational titles and incorporating the EPA's occupational titles into the definitions of the act's titles.

One commentator stated the term "public building" should be replaced by "child occupied facility" in the EPA model plan. The Department has drafted the regulation to deal with changes in the Federal map. Section 203.2(d) (relating to general administrative requirements) incorporates the EPA model plan and its changes by reference.

One commentator disliked the use of the term "single-family dwelling" in the definition of "residential dwelling." One commentator suggested changing the term "zero-bedroom dwelling" to "zero-bedroom residential dwelling" in the definition of "target housing." Another commentator disagreed with the definition of "superstructure." The Department cannot change the statutory definition of a term through regulations.

Another commentator felt that the definition of "risk assessment" was unclear. The definition of "risk assess-

ment” is the same as the definition in the act. The Department has made no change in this definition.

Finally, one commentator stated that there were no definitions for “worker” and “supervisor” in these regulations. The Department has added those definitions to the regulations.

*Section 203.2—General administrative requirements.*

One commentator suggested changing the term “employment” to “certification” in § 203.2(b)(3) and expanding § 203.2(c) to include inspection and risk assessment. The Department changed subsection (b)(3) as suggested and amended subsection (c) to include all “lead-based paint activities.”

Another commentator stated that the EPA may later add additional classifications and the Department may wish to do so also. This is addressed in § 203.2(d). The regulations reference 40 CFR Part 745 (relating to lead-based paint poisoning prevention in certain residential structures), and incorporate successor regulations by reference.

*Section 203.3—Training course accreditation procedures*

IRRC commented that § 203.3(b)(3) stated that to receive accreditation the applicant must meet the Department’s requirements. IRRC felt that the regulations did not adequately state the Department’s requirements. The Department has amended its regulations to state that the courses must comply with EPA requirements with citation to these requirements.

IRRC commented that the reaccreditation process for training providers seemed unnecessarily burdensome. To address IRRC’s concern, the Department has revised § 203.3(b)(6) to clearly state that the reaccreditation process is separate from and less burdensome than the original accreditation process. The renewal application will only require a provider to reaffirm its address and identifying information and inform the Department of any changes to its courses.

IRRC also commented on the Department’s requirement of the minimum number of multiple choice test questions that must be contained in each lead occupation course test. IRRC stated that the EPA did not have such a requirement. The Department has deleted its test question minimum requirement from § 203.3(c)(3). The Department will follow the EPA’s requirements. Proposed § 203(c)(5) has also been amended to state that a passing grade on the course test is 70%. There was a typographical error in the proposal.

One commentator also questioned the grading requirement for the hands-on portion of the training. Neither the Department’s regulations nor the EPA model plan have grading requirements for hands-on training.

IRRC commented that the requirement for training providers to provide the third-party testing agency with the student’s address, telephone number, unique identification number and course test score within 5 days of the completion of the course was unduly burdensome. The Department has deleted the requirement in § 203.3(e) that the training provider provide the third-party testing agency with student identification information. The Department has amended this section to require that the training provider give the student documentation of successful completion of the training course and provide a copy of the documentation to the Department. The time frame to provide this information has also been expanded from 5 to 15 days.

One commentator questioned the required items on the training certificate. The Department has deleted the requirement in § 203.3(e)(3)(vi) which required the date of the course. All other requirements remain the same.

One commentator stated that the regulation failed to address specific training instructor qualifications. Section 203.2(d) incorporates by reference the EPA model plan, which sets out specific instructor qualifications in 40 CFR 745.255(c)(2)(i), (ii)—(iii).

IRRC questioned the Department’s provision for conditional accreditation. Under the proposed regulations, conditional accreditation was given to providers so they may begin their course within a reasonable time after they apply for accreditation. Based on IRRC’s suggestion, the Department has deleted its conditional accreditation provisions from § 203.3. The Department will not give conditional accreditation. The Department will only give full accreditation. If problems arise after a Department audit of the course, the Department will work with the training provider to correct the problem. If the problem continues, the Department will take steps to revoke the training provider’s accreditation.

IRRC commented that the Department’s annual reaccreditation is more stringent than the Federal requirement, which requires reaccreditation once every 3 years. IRRC stated that section 4 of the act prohibits the Department’s regulations from being more stringent than the Federal regulations. The act specifically requires annual reaccreditation for training providers. The Department cannot promulgate regulations which are contrary to the act. It is the act, not the regulations, which is more stringent than the Federal regulations. To address IRRC’s concerns about the burden of the reaccreditation process on training providers, the Department has revised § 203.3(b)(6) to state clearly that the reaccreditation process is separate from and less burdensome than the original accreditation process. The renewal application will only require a provider to reaffirm its address and identifying information and inform the Department of any changes to its courses.

*Section 203.4—Certification procedures and requirements.*

One commentator questioned the Department’s enforcement resources. He stated that, unless the Department is able to provide adequate resources in its enforcement efforts and require lead abatement contractor notification, these regulations will only serve to increase costs for complying contractors. Section 203.10 (relating to contractor notification requirement) requires notification prior to commencing lead abatement work. Section 203.9 (relating to enforcement procedures and penalties) outlines the enforcement procedures. The Department plans to enforce the act vigorously.

IRRC commented that the regulations do not specifically require an individual to pass a certification examination to become fully certified. The Department has amended § 203.4(b) to state specifically that an individual must successfully complete a training course and pass a certification examination in order to become fully certified.

One commentator expressed concern about the different levels of regulations (Federal, State and local) and compliance with each. The Department has incorporated the EPA model plan in its regulations by reference. This should simplify compliance. Several commentators questioned the use of a third-party testing agency, stating that it was costly, inconvenient, and if used, should be used for all occupations. The EPA requires third-party testing for three of the lead-based paint occupations.



IRRC also recommended that the third-party test fee be stated in the regulations. The Department cannot at this point add that information to the regulations. The Department has not yet published its request for proposal for a third-party testing service, and therefore does not know what a third-party testing company will charge. Also, this fee may change over the years due to examination attendance and inflation. The Department will print the test fee with the general application and certification information which will be available to the public.

Several commentators questioned the course requirements for occupations. The course requirements follow the EPA model plan. One commentator asked if there should be a limit to the period of time in which an applicant can apply for certification in § 203.4(b). The certification period is based on the expiration of the training certificate. This creates an automatic 1-year time period from the completion of training for certification. The Department has further clarified this issue in § 203.4(g).

Several commentators questioned the certification of firms. The EPA model plan, which is incorporated by reference, addresses the certification of firms in 40 CFR 745.226 (relating to certification of individuals and firms engaged in lead-based paint activities; target housing and child occupied facilities). Pennsylvania will administer and enforce its program in accordance with the model plan.

#### *Section 203.6—Work Practices*

Several commentators stated that this section of the regulations referred to the Department of Housing and Urban Development (HUD) standards. HUD uses guidelines not standards. The regulations have been changed to reference HUD guidelines. One commentator noted that the EPA standards and HUD guidelines are not always consistent, and the Department's requirement that both HUD and EPA standards be followed could create some problems. The Department has amended § 203.6(a) to state that, if HUD and EPA standards conflict, the EPA standards should be followed.

IRRC commented that the regulations allowed the Department the broad power to require additional unspecified information at the work site. IRRC recommended that this provision be deleted or that the Department specifically state information required at the work site. The Department deleted § 203.6(b)(1)(vi), which would have allowed the Department to request additional information from contractors.

#### *Section 203.7—Reciprocity*

IRRC commented that the regulations stated that the Department may enter into reciprocal agreements with other jurisdictions for reciprocity, whereas, the act requires the Department to do so. The Department has amended § 203.7(a) to require the Department to establish reciprocal agreements with other jurisdictions for training and certification requirements.

IRRC along with several other commentators stated that the regulations should be amended to include a grandfather clause that will describe how the Department will exempt individuals who have successfully completed a lead-based paint training course that meets the Department educational standards. Section 203.7(a)(2) has been amended to specifically include occupation certification and course accreditation received prior to November 8, 1997.

#### *Section 203.8—Fees*

IRRC and numerous other commentators suggested that the fees are excessive. The Department has reviewed its fee structure in relationship to the information requested by IRRC in its comments. The fee structure was developed to cover costs only. The risk assessor, project designer and inspector fees have been reduced by \$100. The supervisor fee was reduced by \$25. The Department expects to do no more than cover the cost of the program with the fees collected.

Several commentators questioned the waiver of fees. The act provides a certification and accreditation fee waiver for State and local governments and nonprofit organizations. The Department is limited by statutory requirements and cannot extend this waiver to other parties.

#### *Section 203.9—Enforcement procedures and penalties*

One commentator stated that an appeal process should be developed for disagreement over citations. Section 203.9(e) allows for exceptions to Department orders to be filed within 15 days after receipt of notification of penalty. This allows for an appeal from a Department order or finding of a violation.

One commentator stated that § 203.9(b)(2) should be amended to state how long an order of violation should be posted on the premises. This commentator also stated that the act held the property owner liable and not the contractor. The act holds any person who causes, permits or allows lead-based paint activity to be performed in violation of the act liable. This would include contractors and property owners.

#### *Section 203.10—Contractor notification requirements*

IRRC commented that the notification requirement in the proposed regulations was duplicative of the notification required by the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Department of Environmental Protection's (DEP) regulations. The Department attempted to change these regulations to reference DEP's regulation and to state that compliance with the DEP's regulations are sufficient to comply with these regulations and the act. However, after several discussions with DEP, it appears that the notification required by DEP under the Solid Waste Management Act will not provide the Department with sufficient notification that lead abatement activity will be occurring. DEP's notification only requires reporting of the amount of solid waste. It does not require notification of the type of waste disposed or the location of the abatement project. If the Department were to rely on the DEP solid-waste notification, it would be unable to enforce these regulations or the act.

IRRC commented that fax notification should be allowed and that the Department should state that in these regulations. The Department has amended § 203.10(a)(2) to allow fax notification.

Finally, IRRC questioned the need for the Department to have a copy of the contractors' Model OSHA Written Compliance Plan. In response the Department has deleted that provision from § 203.10(b).

### G. *Benefits and Costs*

#### *Affected Persons*

These regulations will affect the general public, lead-based paint contractors, workers and training providers.

#### *Fiscal Impact and Paperwork*

These regulations will increase costs to the State and to lead-based paint abatement contractors, training providers and consumers of lead-based paint abatement activities. This is a public safety issue and will provide training to workers to prevent exposure and illness to lead-based paint abatement workers.

### H. *Sunset Date*

A sunset date is not appropriate because these standards will be necessary as long as the EPA is regulating this industry and as long as lead-based paint abatement is occurring.

### I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 28, 1996, the Department submitted a copy of the notice of proposed rulemaking published at 26 Pa.B. 1133 (March 16, 1996), to IRRC and to the Chairpersons of the House Committee on Labor Relations and the Senate Committee on Labor and Industry. In accordance with section 5(b.1) of the Regulatory Review Act, the Department provided the Committees with a copy of IRRC's comments.

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

These final-form regulations were deemed approved by the House and Senate Committees on August 13, 1997. IRRC met on August 22, 1997, and approved the regulations in accordance with section 5(c) of the Regulatory Review Act.

### J. *Findings of the Department*

The Department finds that:

(1) Public notice of intention to adopt these regulations was given in accordance with 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) A public-comment period was provided as required by law, and that all comments received were considered.

(3) Modifications to the proposed text do not enlarge the original purposes or the scope of the proposed regulations.

(4) These regulations are necessary and appropriate to the administration and enforcement of the act.

### K. *Order*

The Department, acting in accordance with the authorizing statutes, hereby orders that:

(a) The regulations of the Department, 34 Pa.Code, is amended by adding §§ 203.1—203.10 to read as set forth in Annex A.

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

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

(d) The regulations, as set forth in Annex A, shall take effect upon publication in the *Pennsylvania Bulletin*.

JOHNNY J. BUTLER,  
*Secretary*

(*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).)

**Fiscal Note:** Fiscal Note 12-47 remains valid for the final adoption of the subject regulations.

## Annex A

### TITLE 34. LABOR AND INDUSTRY

#### PART X. BUREAU OF OCCUPATIONAL AND INDUSTRIAL SAFETY

#### CHAPTER 203. LEAD-BASED PAINT OCCUPATION ACCREDITATION AND CERTIFICATION

Sec.	
203.1.	Definitions.
203.2.	General administrative requirements.
203.3.	Training course accreditation procedures.
203.4.	Certification procedures and requirements.
203.5.	Denial, suspension or revocation of certification or accreditation.
203.6.	Work practices.
203.7.	Reciprocity.
203.8.	Fees.
203.9.	Enforcement procedures and penalties.
203.10.	Contractor notification requirements.

#### § 203.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings:

*Abatement*—A set of measures designed to eliminate or reduce lead-based paint hazards in accordance with standards established by the EPA.

(i) The term includes the following:

(A) The removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures and the removal or covering of lead-contaminated soil.

(B) The preparation, cleanup, disposal and post-abatement, clearance-testing activities associated with these measures.

(C) Less-than-full abatement whereby the sources of lead contamination are reduced sufficiently to create a "lead-safe" environment rather than a "lead-free" environment.

(ii) The term does not include renovation and remodeling or landscaping activities by contractors whose primary intent is not to permanently eliminate or reduce lead-based paint hazards, but is instead to repair, restore or remodel a given structure or dwelling.

(iii) The term does not include renovation and remodeling activities conducted by homeowners in their homes.

*Accessible surface*—An interior or exterior surface painted with lead-based paint that is accessible for a child to mouth or chew.

*Accreditation*—A certificate issued by the Department permitting a person to conduct lead-based paint occupation training courses.

*Act*—The Lead Certification Act (35 P. S. § 5901—5916).

*CDC*—The United States Centers for Disease Control and Prevention.

*Certification*—A certificate issued by the Department permitting a person to work in a lead-based paint occupation and which contains a recent photograph of that person.

*Certified contractor*—A person, firm, company or institution which has been approved by the Department to perform lead-based paint activities in this Commonwealth. This term includes a "certified firm" as defined by the EPA's regulation at 40 CFR 745.223 (relating to definitions).

*Children*—Individuals who are under 6 years of age.

*Commercial building*—A building constructed for the purpose of commercial or industrial activity and not primarily intended for use by the general public, including office complexes, industrial buildings, warehouses, factories and storage facilities.

*Deleading*—Activities conducted by a person who offers to eliminate or reduce lead-based paint or lead-based paint hazards or to plan these activities.

*Demolition*—Pulling down or completely destroying a building or structure or substantial removal of building elements.

*Department*—The Department of Labor and Industry of the Commonwealth.

*Discipline*—A classification for a specific lead-hazard activity.

*EPA*—The Environmental Protection Agency.

*Friction surface*—An interior or exterior surface that is subject to abrasion or friction. The term includes certain window, floor and stair surfaces.

*Hazard activities*—Any set of measures designed to eliminate or reduce lead hazards in accordance with standards established by the EPA and other Federal agencies.

*Hazardous condition*—A condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or a lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects as established by the administrator of the EPA under section 403 of the Toxic Substance Control Act (15 U.S.C.A. § 2683).

*HUD*—The Department of Housing and Urban Development.

*Impact surface*—An interior or exterior surface that is subject to damage by repeated impacts; for example, certain parts of door frames.

*Inspection*—

(i) A surface-by-surface investigation to determine the presence of lead-based paint, as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C.A. § 4822(c)).

(ii) The provision of a written report explaining the results of the investigation.

*Inspector-risk assessor*—A person trained and certified to perform all activities of the inspector-technician as well as to identify the presence of lead-based paint and to collect additional information designed to assess the level of risk to residents of target housing. The term includes a "certified risk-assessor" as defined by the EPA's regulation in 40 CFR 745.223.

*Inspector-technician*—A person trained and certified to perform inspections solely for the purpose of determining the presence of lead-based paint through the use of onsite testing, such as XRF analysis, and the collection of samples for laboratory analysis. The term includes a "certified inspector" as defined by the EPA's regulation in 40 CFR 745.223.

*Lead-based paint*—Paint or other surface coatings that contain lead in excess of the most current HUD standards, or in the case of paint or other surface coatings on target housing, such lower level as may be established by the Secretary of HUD under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

*Lead-based paint activities*—The term includes the following:

(i) With respect to target housing, the term includes risk assessment, inspection and abatement.

(ii) With respect to a public building constructed before 1978, or a commercial building, bridge or other structure or superstructure, the term includes identification of lead-based paint and materials containing lead-based paint, deleading and removal of lead from bridges and demolition.

*Lead-based-paint hazard*—A condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces, which exposure would result in adverse human health effects as established by the Department.

*Nonprofit training provider*—A training provider organized for a purpose not involving pecuniary profit, incidental or otherwise, to its members.

*Occupations*—Occupations include worker, supervisor, inspector, risk-assessor, inspector-technician, project designer and all other occupations covered by EPA and OSHA rules, regulations and guidelines on lead-based paint activities.

*OSHA*—The Occupational Safety and Health Administration.

*Person*—Any of the following:

(i) An individual.

(ii) A corporation, partnership or association.

(iii) The Commonwealth, including an agency and instrumentality of the Commonwealth.

(iv) A political subdivision, including an agency or instrumentality of a political subdivision.

*Planner-project designer*—A person trained and certified to plan and design lead-based-paint activities. The term includes a "certified project designer" as defined by the EPA's regulation in 40 CFR 745.223.

*Public building*—A building constructed prior to 1978 which is generally open to the public or occupied or visited by children. The term includes schools, day-care centers, museums, airport terminals, hospitals, stores, restaurants, office building, convention centers and government buildings. The term excludes target housing.

*Renovation and remodeling activities*—Activities whose primary intent is not to permanently eliminate or reduce lead-based-paint hazards, but is instead to repair, restore or remodel a given structure or dwelling.

*Residential dwelling*—The term includes the following:

(i) A single-family dwelling including attached structures such as porches and stoops.

(ii) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit and in which each unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more individuals.

*Risk assessment*—Onsite investigation to determine and report the existence, nature, severity and location of lead hazards in residential dwellings, including the following:

(i) Information gathering regarding the age and history of the housing and occupancy by children under 6 years of age.

(ii) Visual inspection.

(iii) Wipe sampling or other environmental testing and sampling techniques.

(iv) Other activity as may be appropriate.

(v) Provision of a report explaining the results of the investigation.

*Secretary*—The Secretary of Labor and Industry of the Commonwealth.

*Superstructure*—A large steel or other industrial structure, such as a bridge or water tower which might contain lead-based materials.

*Supervisor*—A person trained and certified to oversee lead-based paint activities on target housing and public and commercial building job sites. The term includes a "certified supervisor" as defined in the EPA's regulation in 40 CFR 745.223.

*Target housing*—Housing constructed prior to 1978, or any zero-bedroom dwelling. The term excludes housing for the elderly or persons with disabilities unless a child who is under 6 years of age resides or is expected to reside in the housing.

*XRF analyzer*—A machine that utilizes X-Ray Fluorescence (XRF) to test for the presence of lead-based paint.

*Worker*—A person who has been trained by an accredited training program and certified under the act and this chapter to perform lead-based paint abatement activities. The term includes "certified abatement worker" as defined by the EPA's regulation in 40 CFR 745.223.

### § 203.2. General administrative requirements.

(a) This chapter implements the certification, accreditation, work practices and other requirements of the Act.

(b) This chapter applies to the following persons:

(1) Persons engaged in lead-based-paint occupations within this Commonwealth. An individual or company may not engage in lead-based-paint activities or lead-based paint abatement without the appropriate certification.

(2) Persons performing lead-based-paint abatement upon or within a building which they own or occupy who utilize employees to perform lead-based-paint abatement.

(3) Training course providers desiring to provide training courses required for certification in any lead-based-paint-abatement occupations within this Commonwealth.

(c) This chapter does not relieve any person subject to the act from any duty or responsibility under other Federal or State statutes or regulations, or local ordinances relating to lead-based paint activities.

(d) EPA standards found in 40 CFR Part 745 (relating to lead-based paint poisoning prevention in certain residential structures), are incorporated by reference as the standards by which to carry out the provisions of the act. If EPA regulations and this chapter conflict, this chapter applies.

(e) The Department will publish notice of EPA regulation changes in the *Pennsylvania Bulletin*.

### § 203.3. Training course accreditation procedures.

(a) *Federal requirements.* Training providers shall meet the EPA training course requirements in 40 CFR, Part 745 (relating to lead-based poisoning prevention in certain residential structures).

(b) *Accreditation of initial and refresher courses.*

(1) A person may apply to the Department for approval to conduct training courses, including refresher training courses. A person desiring to apply as an approved training provider for a specific course shall complete an application prescribed by the Department and submit the completed application with the appropriate fee prescribed in § 203.8 (relating to fees). The application shall be received by the Department at least 30 days prior to the first course session. The Department will not process an application which is submitted without the fee or that is incomplete.

(2) A provider requesting accreditation of a training course given outside this Commonwealth shall, in addition to complying with paragraph (1), submit copies of applicable State or Federal approvals, along with the name, address and telephone number of the person, department or agency giving the approval.

(3) The Department will grant accreditation of a training course and issue a certificate of accreditation when it has determined from a complete review of application materials that the course meets the EPA's requirements.

(4) The Department will inform the provider in writing of its reasons for denying accreditation. The Department may schedule a reevaluation at its discretion.

(5) Course accreditation shall be renewed annually. A person applying for reaccreditation shall reaffirm his address and course information on a form prescribed by the Department and shall provide the Department with a description of course changes since his last accreditation or reaccreditation application.

(c) *Course test.*

(1) A monitored final written examination will be required for all courses unless provided for in this chapter. For students who are unable to take a written examination, the Department may accept an equivalent oral examination.

(2) Training course instructors who provide oral examinations for students who are unable to take a written examination shall issue an answer sheet to be marked by the attendee. The student shall sign the answer sheet, and it shall become a part of the training course provider's recordkeeping as described within this chapter.

(3) A passing grade on the course test is a score of 70%.

(d) *Changes to accredited training courses.*

(1) A provider may change an accredited training course only with approval of the Department. The provider shall submit to the Department written notice of the contemplated change at least 10 days before its proposed implementation date. The Department may waive the 10-day requirement for good cause shown.

- (2) Changes may include the following:
  - (i) Topic covered.
  - (ii) Course materials.
  - (iii) Training course instructors.
  - (iv) Teaching methods.
  - (v) Dates and location of scheduled courses.
  - (vi) Language in which course is given.
- (e) *Training course provider requirements.*

(1) The provider shall notify the Department in writing of the scheduled commencement of a course at least 5 days before the first session.

(2) The provider shall cooperate with the Department in all matters relating to the conduct of the course and shall permit representatives of the Department to attend course sessions at no cost. The provider shall make available to the Department, upon request and at no cost, course materials, examinations and records.

(3) The provider shall provide each student who has met the qualifications for supervisor, risk assessor or inspector with a training certificate, and shall provide the Department within 15 days of the successful completion of the course a copy of each student's training certificate.

**§ 203.4. Certification procedures and requirements.**

(a) *Federal requirements.* Applicants for certification shall meet the EPA certification course requirements in 40 CFR Part 745 (relating to lead-based paint poisoning prevention in certain residential structures).

(b) *Certification of individuals.* An applicant for certification in a lead-based-paint occupation shall successfully complete a lead-based-paint training course accredited by the Department and pass an examination approved by the Department. Applicants shall submit a completed application on a form provided by the Department, along with the appropriate fee designated in subsection (d), and a copy of training certificate required under EPA regulations. The Department will not process an application that is incomplete or submitted without the proper fee.

(c) *Contractor certification.* Applications for certification of a contractor or firm shall be submitted in the same manner as provided by subsection (b), except that no EPA training certificate will be required.

(d) *Proof of certification.*

(1) A person engaged in a lead-based-paint occupation shall possess a Commonwealth-issued photo identification card or Commonwealth notification for a photo identification card. This documentation shall be available at each work site for inspection by the Department.

(2) A person whose photo identification card or Commonwealth notification for a photo identification card is lost or destroyed shall notify the Department in writing within 2 days, and shall maintain a copy of the written notification at the work site until the Department issues a new photo identification card or Commonwealth notification for a photo identification card.

(3) A contractor or firm shall have available on the work site a contractor certification issued by the Department.

(e) *Renewal.* Certification shall be renewed annually in the same manner as provided in subsections (a) and (b). Photo identification cards and contractor certifications will be issued annually.

(f) *Supervisors.* A certified supervisor may perform the tasks of a worker.

**§ 203.5. Denial, suspension or revocation of certification or accreditation.**

(a) *Grounds.*

(1) The Department may deny an application for certification or accreditation, and may suspend or revoke a certification or accreditation issued under the act and this chapter for one or more of the following reasons:

(i) Fraudulently or deceptively obtaining or attempting to obtain accreditation or certification.

(ii) Failure to meet the requirements of the act or this chapter.

(iii) Failure to meet applicable Federal or State standards relating to lead-based-paint activities.

(iv) Failure to pay a required fee.

(v) Failure to meet EPA standards for conducting lead-based-paint activities found at 40 CFR Part 745 (relating to lead-based poisoning prevention in certain residential structures).

(b) *Notice and hearing.*

(1) Actions of the Department related to denial, suspension or revocation will be subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Hearings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedures).

(2) After hearing, the Department by written order may affirm, reverse, or modify the denial, suspension or revocation.

(c) *Administrative proceedings, civil actions and criminal proceedings.* Denial, suspension or revocation of certification or accreditation will not affect or mitigate an administrative proceeding, civil action or criminal proceeding permitted by the act or this chapter or by any other law or regulation.

**§ 203.6. Work practices.**

(a) Work practices shall conform to HUD and EPA guidelines, rules and regulations on lead-based-paint activities. If HUD and EPA standards conflict, EPA standards shall be followed.

(b) Additional recordkeeping requirements are as follows:

(1) The lead-based-paint contractor shall maintain a list of individuals engaged in lead-based-paint occupations or who enter the lead-based-paint abatement project area at each job site. The list shall include the following information:

- (A) Names.
- (B) Certification identification number.
- (C) Job classification or job title.
- (D) Time in daily.
- (E) Time out daily.

(2) These records shall be available to the Department upon request.

**§ 203.7. Reciprocity.**

(a) *Certification of occupations and accreditation of other training programs.*

(1) The Department will enter into reciprocal agreements with other states and jurisdictions which have established accreditation and certification requirements substantially similar to those in the act and this chapter.

(2) The Department will designate, by notice in the *Pennsylvania Bulletin*, states and jurisdictions which have certification and accreditation programs for which the Department has granted reciprocity. Reciprocity for certification and accreditation will include certifications and course accreditations granted before November 8, 1997.

(b) *Procedure and fees.*

(1) A person applying for accreditation under this section shall comply with § 203.3(b) (relating to training course accreditation procedures) and pay the appropriate fee in § 203.8 (relating to fee).

(2) A person applying for certification under this section shall comply with § 203.4(b) (relating to certification procedures and requirements) and pay the appropriate fee in § 203.8.

**§ 203.8. Fees.**

(a) *General information.* This section sets out the Department's certification and accreditation fees. Fees shall be remitted by check or money order made payable to the Commonwealth of Pennsylvania. Fees are not refundable.

(b) *Certification fees.* Applicants for certification in lead occupations shall remit the following initial and annual renewal fees:

- |   |       |
|---|-------|
| (1) Lead-based-paint planner/project designer | \$200 |
| (2) Lead-based-paint inspector/risk assessor  | \$200 |
| (3) Lead-based-paint supervisor               | \$ 75 |
| (4) Lead-based-paint worker                   | \$ 50 |
| (5) Lead-based-paint contractor               | \$500 |

(c) *Training course accreditation fees.* Providers of training courses shall remit the following initial and annual renewal accreditation fees:

- |  |         |
|--|---------|
| (1) Application for each initial training course             | \$1,000 |
| (2) Renewal of accreditation for the initial training course | \$ 500  |

(d) *Refresher training course accreditation fees.* Providers of refresher training courses shall remit the following initial accreditation and annual renewal fees:

- |  |        |
|--|--------|
| (1) Accreditation of each refresher lead-based-paint course        | \$ 500 |
| (2) Renewal of accreditation for refresher lead-based-paint course | \$ 250 |

(e) *Maximum fee.* Within a calendar year, cumulative course accreditation fees may not exceed \$5,000 for an individual training provider.

(f) *Waiver of fees.* Accreditation fees may not be imposed on any State, local government or nonprofit training provider; nor will certification fees be imposed on any State, local government or nonprofit training provider, as long as employees actually perform the lead-based-paint activities.

**§ 203.9. Enforcement procedures and penalties.**

(a) *General rule.* A person may not cause, suffer, permit or allow a lead-based-paint activity to be performed in violation of the act or this chapter. A person may not cause, suffer, permit or allow the performance of an act or

operation in violation of an order issued by the Department under the act or this chapter.

(b) *Violations.* The Department has the power to issue an order requiring compliance with the act or this chapter.

(1) An order shall be served, personally or by certified mail, upon the person being charged with the violation.

(2) In the case of a violation of lead-based-paint work practice standards, a copy of the order shall also be served, personally or by certified mail, upon the property owner and a copy shall be posted on the premises.

(c) *Hazardous conditions.* If the Department determines that a hazardous condition exists, the Department, may do one or more of the following:

(1) Issue an order to those engaged to cease immediately all lead-based-paint activities until the condition is corrected.

(2) Issue an order to remove any workers except those needed to abate the hazard from the project work area until the condition is corrected to prevent further project activity.

(3) Issue an order to evacuate appropriate portions of the site until the condition is corrected.

(4) Certify the existence of a lead-based-paint hazard that exists due to the failure of a contractor or employe to comply with the act, charge the added cost of corrective cleanup or removal to the contractor responsible for the hazardous condition which exists due to the noncompliance, and collect the cost by lien or other means as may be authorized by law.

(5) Apply to an appropriate court for relief by injunction or restraining order against any person responsible for the hazardous condition.

(d) *Penalties.* In addition to the sanctions or remedial orders provided in this section, a person who fails to comply with a requirement of the act, this chapter or who fails to obey an order issued by the Department, may be subject to one or more of the following penalties:

(1) Denial, suspension or revocation of accreditation or certification for a person, training provider or contractor as provided in § 203.5 (relating to denial, suspension or revocation of certification or accreditation).

(2) Administrative penalties of not more than \$1,000 for the first offense, not more than \$5,000 on the second offense and not more than \$10,000 for each subsequent offense. Each day a violation continues to exist shall constitute an additional, separate and distinct violation.

(i) If the violating person is a contractor, in determining the penalty, consideration shall be given to the appropriateness of the penalty to the size of the business of the person charged, taking into account the number of employees employed by that person, dollar volume of sales or business, amount of capital investment and financial resources and other information as may be available relative to the size of the business of the person.

(ii) In determining the penalty, consideration shall be given to appropriateness of the penalty to the gravity of the violation or violations, taking into account factors including history of prior violations; evidence of willfulness or failure to take reasonable precautions to prevent violations; and, the extent of exposure to hazardous conditions.

(e) *Finality of determination.* An administrative determination of a civil penalty for a violation of the act or this

chapter shall become final 15-calendar days after receipt of the notice-of-penalty determination by certified mail by the person so charged, unless the person has filed, with the Department, an exception to the determination that the violation for which the penalty is imposed occurred.

**§ 203.10. Contractor notification requirements.**

(a) *Notification.*

(1) Lead-based paint abatement contractors shall notify the Department before engaging in any lead-based paint abatement project in the manner prescribed by the Department.

(2) Notification shall be postmarked or hand delivered to the Department at least 5 business days prior to the project start date. The Department will accept notification by fax at least 5 business days prior to the project start date if followed by original written and signed notification.

(3) In the case of an emergency project, verbal notification shall be given immediately to the Department and written notification shall be provided to the Department within 1 business day of the emergency. Notification by fax in emergencies is acceptable if followed by original written and signed notification.

(b) *Changes to notification.*

(1) If there is a change in any of the information provided on the notification form, the contractor shall immediately notify the Department of the changes in the manner provided in subsection (a)(3), provided that:

(i) In the case of a postponement of the start date, the contractor provides the Department with immediate verbal notification and submits written confirmation of the postponement within 1 business day before the original start date.

(ii) In the case of an advancement of the start date, the contractor provides the Department with written notification of the advancement at least 5 business days prior to the new start date.

(iii) Notification by fax is acceptable if followed by the original written and signed notification.

(2) Notification to the Department does not relieve the lead-based-paint contractor of the responsibility for making written notification as may be required by a municipality, agency of the Commonwealth, or agency of the Federal government.

[Pa.B. Doc. No. 97-1817. Filed for public inspection November 7, 1997, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 71—73]

#### Administration of Sewage Facilities, Planning Program and Standards for Sewage Disposal Facilities (Act 149)

The Environmental Quality Board (Board) by this order adopts amendments to Chapters 71—73 (relating to administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities). The amendments implement various amendments to the Pennsylvania Sewage Facilities Act (act) (35 P.S. §§ 750.1—750.20) which were enacted under the act of December 14, 1994 (P.L. 1250, No. 149) (Act 149). As described in Section E of the Preamble of the proposed amendments published at 26 Pa.B. 1491 (March 30, 1996), the amendments represent significant revisions to the planning, administrative, permitting and technical requirements of the sewage facilities program established under the act. Among the more significant amendments are provisions relating to procedures for private requests under section 5 of the act (35 P.S. § 750.5), review of official plans, update revisions, special studies and requests for exceptions from the requirement to revise an official plan, responsibilities and administrative procedures for delegated agencies authorized under section 7(b)(4.3) of the act (35 P.S. § 750.7(b)(4.3)), reimbursement to and expanded authority of local agencies under sections 6 and 8 of the act (35 P.S. §§ 750.6 and 750.8), fees for the review of planning modules and certain responsibilities of sewage enforcement officers.

The Board approved these final-form regulations at its April 15, 1997, meeting.

#### A. Effective Date

Except for § 73.31(b)(4) (relating to standards for septic tanks), these amendments will go into effect immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking. The amendments to § 73.31(b)(4) will go into effect January 7, 1998.

#### B. Contact Persons

For further information regarding these final-form regulations, contact Milton Lauch, Chief, Division of Wastewater Management, Office of Water Management, 10th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8465, Harrisburg, PA 17105-8465 (717) 787-8184 or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These final-form regulations are available electronically through the Department of Environmental Protection (Department) Web site (<http://www/dep.state.pa.us>).

#### C. Statutory Authority

The amendments are being promulgated under the authority of section 9 of the act (35 P.S. § 750.9), which

grants the Board the authority to adopt rules and regulations relating to the implementation of the act. The amendments are also adopted under the authority of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510.20).

#### D. Background and Summary

During the 1994 Legislative session, the General Assembly enacted Act 149, which significantly amended the act. The Legislation was signed by the Governor on December 14, 1994. With the exception of two sections, the provisions of Act 149 became effective on December 15, 1995, 1 year after enactment. The provisions of section 7 of the act (35 P.S. § 750.7) authorizing a qualified exemption from the permitting and planning requirements of the act for the installation of onlot sewage systems to qualified owners of lots 10 acres or larger became effective upon enactment of Act 149. Section 7.3 of the act (35 P.S. § 750.7c) relating to individual residential spray irrigation systems became effective June 17, 1996.

The Board adopted final-form regulations implementing certain provisions of Act 149 at a meeting held on June 18, 1996. The final-form regulations adopted in June 1996 are based on a proposal outlined in a notice of proposed rulemaking published at 25 Pa.B. 3221 (August 5, 1995) and relate to implementation of the qualified exemption, technical and bonding criteria for the installation of onlot sewage disposal systems in areas where soil mottling is present and certain other provisions. Those final-form regulations were published at 26 Pa.B. 5347 (November 2, 1996).

The final-form regulations outlined in this rulemaking implement the remaining provisions of Act 149. Among other things, the final-form regulations include provisions relating to revised planning review processes outlined in Act 149, delegated agencies, permitting and technical requirements relating to individual residential spray irrigation systems, review fees, permitting by local agencies, reimbursements and multimunicipal local agencies. The final-form regulations are based on a proposal published at 26 Pa.B. 1491 (March 30, 1996). The proposal included a number of provisions which had been published in the August 5, 1995, notice of proposed rulemaking. As noted in the previous paragraph, those provisions have been finalized and accordingly are not included in this notice except when technical amendments were made.

The Sewage Advisory Committee (SAC), established by the act and consisting of representatives of 33 special interest groups, met on September 18, 1996, to review the draft final rulemaking. SAC also reviewed the recommendations of its Regulation Subcommittee, which conducted a detailed review of a draft of the final-form regulations, the comments received and the Department's responses to those comments. SAC made recommendations regarding the comments received and the draft of the final-form regulations.

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

The Board held six public hearings regarding the proposed amendments. Twenty-two individuals testified at the public hearings. The Board also received written comments from 110 individuals and organizations during the public comment period. The Board also received



comments from the Independent Regulatory Review Commission (IRRC). Detailed summaries of the comments the Board received and the responses to those comments may be found in a Comment and Response Document which is available from the contact persons whose names and addresses are noted in Section B of this Preamble. Following are summaries and responses to the more significant comments which were received during the comment period.

1. *Design of spray irrigation systems and certain other components of onlot sewage systems.*

A vast majority of the comments concerned professional qualifications related to the design of certain components of an onlot sewage disposal system and individual residential spray irrigation systems. Proposed §§ 73.44(c)(1), 73.46(a)(7) and 73.161(a) provided that the components and systems could be designed by certain qualified sewage enforcement officers, as well as professional engineers. Under the existing provisions of §§ 73.44 and 73.46, only professional engineers may design these components. For the most part, commentators affiliated with the professional engineer community asserted that the design of spray irrigation systems and certain components of onlot sewage disposal systems constitutes the practice of engineering. Accordingly, these commentators believe that persons engaged in these designs are subject to the provisions of the Engineers, Land Surveyors, and Geologists Registration Law (the Registration Law) (63 P. S. §§ 148—158.2).

Other commentators suggested that the design of these components and systems does not constitute the practice of engineering. Some of these commentators asserted that section 8(e) of the act specifically authorizes sewage enforcement officers to engage in these design activities.

The Board and the Department believe some sewage enforcement officers who are not professional engineers are qualified to design these systems and components. The State Registration Board for Professional Engineers, Land Surveyors and Geologists (the Engineers' Board), however, has formally advised the Department that, with respect to the design of individual residential spray irrigation systems, the design of these systems constitutes the practice of engineering. The Engineers' Board noted that section 3 of the Registration Law (63 P. S. § 150) prohibits the practice of engineering in this Commonwealth by any person unless that person is licensed under the laws of the Commonwealth as a professional engineer.

The Board acknowledges that section 8(e) of the act (35 P. S. § 750.8(e)) does authorize sewage enforcement officers to perform design work, provided certain requirements are met related to fees and subsequent review and permit issuance. That section does not, however, provide specific authority relating to the design of individual residential spray irrigation systems. Under the principles of statutory construction, when a general provision of a statute conflicts with a more specific provision of a statute or more specific statute, the more specific provision or statute applies. The Engineers' Board has issued a formal opinion stating that design of individual residential spray irrigation systems constitutes the practice of engineering and is, thus, subject to the requirements of the Registration Law. The Board must defer to the determination of the Engineers' Board.

The Board has deleted references in the proposal as well as the existing regulations which relate to the professional qualifications for the design of onlot sewage systems and their components as well as individual

residential spray irrigation systems. Determinations regarding professional qualifications and licensing requirements for these activities are more appropriately made under relevant registration or licensing statutes.

*Chapter 71—Administration of the Sewage Facilities Planning Program*

2. *Chapters 71 and 72—Minor Changes*

Most of the revisions to the proposed amendments in these final-form regulations are discussed in the paragraphs which follow. A number of minor changes to Chapters 71 and 72 were made as follows:

Section 71.55(c) (relating to exceptions to the requirement to revise the official plan for new land development)—The reference to "exception" has been clarified to mean an application for an exception.

Section 71.58(a)(5)(vii) (relating to delegation of new land development planning)—A reference to documentation regarding administrative procedures, and the like, of delegated agencies being listed has been changed to provide that the documentation must be reviewed by the Department.

Section 71.62(b)(2)(iii) (relating to individual and community onlot sewage systems)—A reference to the United States Soil Conservation Service has been revised to more accurately reflect its current official name.

Section 71.63(c)(3) (relating to retaining tanks)—Text regarding regulations or restrictions has been added to make the provision consistent with the immediately preceding sentence.

Section 71.64(c)(7) (relating to small flow treatment facilities)—Language regarding alternative analysis for small flow treatment facilities has been revised to provide that the use of this facility must be a technically, environmentally and administratively acceptable alternative rather than the best environmentally acceptable alternative.

Section 71.65(b) (relating to individual community sewage systems)—A reference to "appropriate Department guidance manuals" has been added. These manuals provide information relating to the submission of plans and technical requirements for small flow treatment facilities.

Section 72.1 (relating to definitions)—Definitions of "qualified soil scientist" and "soil mottling" were clarified by adding more current technical language.

Section 72.22(f) (relating to permit issuance)—A reference to a previous paragraph has been added for clarity.

Section 72.23 (relating to limitation on onlot system permit issuance)—Minor clarifying amendments were made to make it clear the provisions apply to certain areas instead of the occurrence of an event. In addition, language was added to make it clear that the reference to permit limitations in subsection (c) is limited to this section.

Section 72.42(20)(v) (relating to powers and duties of local agencies)—A minor amendment was made to clarify an apparent grammatical error in the proposal.

Section 72.55(c) (relating to certification renewal)—The requirement for the completion of training for renewal of sewage enforcement officer certification has been clarified. A certification will lapse if a sewage enforcement officer has not completed training required by the Department.

“for certification renewal” by the renewal date. In addition, the reference to subsection (b) in subsection (d) has been deleted.

3. *Sections 71.1, 72.1 and 73.1—Generic phrase relating to definitions.*

IRRC noted that the lead-in sentence to each of these sections, which define terms used in each chapter, states: “The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.” IRRC suggested that the phrase “unless the context clearly indicates otherwise” be deleted because it believes the phrase is ambiguous. The Board does not agree with this recommendation. The phrase is standard language which appears in various provisions defining terms in statutes and regulations administered by the Department. See for example, §§ 109.1, 215.2 and 260.2. Moreover, the phrase has been included in these sections for many years and has been accepted by the regulated community and the public.

*Equivalent dwelling unit.* Two commentators raised issues with respect to the existing definition of “equivalent dwelling unit.” These commentators asserted that there was some confusion within the regulated community about the 400 gallon per day flow threshold for determining the number of lots in a subdivision. Currently, an equivalent dwelling unit is, for purposes of determining the number of lots in a subdivision, defined as “that part of a multiple family dwelling or commercial or industrial establishment with flows equal to 400 gallons per day.” The commentators assert that some municipalities may be misusing the 400 gallon per day threshold as a design flow and not for the calculation of a flow threshold for submittal of planning modules. One commentator asserts the 400 gallon threshold is excessive.

The Board acknowledges that there may be some instances where municipalities or municipal authorities have misused the definition of “equivalent dwelling unit.” The 400 gallon per day threshold was, and continues to be, intended only to establish a threshold at which sewage facilities planning would be required, as well as to establish fees for planning module reviews. In addition, the Board does not believe the 400 gallon threshold is excessive because the figure includes inflow and infiltration, which generally accounts for an important component of the flows received at treatment plants, even in relatively new systems.

In response to these comments, the definition has been clarified to specify that the 400 gallon threshold relates only to the determination of planning exemptions and fees for planning module reviews under the sewage facilities planning requirements of Chapter 71. Language has also been added to make it clear the flow figures are not intended for the calculation of flows for the design of community sewerage systems or for the allocation of flows related to community sewerage systems.

*Individual residential spray irrigation system.* One commentator asserted that the definition of “individual residential spray irrigation system” should be identical to that specified in the statute. The definition contained in the proposal was an attempt to provide a practical definition without changing the meaning of the term as defined in the act. The statutory definition includes a clause which states such a system is “permitted under section 7 of the act.” Inclusion of that clause in the context of these regulations, which relate to sewage facilities planning, would likely lead to confusion because

it implies that a permit must be received before planning may begin, which is not the case. The Board has thus not incorporated all of the statutory definition in these final-form regulations.

*Individual sewerage system.* An individual sewerage system is defined as “[a]n individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank. One commentator suggested that this definition be amended by adding “spray fields” after “absorption areas.” The commentator believes this would make the term consistent with the definition of “individual onlot sewage system.” The Board disagrees because including the term in the definition as suggested would prevent a multifamily, commercial or institutional facility from using spray irrigation systems. A small flow treatment system, which is a type of individual sewerage system, can include the use of spray irrigation systems.

*Retaining tank.* The term “retaining tank” includes a subset definition of a chemical toilet. The proposal indicated that the term and definition of “chemical toilet” would be deleted. A number of commentators noted that although this was the case, the use of the term was retained in certain sections of the regulations. In light of these comments, the definition of “chemical toilet” will be retained.

*Sewage facilities.* The existing definition of “sewage facilities” in each of these sections contains a broad definition of the term as well as a subset of definitions which define various types of sewage facilities. IRRC questions the need to place the subset definitions under the term “sewage facilities” and believes that each definition should be listed as a separate definition.

The Board does not agree with IRRC’s recommendation. The subset definitions have been defined under the term “sewage facilities” because they are specific types of sewage facilities. The subset format of the definitions has been in use for many years and consequently the regulated community and the public are familiar with the placement of the terms. The Board has, however, incorporated IRRC’s suggestion that the subset be preceded by the phrase “sewage facilities include:”.

Among the terms defined in the subset is “community sewerage system.” The definition has been refined to make it clear that such a system can be either a publicly or privately-owned community system.

*Small flow treatment facilities.* The existing definition of this term is changed to make it clear that the method of final disposal of effluent from such a system is a stream discharge or other disposal method approved by the Department. The existing definition limits the discharge to a stream discharge or discharge to the surface of the ground.

*Working day.* A definition of “working day” has been added to provide a consistent basis for completeness determinations under section 5(e)(2) of the act.

4. *Section 71.14 (relating to private requests to revise official plans)*

Section 71.14(c) of the proposal included a provision that the Department will inform certain enumerated local and county agencies of its receipt of a private request and that any written comments these agencies wish to provide must be submitted to the Department within 45 days of the Department’s receipt of the private request. One commentator suggested that planning agencies and

county health departments should be given 45 days after receipt by those agencies of copies of the private request from the Department to provide written comments. The commentator believes these agencies may not receive copies of the request for up to 2 or 3 weeks after the Department receives it, thereby limiting the agencies' review time to less than 30 days.

As the commentator acknowledges, the language of § 71.14(c) is directly derived from section 5(b.1) of the act. The Board also recognizes that the time specified in the regulatory provision at issue might impose a burden on the ability of these agencies to provide substantive and meaningful comments on a private request in a timely manner. To address this situation, the Department has established an administrative time restraint of 7 working days for the Department's notification to these agencies. In addition, § 71.14(a) of the proposal has been amended to make it clear that, as part of the notification process, a person submitting a private request must, at the same time the person notifies the Department, notify not only the municipality, but also the municipal planning agency and appropriate planning commission, and must also include copies of the same documentation that was submitted to the Department supporting the private request. This change will ensure that the appropriate agencies authorized to comment on the private request have the appropriate documents to review early in the process, regardless of the time it takes the Department to forward the information.

In addition, the language of subsection (a) has been clarified to provide that a person filing a private request may request that the Department order a municipality to not only revise, but also implement its official plan. The proposal indicated that this request could only be filed to request an order to revise the official plan, not necessarily to implement it.

No comments were received regarding the time periods outlined in the proposed revisions outlined in subsection (e). However, the Department discerned a problem related to the time periods established in this section for the Department's review and final decision regarding a private request for revision. The proposal required the Department to make a decision within 120 days of receipt of comments from the municipality and official planning agency or at the expiration of the 45 day comment period established for these agencies. The language was clarified to establish that the Department's review period is 120 days from either receipt of the comments or 120 days after the expiration of the comment period.

5. *Section 71.21(a) (relating to content of official plans)*

In relevant part, this section currently provides that, prior to preparation of an official plan, a municipality should either meet with the Department prior to completion of a Task/Activity Report or submit a Task/Activity Report or other forms to the Department. The purpose of this Report is to determine which of the planning elements outlined in Chapter 71 are necessary to meet the specific needs of the municipality. This section has been slightly revised to require that a municipality submit a Task/Activity Report to the Department and to encourage the municipality to meet with the Department prior to submitting the Report to the Department.

6. *Section 71.21(a)(6)—Content of official plans—alternative evaluations.*

In preparing official plans or revisions thereto, proponents are required to evaluate various alternatives for solving the needs for sewage facilities in the area studied.

This section currently provides criteria for selecting the appropriate alternative. A proponent is to select an alternative and support that selection with documentation showing that the alternative selected is "the best alternative technically, environmentally and administratively." The quoted language has been revised to provide that the alternative selected must be supported by documentation which "shows that the alternative is technically, environmentally and administratively acceptable." This is intended to eliminate subjective judgments among equally acceptable alternatives.

7. *Section 71.31 (relating to municipal responsibility to review, adopt and implement official plans)*

No changes were proposed to this section. However, during the comment period the Department discerned an issue which needed to be clarified with respect to the public notification provisions of subsection (c). The existing provision provides, in relevant part, that the published notice is to contain a summary description of the nature, scope and location of the planning area and the plan's major recommendations. This provision is clarified in the final-form regulations to address those plans which propose a discharge to a body of water which is designated as "high quality" or "exceptional value" under Chapter 93 (relating to water quality standards). Notices involving these proposals must now include the antidegradation classification of the receiving water and must include a list of the sewage facilities alternatives considered. This amendment is consistent with recommendations of a regulatory-negotiation stakeholders' group established by the Department to address certain issues related to special protection waters. The stakeholders' group recommended that the Department increase public participation opportunities in sewage facilities planning where high quality or exceptional value waters are involved.

8. *Section 71.32 (relating to Department responsibility to review and act upon official plans)*

Subsection (a) outlines the basis for completeness determinations relating to the Department's review of official plans and official plan revisions. Among the criteria are items required by § 71.31. No changes were proposed. However, subsection (a) is being revised in these final-form regulations to provide that when a special study is submitted in support of an existing official plan, existing plan revision or existing update revision, the Department may waive inapplicable requirements of § 71.31.

9. *Section 71.43 (relating to approval of grants)*

No changes were proposed to existing § 71.43. However, during the comment period, the Department discerned a need to cross reference related provisions in § 71.32(d)(7). The referenced section provides that when a plan is proposing sewage facilities which impacts the sewerage facilities of other municipalities, the other municipalities must also adopt the plan. This is directly related to § 71.43(d)(1) which establishes the conditions under which planning grants may be paid for plans in which more than one municipality participated.

10. *Section 71.51(b) (relating to general)*

Proposed § 71.51(b)(1) outlined the criteria for determining exemptions from sewage facilities planning requirements. Among the criteria outlined was that in subparagraph (ii), which stated that the area proposed for the use of individual or community sewage systems could not be underlain by carbonate geology or be located in an area within 1/4 mile of water supplies documented to exceed 5 parts per million (5ppm) nitrate-nitrogen. One

commentator suggested that when considering the location of a proposed sewage system relative to water supplies documented to exceed 5ppm, consideration should be given to watershed location. For example, a proposed sewage disposal site could be within 1/4 mile of known water supplies with elevated nitrate-nitrogen concentrations, but not even be in the same drainage area.

The Department administers requests for planning exemptions by evaluating existing United States Geologic Survey geologic maps, topographical maps and other relevant data on water supplies in the immediate area of the development. Determinations of the location of a proposed development within a specific watershed may not accurately reflect the aquifer or direction of groundwater flow within which the development is to be located. This requires additional studies which may be submitted in support of a planning exemption, but would not normally be required. Accordingly, the suggested change was not made.

Subparagraph (v) provided a requirement that to qualify for a planning exemption, a replacement soil absorption area or spray field must be available for each lot of a proposed subdivision. These replacement areas must be confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed. This subparagraph has been expanded by adding a new sentence providing that a local agency or municipality may require deed restrictions or other actions it deems necessary to protect the replacement soil absorption area or spray field from any damage which would make it unsuitable for future use.

11. *Section 71.51(b)(2)(iii)*

Subsection (b)(2) incorporates the provisions of section 7(b)(5.1) of the act, which outline the criteria which are to be utilized by the Department and delegated agencies in determining whether a subdivision proposing a connection to or an extension to public sewers would require a revision for new land development or a supplement. One of the criteria relates to permittees of the receiving sewerage facilities documenting that the existing collection, conveyance and treatment systems do not have an existing or a projected hydraulic or organic overload. One commentator, representing a large regional plant operator, suggested that the procedure outlined could create some difficulties for these operators. He believes the procedure does not specifically provide that the receiving facilities themselves certify that they do not have an existing or projected overload, particularly when the receiving facility is located in a municipality other than where a subdivision is being proposed. In this official's case, some municipalities have submitted planning exemption requests without having obtained certification from the receiving facility. The commentator believes the regulation could be interpreted as merely requiring that the applicant provide "written certification . . . to the municipality" without certification from the receiving facility. Consequently, the receiving facility might not be aware of the proposed project and the negative effect of the project on its future capacity.

The Board and the Department acknowledge these concerns. The Department has in the past utilized a postcard mailer which, among other things, requires certification from a municipal official that the receiving facility has adequate capacity to serve the proposed development. To address the situation discussed by the commentator, subsection (b)(2)(iii) has been revised in the final-form regulations to provide that the certification

must be provided to the Department or appropriate delegated agency, if applicable, as well as the municipality. In addition, the "application mailer" used to process planning exemptions will also be modified to require a copy of certifications from the receiving collection, conveyance and treatment facilities be submitted to the Department with the application mailer after it has been reviewed by the municipality.

12. *Section 71.53 (relating to municipal administration of new land development planning requirements for revisions)*

Among other things, proposed revisions to subsection (b) outlined the procedure for the review of planning modules by sewage enforcement officers and appropriate planning or zoning agencies. It requires a municipality to determine if a planning module is complete within 10 days of the receipt of comments from sewage enforcement officers and the appropriate agency. One commentator raised some concerns about this process, including whether the municipality should formally notify the applicant that the submission is complete and whether a sewage enforcement officer's request for additional testing extends the 10-day period for completeness determinations.

Although not raised by any commentator, the Department discerned an issue which should be addressed in this section. As noted in paragraph 11 of this Preamble, a concern was expressed relating to verification of the hydraulic and organic loading capacity of a receiving facility. In light of this concern, subsection (b) is being amended to provide that the owner of the receiving facility should receive a copy of the planning module.

If an applicant is not formally notified by the municipality within 10 working days of receipt of the planning module that the submission is incomplete, the applicant can assume the submittal is complete. The review by the sewage enforcement officer and the planning or zoning agency must be done within 10 days of receipt. If additional information is required by any of the reviewers, the planning module is incomplete.

In addition, the time frame of 10 days has been modified to 10 working days. This modification is a practical change to ensure consistent application of completeness determinations among the municipalities and local agencies. This is derived from the completeness determination provision of section 5(e)(2) of the act.

Subsection (d)(6) of the existing regulation outlines the types of sewage facilities planning proposals for which public notice by newspaper publication is required. No changes were proposed. However, a new subparagraph (x) is being added to provide that newspaper publication is required for sewage facilities proposed to discharge in areas of high quality or exceptional value bodies of water. This is consistent with the amendments to § 71.31 and Chapter 93 noted in paragraph 7 of this Preamble.

Subsection (h) was proposed to be revised to provide that a municipality may not adopt a proposed revision to an official plan unless it had determined that the proposal complies with the sewage related provisions of municipal zoning, land use or other comprehensive plans. The Board has determined that deciding what is "sewage related" is subject to conflicting interpretations and is not easily susceptible to satisfactory resolution. Accordingly, the proposed amendment of this subsection is deleted in these final-form regulations.

13. *Section 71.54 (relating to Department administration of new land development planning requirements for revisions)*

Subsection (b) of the proposal indicated that a proposed plan revision would not be considered complete unless, among other things, processing fees for the Department's review of the sewage facilities planning module was paid at the time of submission of the module. This fee requirement for completeness is being deleted in these final-form regulations. A similar change is made in § 71.55(d) (relating to exceptions to the requirement to revise the official plan for new land development).

14. *Sections 71.58 and 71.59 (relating to delegation of new land development planning; and delegated agency administration of new land development planning requirements)*

As proposed, those sections would have required delegated agencies to submit to the Department quarterly reports detailing each subdivision exempted from the planning process. One commentator noted that proposed §§ 71.58(a)(6) and 71.59(d) would require delegated agencies to submit a copy of each supplement approved by the delegated agency and letters of disapproval. This commentator believes the documentation delegated agencies would be required to submit to the Department regarding actions taken with respect to their review of supplements is excessive. The commentator suggests that the quarterly report process should be used to monitor the delegated agency instead of to require the submittal of the modules.

The Board has considered these comments and they are well taken. The Department will use its oversight authority to evaluate the activities of the delegated agencies and may review planning module approvals and denials randomly or on a periodic basis. Accordingly, § 71.58(a)(6) has been revised to delete the requirement that delegated agencies submit copies of planning modules to the Department. A similar requirement of § 71.59(d) has also been deleted.

15. *Section 71.62 (relating to individual and community onlot sewage systems)*

Existing subsection (c)(3)(ii) outlines one of the components required for a preliminary hydrogeologic evaluation necessary to determine the technical and institutional feasibility of using an onlot sewage system. The preliminary hydrogeologic evaluation must include, among other things, the estimated wastewater dispersion plume. SAC recommended that this section be clarified in the final-form regulations to set forth with specificity the sewage flows to be used in determining the estimated wastewater dispersion plume. The plume is to be determined by using an average daily flow of 262.5 gallons per equivalent dwelling unit, or some other flow supported by documentation.

16. *Section 71.63 (relating to retaining tanks)*

Existing subsection (e) exempts certain facilities having a sewage flow of 400 gallons per day or less from the planning requirements outlined in this section. The 400 gallon threshold has been increased to 800 gallons.

Existing subsection (f) outlines the conditions under which privies may be used in lieu of other methods of sewage disposal. This subsection has been clarified to make it clear that "other methods of sewage disposal" includes individual residential spray irrigation systems. In addition, existing subsection (f)(1) provides that the site where the privy is located must meet the requirements for ultimate sewage disposal by using an onlot

system to ensure that adequate sewage facilities will be available if water under pressure or piped water becomes available. The proposed amendment to this subsection would have included the availability of piped wastewater also. The references to water under pressure and piped water, as well as the proposed addition of piped wastewater, have been moved from subsection (f)(1) to subsection (f)(2) in these final-form regulations.

Existing subsection (f)(2) requires a municipality to assume responsibility for the removal of a privy and require the installation of an approved onlot system when water under pressure or piped water becomes available to the lot. This subsection has been clarified to provide that the municipality or entity with jurisdiction is responsible for ensuring the removal of privies and requiring the installation of approved onlot systems if water under pressure or piped water is available to the lot or when the property owner installs water under pressure, piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on the lot. Existing subsection (g) has been amended to exempt privies situated on a lot of record in existence prior to May 15, 1972.

17. *Section 71.64 (relating to small flow treatment facilities)*

Subsection (c)(1) of the proposal provided that a proposal for a small flow treatment facility must include, among other things, documentation that soils are not suitable for the installation of individual or community onlot sewage systems under §§ 73.11—73.16. One commentator noted that this, in effect, appears to preclude the use of individual residential spray irrigation systems. This commentator suggested that when a lot does not otherwise meet conditions for a regular onlot system or a sand mound, the property owner should have a choice between a small flow treatment facility and an individual residential spray irrigation system, depending on site conditions.

The Board agrees with the commentator. Accordingly, the regulations have been modified to provide the property owner with the option of choosing a small flow treatment facility or an individual residential spray system when the site is suitable for either, provided the lot proposed for development is outside the watershed of areas designated as high quality or exceptional value under Chapter 93.

Existing subsection (c)(2), which provides that an update revision proposing the use of small flow treatment facilities contain documentation that, among other things, the proposed system will not discharge to high quality or exceptional value waters, was deleted in its entirety to be consistent with proposed regulatory amendments to Chapter 93 resulting from recommendations of the regulatory-negotiation stakeholder's group established by the Department to address certain issues related to special protection waters. Deletion of this outright prohibition of small flow treatment facility discharges into special protection waters will properly place consideration of the proposals under the processes established by Chapter 93.

Subsection (c)(6) of the proposal required that one or a combination of operation and maintenance requirements be included in an official plan or revision proposing the use of small flow treatment facilities. In addition, proposed subsection (c)(7) provided that financial security, such as bonding, escrow or other security, is to be established prior to planning approval.

One commentator provided extensive comments regarding these requirements. Among other things, the commentator asserts that the bonding requirements are excessive, that there is no statutory basis for the financial assurance requirements and that bonding requirements are already covered under section 509 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10509). The commentator also believes that requiring bonding as well as options relating to operation and maintenance is excessive and that proposed subsection (c)(7) lacks clarity with respect to the posting of the financial assurances outlined therein.

With respect to the commentator's assertions regarding statutory authority, section 9 of the act (35 P.S. § 750.9) provides that the Board "shall adopt such rules and regulations of the Department . . . as shall be necessary for the implementation of this act. Such rules and regulations shall establish standards for [inter alia] the . . . maintenance and operation of individual sewage systems and community sewage systems . . ." The financial assurances outlined in this section generally incorporate existing financial assurance provisions relating to sewage management programs for Department permitted sewage facilities outlined in existing § 71.72, which were adopted in 1989. See 19 Pa.B. 2429 (June 10, 1989).

The Board has considered the commentator's suggestion that the proposal to require financial security as well as operation and maintenance options is excessive. The proposal has been revised to provide that financial security is one of the options to be considered, along with operation and maintenance options by incorporating the language outlined in proposed subsections (c)(6) and (c)(7) into one subsection, (c)(5). This will allow a developer to propose, and a municipality to accept, financial security or any of the other maintenance options instead of requiring the municipality to demand both. Similar revisions are being made with respect to the provisions relating to sewage management programs for Department permitted sewage facilities and individual residential spray irrigation systems in §§ 71.72 and 72.25(h) respectively.

Subsection (c)(7) of the proposal (subsection (c)(5)(vii) of these final-form regulations) provided that the financial security is to be established for an amount up to a maximum of 50% of the equipment and installation costs of the system for the first 2 years of operation and not more than 10% of the costs each year thereafter. It was suggested that this subsection was unclear in the sense that the last sentence of the subsection implied that up to 50% of the equipment and installation cost must be posted for each of the first 2 years and no more than 10% for each year thereafter. This posed the question of whether the 10% cost must be posted each year or whether the 10% cost must be retained for the entire life of the system. The Board agrees this subsection needs to be clarified. Accordingly, the provision has been revised to make it clear that 10% of the cost must be retained over the life of the system after the first 2 years of operation. The remainder of the original financial security may be refunded at the expiration of the initial 2-year period. A similar revision has been made to the financial security provisions relating to sewage management programs in § 71.72(a)(1).

The commentator also believes that requiring financial security prior to planning approval is inappropriate and should be required prior to permit approval instead. The Board disagrees. Given the fact that other options besides establishing financial security are now available, requir-

ing financial security at the planning stage is not an excessive burden in those cases where the option is chosen by a developer.

Finally, the commentator asserts that bonding requirements for new systems are already covered under section 509 of the Pennsylvania Municipalities Planning Code. The Board does not agree. That section of the Pennsylvania Municipalities Planning Code is not applicable to the long-term operation and maintenance of sewage facilities. Rather, it relates to bonding to ensure the completion of certain improvements as a prerequisite to final plat approval and does not apply to the repair or replacement of a sewage system which has already been installed.

18. *Section 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies)*

Subsection (d) of the proposal outlined a procedure for providing reimbursement to municipalities which assume responsibility for the administration of a sewage management program in cases where the municipality is not the local agency administering the permitting program. Under the proposal, the municipality would have been required to bill the local agency and receive reimbursement through the local agency. This would have resulted in a cumbersome reimbursement process. The final-form regulations provide that the municipalities may apply directly to the Department for reimbursement and will, therefore, be reimbursed by the Department.

19. *Section 71.83 (relating to Department fees)*

Subsection (a) of the proposal provided, in relevant part, that the fees charged by the Department for the review of planning modules would be "in accordance with section 10(12) of the act . . ." IRRC suggested that the appropriate fees and fee exemption be listed in the section for easy reference by the public and the regulated community. The section has been revised to incorporate this suggestion.

Subsection (b) of the proposal provided that any subsequent submission of a planning module following denial would be considered a new submission for purposes of establishing review fees. During the comment period the Department discerned the need to clarify when a second planning module review fee would be charged to an applicant. The revised language limits additional review fees to those cases where substantial changes to the original submittal were made subsequent to the denial.

*Chapter 72—Administration of the Sewage Facilities Permitting Program*

20. *Section 72.21 (relating to general)*

Subsection (f) of the proposal would have provided that property owners bear the costs of activities associated with conducting, observing or confirming percolation tests. This provision has been modified in these final-form regulations to provide that the costs are to be borne only by property owners proposing a bonded disposal system under § 73.77 (relating to general requirements for bonded disposal systems) when soil mottling is present. This would make the section consistent with the requirement of section 7.2(a)(1) of the act that the local agency perform a percolation test at the owner's expense when the owner of the property requests such a test if the local agency has determined that soil mottling is present.

21. *Section 72.22 (relating to permit issuance)*

As proposed, subsection (b) would have been amended to provide for permits for certain connections to an existing onlot system involving not only repair, as is

currently required, but also a disturbance, modification or enlargement of a treatment tank, soil absorption area or spray field. A number of commentators suggested that the subsection, as proposed, would require a permit when a septic tank is dug open and the lid lifted, when the tank is pumped or a manhole access is added, or for unclogging a line in an absorption area. This was not the intent of the proposal, and this subsection has accordingly been clarified. A permit would be required for alterations or connections to an existing onlot system when the alterations or connections require the repair, replacement or enlargement of a treatment tank or retention tank. Permits would also be required for the repair, replacement, disturbance, modification or enlargement of a soil absorption area or spray field, or the soil within or under a soil absorption area or spray field.

Subsection (g) of the proposal (subsection (h) in these final-form regulations), which incorporated the provisions of section 7(a)(1) of the act, provided that a permit would not be required for a sewage system in those situations where a new dwelling is proposed to replace a previously existing dwelling when the size and anticipated use of the new dwelling is the same as the previously existing dwelling and that dwelling was in use within 1 year prior to the anticipated date of the completion of the new dwelling. One commentator expressed a concern that sewage enforcement officers would be compelled to condone the connection for a replacement dwelling even if the existing system had illegal repairs, modifications or alterations made to it. The Board disagrees. The language of subsection (g) is based on the language appearing in section 7(a)(1) of the act. Moreover, the conditions described by the commentator are generally violations of the act and the local agency has the authority to cite owners of systems if illegal repairs or alterations were made. However, the language of this subsection has been modified to more clearly outline the circumstances which would qualify the size and use of a new dwelling as being equal to those of the previously existing dwelling. Size and use determinations would be based on absorption areas and sewage flows.

22. *Section 72.26(c) (relating to denial of permits)*

As outlined in the proposal, this subsection concerned procedures related to the waiver of retesting and reapplication fees following denial of an application after verification of testing conducted by a previous sewage enforcement officer. During the comment period, the Department discerned a potential issue related to which a sewage enforcement officer's denial of the application would affect the fee waiver. The language has been clarified to describe that the sewage enforcement officer denying the application, for purposes of subsection (c), is a currently employed sewage enforcement officer, not a prior one.

3. *Section 72.31 (relating to conditions related to installation of permit exempt systems)*

The existing provisions of this section outline indemnification requirements for persons installing permit exempt systems. The Department discerned an incorrect reference to "this section" in that the language of the section refers to permit exemptions under § 72.31. Section 72.31 contains no permit exemptions. The permit exemptions are outlined in other sections of this chapter, such as § 72.32 (relating to sales contracts). Accordingly, references to "this section" have been changed to "this chapter."

As noted in the text of the proposal, the provisions of subsection (b) were proposed to be incorporated into

§ 72.32(a). These final-form regulations effectuate that proposal by deleting subsection (b).

24. *Section 72.32 (relating to sales contracts)*

The proposal incorporated the provisions of certain sections of the act which require that contracts for the sale of lots under certain circumstances contain specific provisions. Two new subsections have been added to these final-form regulations. Proposed subsection (e) is relettered (g). New subsection (e) provides that contracts for the sale of lots for which a required revision for new land development, exception to the requirement to revise or a required supplement has not been approved are to include language clearly indicating to the buyer that sewage facilities are not available to that lot and will not be available, nor may construction begin, until sewage facilities planning has been approved. New subsection (f) incorporates the provisions of section 7(a) of the act which requires certain language in contracts for the sale of lots for which there is no existing community sewage system.

25. *Section 72.33 (relating to well isolation distance exemption)*

Subsection (b) of the proposal provides that a local agency may, at its sole discretion, waive the isolation distance requirements of this section when a repair to a malfunctioning system is being considered under the provisions of § 73.3, which outlines the policy regarding corrective measures for malfunctioning sewage disposal systems. One commentator suggested that the proposed language allows the local agency to waive the requirement for a hydrogeologic study when a sewage system is proposed to be too close to a well in a repair situation at an existing structure. Although the commentator believes this waiver authority is a good idea, the commentator questions the legality because she believes the act makes no distinction between repairs and new systems in this regard.

Section 8(f) of the act provides, in relevant part, that any "minimum distance requirement between a private well and a proposed absorption area specified in the regulations . . . shall not be applicable if the local agency finds, after reviewing appropriate groundwater studies submitted by an applicant, that the installation of a proposed individual sewage system does not pose a threat of pollution to any well on the same lot within the distance specified by regulation." The key word in the quoted language is "installation." Installation, in effect, means the installation of a new system. Thus, a repair not involving replacement by means of a new system is separate and distinct from an installation. This analysis of the legality of the provision should address the commentator's concerns.

Subsection (c)(1) of the proposal provides that the request for an exemption from the well isolation distance requirements must, inter alia, contain appropriate groundwater studies. One commentator and IRRRC recommended that this subsection specify the types of groundwater studies which would be required. Accordingly, they suggested that the term "appropriate" be replaced by "required" to make it clear what is required. The Board disagrees with this recommendation. Section 8(f) of the act, which is the basis for the regulatory provision, provides that the local agency's determination on the exemption application be made after "reviewing appropriate groundwater studies submitted by an applicant . . ." Moreover, the types of groundwater studies appropriate for a specific situation are necessarily case and site specific. The types of studies appropriate for specific

environmental situations are constantly evolving. In any event, the local agency may utilize the services of an expert who can determine the type of study which is appropriate for the specific site.

Subsection (c)(2) of the proposal provides that the request for this well isolation distance exemption also include the payment of fees or costs incurred by the local agency to review the groundwater study submitted. The same commentators suggested that these groundwater studies be reviewed for the local agency by a qualified professional geologist with expertise in ground water studies and that the payment required be only for the services of such geologists. The Board disagrees. Section 8(f) of the act does not set forth the qualifications required for personnel reviewing these studies. It merely provides that the local agency conduct the review. In addition, there are professionals other than professional geologists who are qualified to review these studies. SAC does not believe the Board is authorized to establish minimum qualifications for personnel reviewing these studies, in part, because professional qualifications are governed by other statutes.

Subsections (d) and (e) contained references to an "exception" from the well isolation distances. A more appropriate term is "exemption" and the term "exception" has accordingly been replaced.

26. *Section 72.41 (relating to powers and duties of sewage enforcement officers)*

Subsection (i) of the proposal incorporates provisions of section 8(e) of the act relating to conflicts of interest. In particular, the subsection provides that sewage enforcement officers may not provide consulting, design or related services regulated under the act within the municipality or local agency by which the officer is employed unless the services are set forth in a fee schedule, the fees for these services are paid directly to the municipality or local agency and the consulting or design work is reviewed and a permit is issued by another sewage enforcement officer employed by the entity issuing the permit.

The Board received a number of comments regarding this provision. These comments address various scenarios which are more fully described in the Comment and Response Document. Among the concerns raised was that there appears to be nothing in the regulations which would prevent sewage enforcement officers working for the same company from reviewing each other's work. The Board disagrees. Existing subsections (g) and (h) explicitly prohibit this kind of activity. Another commentator objected to the requirement that the fees for consulting or design services under the circumstances described in this Preamble be set in a fee schedule of the local agency and that the fees be paid directly to the local agency. The provisions are mandated by section 8(e) of the act.

27. *Section 72.42 (relating to powers and duties of local agencies)*

Proposed subsection (a)(14) relating to continuing maintenance has been renumbered as subsection (a)(24) for ease of reading. Subsection (a)(21) of the proposal (subsection (a)(20) of these final-form regulations) sets forth a time frame and certain procedures for site suitability review, soil probe testing or soil percolation testing which may be necessary following the receipt of a permit application. Among other things, the proposal provides that an applicant is to have a site prepared for testing in accordance with instructions which must be provided to the applicant at least 48 hours before the scheduled testing. If the applicant does not follow the instructions,

the applicant may not submit soil tests performed by another sewage enforcement officer and is not entitled to a refund in the event the local agency fails to comply with the time limits for review specified in proposed subsection (a)(21). IRRC believes this type of site preparation is for standard soils tests and that the regulation should provide "at least some guidance on the site preparation required for the tests." IRRC believes providing guidance will also prevent extraneous requirements from being imposed on the applicant.

The Board does not believe it is necessary to amend the regulation along the lines suggested. There are various types of soil conditions within this Commonwealth. Site preparation requirements are generally specific to the types of testing being conducted and thus, there is a need for flexibility. For many years, the Department, local agencies and the regulated community have utilized a guidance document, *Technical Manual for Sewage Enforcement Officers*, which contains detailed procedures for site preparation and soils testing. The *Manual* includes diagrams which would be extremely difficult to translate into regulatory text.

Subsection (a)(20)(v) provided that an applicant was required to have a site prepared for soil testing in a manner required by "this section." The quoted phrase has been deleted and replaced by "the local agency" to make it clear where the requirements for site preparation originate from.

Proposed subsection (a)(24) (subsection (a)(23) in these final-form regulations) would require local agencies to ensure that individual residential spray irrigation systems are sampled at least once a year by the property owner and establishes effluent limits with respect to the discharges. Component characteristics to be sampled include fecal coliforms, biological oxygen demand, suspended solids and disinfectant residual or effectiveness. Individual effluent samples could not exceed a 5 day Biological Oxygen Demand (BOD) of 60 mg/l and suspended solids concentration of 100 mg/l. In addition, chlorine residuals would have been required to be maintained at a range of 1.0—2.0 ppm, unless a higher level is required to control disease producing organisms.

One commentator asserted that the effluent limits proposed would not protect the public health and environment. The commentator noted that following a sand filter, a 5 day Biological Oxygen Demand of 30 mg/l or less and a suspended solids of 20 mg/l would be expected. The commentator also believes there would be a problem with the system violating the fecal coliform standard of 200 colonies/100 ml if the suspended solids are 100 mg/l.

The sampling requirements and effluent limits have been adjusted in these final-form regulations to more closely reflect the effluent quality from a functional sand filter and the Department's requirements relating to monitoring requirements for other surface discharge systems. Accordingly, the term "biological oxygen demand" has been modified to "carbonaceous biological oxygen demand." The effluent limit for the 5-day BOD has been reduced from 60 to 25 mg/l and the suspended solids concentration limit reduced from 100 to 30 mg/l. In addition, the phrase "Chlorine residual shall be maintained at a range of 1.0—2.0 ppm . . ." has been revised to read: "Free chlorine residual shall be maintained at a range of 0.2—2.0 ppm . . ." This revision better describes the form of chlorine to be measured and provides a more realistic measure of free chlorine residual.

IRRC indicated that the language of the same subsections relating to fecal coliform organisms should be



clarified. This language has been clarified to provide that the effluent limit is to be "not greater than 200 fecal coliform organisms per 100 milliliters in a single sample."

Another commentator believes proposed § 72.25(h) (relating to issuance of permits) gives municipalities, not local agencies, the responsibility to assure proper operation and maintenance of these systems. That section provides, in relevant part, that prior to the issuance of a permit for an individual residential spray irrigation system, the local agency must require documentation that the municipality in which the system is to be located has taken action to assure compliance with the operation and maintenance provisions of § 73.167 (relating to operation and maintenance) for the life of the system. The commentator is essentially correct, but appears to misconstrue the application of this section. Section 7.6(6) of the act provides that the system owner must annually test the discharge for the effluent components outlined and a copy of the test results must be sent to the local agency. If the sampling indicates there are problems, action must be taken by whatever agency or entity has assumed responsibility for assuring proper operation and maintenance of these systems. That entity or agency could be the municipality acting under the authority of section 7.3(4) of the act, or a local agency which has assumed responsibility for a program under section 8(a) of the act or which has established a sewage management program under section 8(b)(4.1) of the act.

28. *Section 72.43 (relating to powers and duties of the Department)*

Subsections (f)—(h) of the proposal outlined amended procedures and criteria relating to the suspension, revocation and reinstatement of sewage enforcement officer certifications. One commentator provided extensive comments suggesting clarification of various provisions of these subsections. For the most part, these comments were later withdrawn. In spite of the withdrawal of these comments, subsections (f) and (h) have been modified to make it clear what constitutes a suspension or revocation of a certificate. IRRC asserted that in some situations, there are two essentially separate penalties for the same infraction. While there are in fact separate penalties for the same infraction in some instances, the seriousness of the penalty is determined by the degree of culpability associated with the action. The subsections have been revised to incorporate culpability factors appropriate to the penalty. Thus, a certificate would be revoked where a sewage enforcement officer "knowingly" conducted some proscribed activity, while suspension penalties are based on a lesser standard of negligence.

29. *Section 72.44 (relating to reimbursement)*

Subsection (d)(5) of the proposal provided that to qualify for 85% reimbursement under section 6(c) of the act, a local agency must, among other things, employ or contract with a qualified soil scientist. That subsection further provided that, to qualify for 85% reimbursement, a soil scientist must be a person "who has documented experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of an onlot sewage system" and meet certain other educational and certification requirements. One commentator asserted that the definition of "a qualified soils scientist" for purposes of 85% reimbursement is inconsistent with the definition of a "qualified soils scientist" outlined in section 2 of the act (35 P. S. § 750.2) because it does not require the soils scientist to be a certified sewage enforce-

ment officer, while the definition in the act does. The commentator, therefore, recommends that the qualifying language be deleted.

Other commentators, while acknowledging the inconsistency between the definitions, assert that requiring the qualified soils scientist to be a sewage enforcement officer places a burden on soils scientists which is not placed on engineers or geologists and limits the number of soils scientists available to contract with local agencies seeking 85% reimbursement. One commentator asserts that there would, at most, be only 12 individuals who would meet the criteria for a qualified soils scientist if the definition in the act was applied.

The Board has considered these comments related to this issue and determined that, for the sake of consistency, the definition in the act should apply. Accordingly, the qualifying language in the proposal has been deleted in these final-form regulations.

30. *Section 72.52 (relating to conditions of certification or reinstatement of certification)*

The heading of this section has been revised to make it clear that the provisions relate to the reinstatement of a sewage enforcement officer's certification, as well as the original certification.

Existing subsection (a)(3) provides that the Certification Board may recertify a sewage enforcement officer whose certification has been revoked. The Certification Board suggested that the term "recertify" and its progeny be revised to refer to reinstatement of certification to be consistent with the terms used in the act. The suggestion has been incorporated into these final-form regulations.

A new subsection (a)(4), has been added to provide that a requirement for certification as a sewage enforcement officer is that the applicant's certification has not lapsed due to failure to complete mandatory training during a previous renewal cycle unless training has been subsequently completed.

Subsection (b) of the proposal specified, inter alia, that applicants for renewal of sewage enforcement officer certification who are employees of the Department would not be subject to the renewal fee requirements. Although not raised in the public comments, the Department discerned an issue with respect to the payment of the renewal fee by sewage enforcement officers employed by other Commonwealth agencies. The language has been revised to provide that these sewage enforcement officers would not be required to pay the renewal fee so long as their sewage enforcement officer activities are limited solely to Commonwealth service.

31. *Section 72.58 (relating to Certification Board hearings and procedures)*

Existing subsection (a) outlines the procedures for appealing actions of the Department relating to the suspension or revocation of sewage enforcement officer certification to the Certification Board. The Board received comments from the Certification Board suggesting that the procedures be revised, especially with respect to specifying the grounds for appeal when a request for a hearing is filed with the Certification Board. In response to these comments, the procedures outlined in subsection (a) have been revised to provide that if a request for a hearing does not specify the grounds for appeal, the secretary of the Certification Board may notify the appellant that the appeal does not specify the grounds for appeal and that the appellant must file an amended appeal and request for a hearing within 30 days of receipt

of notification. The Certification Board may dismiss the appeal if the appellant fails to do so. Subsection (a) has also been revised to provide that the adjudications of the Certification Board are to be in accordance with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

*Chapter 73—Standards for Onlot Sewage Treatment Facilities*

32. *Chapter 73—General revisions*

During the comment period, the Department interacted with SAC, other organizations and individuals with expertise in the area of onlot system design and siting to improve the technical standards for onlot systems in Chapter 73. This resulted in numerous changes to these standards to allow system designers more flexibility, to eliminate requirements which were determined to be unnecessary and to clarify others. In addition, input from groups was solicited by the Department to improve standards. For example, the Pennsylvania Aggregate and Concrete Association assisted the Department in establishing better standards for sand and aggregate in elevated sand mounds and sand filters. This type of input resulted in numerous changes to these final-form regulations in the following sections as more fully described in the Comment and Response Document:

Section 73.1—a definition for “dosing pump” has been added and the definition of “undisturbed soil” has been slightly modified; § 73.14(b)(6)—clarified the term “excessive,” § 73.16—added subsurface sand filters and added leaching chambers as a standard system; Table B—reformatted to make it more readable; § 73.31(d)—clarified the minimum septic tank opening size; § 73.44(b) and (c)—deleted the undefined term “individually designed system”; § 73.44(b)(12)—eliminated a chart of hole sizes versus gallons per minute to allow for more design flexibility; § 73.46(a)(8) and (b)(1)—corrected incorrect references to “subsection”; § 73.51(a)—added a specification for coarse aggregate as recommended by the Pennsylvania Aggregate and Concrete Association; § 73.161(a)—clarified the listing of other sections applicable to spray irrigation systems; § 73.162(b)(1)(vi)—deleted the requirement for minimum and maximum tank depth for sand filters; § 73.162(b)(1)(vi) and (vii)—deleted the requirement for a specific amount of freeboard above the sand in a sand filter tank and clarified the standard for minimum tank access opening; § 73.162(b)(2) and (4)—modified the sand and aggregate specifications for a free access sand filter as recommended by the Pennsylvania Aggregate and Concrete Association; § 73.162(b)(4)(viii), (ix) and (xi)—expanded the options available to a designer to configure multiple sand filter dosing plumbing, limited the size of the central distribution piping and provided for optional splash block material; § 73.162(c)(3)—provided a minimum depth standard for aggregate over the bottom drain of the sand filter and deleted the mandatory use of geotextile material between aggregate layers; § 73.165(a) clarified the term 200/100 milliliters of fecal coliform organisms; § 73.165(b)—clarified the maximum depth standard for erosion chlorinators; § 73.166(a)(3)—allowed design flexibility in protection spray irrigation lines against freezing; § 73.166(a)(6)—deleted the need for uniform distribution of effluent in a spray irrigation system and minimized the number of spray nozzles required;

and § 73.167—established a minimum standard for frequency of operational inspections of spray irrigation systems.

33. *Section 73.1 (relating to definitions)*

The Board received comments with respect to certain terms defined in this chapter.

A definition of “geotextile” has been added. “Geotextile” is defined as “material consisting of mesh polypropylene, polyester, nylon or similar material used to prevent migration of fine aggregate into coarser aggregate.”

One commentator asserted that the term “experimental sewage systems” was not defined. That term is defined in existing § 73.1. However, the definition has been revised somewhat to be consistent with the definition which now appears in the act.

The proposal defined “lift pump” as “[a] submersible pump used to convey effluent to the sand filter and from the sand filter to the chlorine/retention tank.” A number of commentators suggested that this definition be modified because of a belief that the definition does not encompass all of the uses specified in Chapter 73. One commentator also suggested that the definition should include conveyance to an in-ground system.

Some of the comments regarding lift pumps appear to be based on a misunderstanding regarding their use. Lift pumps do not connect a treatment tank to a distribution box or header pipe. This connection is accomplished by a gravity line or, in the case of a pressurized system, a dosing pump in a dosing tank. For the purposes of Chapter 73, a lift pump is used only as part of an individual residential spray irrigation system to convey effluent to the sand filter. Standards for lift pumps are outlined in § 73.46(b).

The proposal incorporated the definition of the term “soil mottling” as outlined in section 2 of the act. One commentator, a professional soils scientist, noted that the term “soil mottles” has been retired from the lexicon of soils science. The term now used for soil characteristics that indicate saturation and reduction, which can be observed in the field, is “redoximorphic features.” Another commentator noted that what used to be referred to as “drainage mottling” is now termed “redoximorphic concentrations and depletion of iron.”

The term “soil mottling” is defined in the act. In addition, the term “mottling” is found in a majority of the Soil Conservation Surveys in use in this Commonwealth and is commonly used to identify soil characteristics that indicate saturation and reduction. Accordingly, the term “soil mottling” has been retained in these final-form regulations. However, the term “redoximorphic features” has been added as a parenthetical to “soil mottling” to indicate that the two terms have similar meanings.

34. *Section 73.3 (relating to policy)*

Subsection (b) outlines the policy with respect to corrective measures for malfunctioning sewage systems constructed in accordance with Chapter 73. Among other things, the existing policy provides that the Department and sewage enforcement officers are to “first consider all individual and community sewage systems described in this chapter in the correction of existing malfunctions and, when the systems are not physically possible, to provide the best technical guidance possible in attempting to resolve existing pollution or environmental health problems.”

The existing policy indicates that sewage enforcement officers, as well as the Department, are to make determi-

nations regarding this policy. To more accurately reflect the responsibilities regarding this policy, the term "sewage enforcement officer" has been replaced by the term "local agency" because the local agency retains the ultimate responsibility for setting forth this policy in the administration of the act within its jurisdiction.

A concern was raised that the phrase "when the systems are not physically possible" is impractical. The phrase "are not physically possible" has been deleted and replaced with "cannot be constructed in accordance with this chapter."

Subsection (b) of the proposal also outlines a policy regarding isolation distances. That policy provides that when application of best technical guidance results in an absorption area or spray field encroaching on the regulated isolation distance to a well, proper well abandonment procedures or relocation of the well should be considered. One commentator suggested that consideration be given to the existing isolation distance between the well and disposal area when evaluating the relocation of wells in a repair situation. The commentator believes, for example, that if the malfunctioning system is 70 feet from the well and the absorption area can be installed 90 feet from the well, the property owner should not have to abandon and relocate the well.

The Board believes the comments are reasonable, but that other provisions of these regulations adequately address the commentator's concerns. A sewage enforcement officer may allow an isolation distance of less than 100 feet between a well and an absorption area to accommodate a repair. The policy described in subsection (b) also provides that when a required well isolation distance must be encroached to site a repair system, the proper well abandonment procedure or relocation of the well should be considered. If a property owner does not wish to consider well relocation as an option to accommodate a repair, the property owner may employ an expert to assess the impact of the isolation distance encroachment and submit the expert's findings to the local agency in support of that position. This procedure is outlined in § 72.33.

Subsection (b) of the proposal also expanded the types of onlot sewage systems which could be considered or used in repair situations. The proposal provided that the policy would not limit or preclude the use of experimental systems, but also would not preclude the use of small flow treatment systems permitted under The Clean Streams Law. Although no comments were received regarding this particular provision, the Board has determined that it is appropriate to clarify that the policy also does not preclude the use of holding tanks, but only when no other alternatives are available. The policy has been so clarified in these final-form regulations.

#### 35. *Section 73.11 (relating to general)*

Subsection (c) of the proposal incorporated a provision which would allow a permit to be modified to authorize a property owner to use a newly installed septic tank as a holding tank pending the completion of the rest of a sewage system when weather or soil conditions prevent completion of the proposed sewage system prior to occupancy of the house. The proposal also outlined certain sections of the regulations which would be applicable in these situations.

Commentators representing the sewage enforcement officer community expressed reservations about this provision. Since system installers determine when a system is to be installed, there was a concern that the installers

would invoke this provision every time they mistime or run late on a project, citing unexpected rain, and the like. A second concern expressed was that this provision would create administrative nightmares in rapidly growing areas. It was suggested that local agencies be authorized to establish conditions in the permit relating to the use of septic tanks in the situations described in the proposal.

The Board agrees with the recommendation that conditions be established. Accordingly, a phrase has been added to these final-form regulations. In addition, the sections of the applicable regulations outlined in the proposal have been revised to outline only those sections of the regulations which are not applicable so as to more clearly define the extent of the exception.

Existing subsection (f) prohibits discharges from roof gutters, foundation drainage and surface runoff to a treatment tank. A number of commentators suggested that discharges from floor drains should also be prohibited, except in cases where showers and laundries in basements are connected to floor drains. The Board agrees and the suggested revision has been made.

#### 36. *Section 73.12 (relating to site location)*

Existing subsection (a) outlines certain characteristics which render an absorption area unsuitable for the installation of an onlot system. Among the characteristics is an absorption area is unsuitable in areas where completed flood mapping is not available, but the soil has been mapped or identified as floodplain soil or a floodprone area. Some commentators noted that there are areas within this Commonwealth with broad floodplains. However, there are many areas that are in floodplains, but are not designated as being in either floodways or floodprone areas in maps. It was suggested that the existing language be replaced with a presumption contained in the definition of "floodway" in § 105.1 (relating to definitions). The Board has agreed to this recommendation. Accordingly, subsection (a)(2) has been revised by adding a sentence providing that "[w]here there is no flood mapping, a floodway extends 50 feet from the top of the stream bank as determined by the local agency." That provision does not, however, apply to spray fields.

Existing subsection (b), in essence, provides that fill must be in place for 4 years before an absorption area may be placed therein. The Board received a number of comments raising questions about the application of the section in relation to proposed § 73.14(a)(1)(iv) (relating to site investigation). It was also noted that this section appears to conflict with a provision of proposed § 73.14(a)(1)(iv) which would have provided a limited exception to this requirement. That exception was that an onlot system may be installed in fill soil that has remained undisturbed for a period of less than 4 years if a soil scientist has determined that natural soil conditions have been reestablished.

As evidenced by the numerous questions outlined in the Comment and Response Document, the proposed changes to § 73.14(a)(1)(iv) have the potential to create administrative problems for both the local agency and the Department. In light of this, the proposed amendment to § 73.14(a)(1)(iv) has been deleted except for the last sentence, which has been retained in this rule. That sentence provides clarification that "[e]xcavating soil to system installation depth for the purposes of installing the system may not be considered disturbing the soil." It should also be pointed out that the Board believes the existing regulations and related administrative processes adequately address onlot system proposals in areas where soils have either been filled or excavated.

37. *Section 73.13 (relating to minimum horizontal isolation distances)*

Existing subsection (b) establishes required minimum horizontal isolation distances between certain features and enumerated types of tanks. One commentator suggested that other features be added to eliminate what is asserted to be a great disparity that exists in the distances required by different local agencies. It was also suggested that an isolation distance be included between spray fields and swimming pools.

These suggestions have been incorporated into the final rule. Isolation distances of 10 feet have been established for detention basins, retention basins and stormwater seepage beds. In addition, a 100 foot isolation distance has been established between swimming pools and spray fields.

Proposed subsection (c) would have provided that building sewers would be required to meet certain isolation distances outlined in subsection (b). This proposal has been deleted from these final-form regulations because it would have been impossible to meet the proposed regulation where a sewer line and a water line enter a small residential structure.

38. *Section 73.14 (relating to site investigation)*

Proposed subsection (a)(1)(iv), which concerned the installation of onlot sewage systems in fill soil, has been revised as discussed in paragraph 36 of this Preamble relating to site location.

Proposed subsection (b) established certain criteria to be utilized in site investigations relating to the establishment of spray fields. Subsection (b)(2) and (3) of the proposal would have required that soil profile evaluations be spaced within 10 feet outside the perimeter of the proposed spray field. One commentator suggested that soil profiles be considered within the perimeter of the spray field, particularly where the spray field is in excess of 20,000 square feet. The commentator also requested that a provision be added authorizing a sewage enforcement officer, at his discretion, to require additional soil profiles on the perimeter or inside the spray field.

The Board partially agrees with the commentator's suggestion that soil profile evaluation be within the perimeter of the proposed spray field. Accordingly, the language of proposed subsection (b)(2) and (3) has been revised to make it clear that these evaluations are to be spaced at specified intervals within 10 feet of the perimeter of the proposed spray field. However, the Board does not fully agree with the commentator's request for discretionary authority to require additional soil profiles, at least in the manner requested, because it is much too broad. However, the Board acknowledges a need for additional testing in some circumstances. Accordingly, a new subsection (b)(4) has been added which essentially provides that additional soil profiles may be required if a sewage enforcement officer identifies specific enumerated trends in soil profiles or surface features which document variable soil conditions.

Subsection (b)(5) of the proposal, renumbered as subsection (b)(6) in these final-form regulations, provided that a permit for an individual residential spray irrigation system would be denied if a limiting zone was indicated by bedrock or excessive coarse fragments within 16 inches of the mineral soil surface. To be consistent with the definition of "rock" under the term "limiting zone," the language has been revised to provide that the limiting zone is indicated by bedrock or coarse fragments

with insufficient fine soil to fill voids located within 16 inches of mineral soil surface.

39. *Section 73.15 (relating to percolation tests)*

This section outlines the procedures and measurements required for percolation tests, which are a tool for determining whether a proposed absorption area is suitable for the installation of an onlot sewage disposal system. One commentator suggested that the existing provisions of this section are too stringent and asserted that applications for over 80% of the permits for installation of onlot sewage disposal systems would not meet the standards. The Board disagrees. No other commentator expressed similar concerns and the procedures outlined in the existing regulations have been utilized without any major problems since 1983. Moreover, the permit denial rate for onlot sewage system applications is only 9% in this Commonwealth.

Paragraph (7) of the proposal outlined a revised method for calculating the results of a percolation test. The proposed method specified the results of the tests for holes that drain too slow or too fast. A number of commentators suggested that the proposed language be fine-tuned to fully delineate the calculation process. Among the issues raised were whether the absorption area could include the percolation test holes.

The proposed subsection has been substantially revised. A provision has been added which states that absorption areas may be placed over holes with no measurable rate of drop when the average percolation rate for the proposed absorption area is within specified limits. This is because the absorption area would be sized large enough with the use of a drop rate of 240 minutes per inch to accommodate a slowly permeable area. The proposal also stated that when the rate of drop in a percolation test hole using 10 minute intervals is too fast to obtain a measurable rate, the hole would be considered a failed hole. This has been clarified to make it clear that a percolation test hole may not be used in calculating the arithmetic average percolation rate if it is dry at the end of a 10 minute testing interval. In addition, a provision has been added which states that a proposed absorption area may not be installed over the dry holes where more than 1/3 of the percolation test holes are dry at the end of the 10 minute testing interval unless the local agency determines that an anomaly caused the fast percolation rate and a retest of the area is within acceptable percolation test rate limits. If there is no anomaly, percolation tests from the remaining holes which are within the acceptable limits may be accepted by the local agency when they are supplemented with additional percolation testing conducted outside of the area in which the dry percolation holes were found.

40. *Section 73.16 (relating to absorption and spray field area requirements)*

The proposal incorporated existing requirements establishing minimum aggregate absorption area requirements for treatment tank effluent and proposed requirements for calculating the minimum square footage necessary for spray fields. Spray fields are areas where effluent from individual residential spray irrigation systems are discharged.

A number of commentators noted that the formula in Table A for calculating the absorption area requirements for all systems except elevated sand mounds where average percolation rate is 16-30 minutes per inch was erroneous. The commentators were correct. The parenthetical (Avg Perc Rate—30) should be (Avg Perc Rate—15). The appropriate correction has been made.

An issue was raised with respect to the interpretation of Table A. If the average percolation rate falls between the increments outlined in Table A, which increment is applicable? For example, the average percolation rate may be 5.6, and the increments in Table A are 3-5 and 6-15. Which increment would apply? In this case, the standard rules for rounding off numbers apply and thus, the average would fall within the 6-15 increment.

One commentator suggested that proposed Table B, which outlined the formula for calculating the square footage of spray fields, be clarified. Table B has been substantially revised for simplicity and ease of use. In addition, the minimum square footage required for spray fields under various soil characteristics (depth to rock and depth to water table) and slopes have been revised. Proposed Table B established minimum spray field area requirements for three and four bedroom residences and established various incremental differences to be utilized to calculate the required spray field for residences with more than four bedrooms. The Board and the Department have determined that the proposed increments were confusing and accordingly, Table B has been revised to establish minimum spray field areas for three bedroom residences under the various conditions outlined in Table B and the additional spray area required for each additional bedroom over three. For purposes of illustration, if there are five bedrooms proposed, and the soil characteristics are 16 to 20 inches depth to rock and 10 to 40 inches depth to water table and the slope is less than 12%, the required spray field would be 60,000 square feet (40,000 for three bedrooms plus 20,000 for the two additional bedrooms 10,000 each).

#### 41. *Section 73.17 (relating to sewage flows)*

This section outlines the sewage flows of various types of residential and commercial establishments which are to be utilized in the design of community onlot sewage systems. The proposal outlined revisions and clarifications to the table establishing figures for minimum design flows expressed in gallons per unit. For most residential units, the minimum number of gallons per unit were proposed to be increased. The Board received one public comment strongly supporting the revised figures. This commentator believes the revised figures will eliminate some malfunctioning systems which have occurred.

Another commentator suggested that the section be clarified to make it clear that the flows outlined in § 73.17 are to be used strictly for the design of onlot systems and not for calculating the flows for the design or allocation of flows to a domestic wastewater treatment system. The Board agrees and appropriate clarifying language has been inserted as a lead-in to this section as well as the text of subsection (a).

The proposal outlined revisions and clarifications to the table establishing minimum design flows expressed in gallons per day for certain types of establishments. However, the proposal did not outline revisions relating to the table relating to the Biological Oxygen Demand per day (BOD/DAY) for those establishments. Appropriate adjustments for BOD/DAY have been made in these final-form regulations based on recommendations of SAC.

A number of commentators suggested that the listing of the types of establishments for which flows are specified in the tables could be significantly expanded. Among the establishments allegedly not included in the tables are fire houses, medical/dental practice offices, stores and restaurants. The Board notes that some of the establishments the commentators assert are not included in the

tables are, in fact, included in the existing regulations. The list accompanying the proposal published in the *Pennsylvania Bulletin* included only those types of establishments for which design flows were proposed to be revised or clarified. In any event, it is not feasible to list all types of establishments. Moreover, some types of establishments, such as fire houses, experience considerable variation in sewage flows. To address the gaps in the listing of the types of establishments, subsection (c) has been modified to make it clear that an applicant proposing a type of establishment not listed in the regulation may submit information regarding average daily flows obtained from meters of similar establishments. The peak daily flow of such a proposed facility is to be calculated by multiplying the average daily flow of the similar establishment by two.

One commentator questioned the need to raise the proposed daily flows for each space in a mobile home park from 250 gallons per day to 400 gallons per day. This commentator suggests that experience indicates daily flows of less than 200 gallons per day from mobile home units. The Board agrees that the average daily flow from each mobile home unit is about 200 gallons per day. However, the design flows outlined in the regulation are peak flows which must take into account inflow and infiltration where mobile home parks are proposed. The increase from 250 to 400 gallons per day is based on county health departments' experience with hydraulic overloads to community onlot systems serving mobile home parks and a peaking factor of 2 times the average daily flow.

Subsection (d) of the proposal required that food preparation facilities install "adequately designed" pretreatment units and traps to reduce grease and BOD prior to their discharge to an individual or community sewage system. One commentator suggested that the standard for the design of the pretreatment units be "in accordance with the manufacturer's specifications" rather than "adequately designed." It was also suggested that standards for grease removal and BOD reduction be established. The Board notes that most grease traps used in onlot systems are individually designed rather than manufactured. With respect to establishing standards for grease removal and BOD reduction, this would require monitoring of effluent by the local agency after initiation of operation and would be impractical in light of the additional administrative burden it would impose on local government.

#### 42. *Section 73.21 (relating to specifications)*

Subsection (j) of the proposal specified that the use of portland cement grouting would be prohibited for connecting building sewers to treatment tanks. Because of the prohibition, some commentators inquired whether other types of grouting may be used to make these connections. The proposal has been revised to make it clear that watertight mechanical seals or hydraulic grouting may be used in making these connections. Hydraulic grouting specifically made for watertight connections, such as piping to concrete tankage, is widely available under various brand names. The material usually contains bentonite clay as an ingredient. Portland cement tends to crack and does not adhere well to nonconcrete surfaces.

#### 43. *Section 73.31 (relating to standards for septic tanks)*

Subsection (a)(1) of the proposal rephrased the requirement that the minimum liquid septic tank capacity for any installation be 900 gallons. As further modified by

proposed subsection (b)(4) septic tank installations are to consist of tanks with multiple compartments or multiple tanks. A concern was expressed that if a contractor uses two 500 gallon septic tanks to meet the 900 gallon minimum capacity, the first tank will fill up so rapidly that the second tank will not serve the purpose of a secondary tank but rather will become a primary tank. The Board does not share this concern because the first compartment of a multiple-tank installation will fill with solids and would require pumping long before it will have a significant impact on the quality of the effluent from the second compartment. In addition, other commentators support the requirement of a two compartment septic tank because of a belief that these requirements have been proven to improve the quality of the effluent that is sent to the soil absorption area and will prolong the life of the system.

Subsection (a)(2) of the existing regulation provides that the required septic tank capacity is to be based on the calculation of daily flow. The daily flow includes, among other things, the discharge from water softeners. One commentator believes that the discharge of super-saline water softener backwash effluent is deadly to absorption areas. The Board disagrees. The National Sanitation Foundation has concluded that a search of the relevant literature indicates there has been no deleterious effect from the discharge of water softener backwash salt on the hydraulic conductivity of soils in septic tank absorption areas and that it is better to discharge the backwash to a septic system than to discharge to separate dry wells or ditches.

Subsection (b)(4) of these final-form regulations provide that septic tank installations are to consist of tanks with multiple compartments or multiple tanks. During the comment period, the Department was advised by tank manufacturers that if the proposal to require multiple compartments was adopted, the manufacturers would need extra lead time to manufacture these tanks. Accordingly, as noted in Section A of this Preamble, the effective date of this subsection is January 7, 1998.

Subsection (d)(1) was proposed to be revised to provide, among other things, that the top of the septic tank containing the manhole or the top of a manhole extension is to be extended to grade, rather than be not more than 12 inches below grade as is currently required. The Board received a number of comments opposing the revision as well as comments in favor. Those supporting the revision believe the extension of the manhole access to grade would ensure that septic tanks are cleaned properly through the manhole port rather than the inspection port. Those opposing expressed concerns regarding aesthetics, safety and unauthorized access. The comments also indicated that the safety and nuisance concerns outweigh the value of the "at grade" manhole to the property owner. In view of the comments received, the proposed language has been deleted and the original language of the second sentence of this subsection has been reinserted.

Subsection (d)(1) currently provides that the grade level access covers be secured by bolts or locking mechanism or have sufficient weight to prevent access by children. Some commentators expressed concerns as to how to define a "child" for purposes of determining the sufficient weight appropriate to prevent access by children. Given the difficulty of defining exactly what a child is and variability in the sophistication of the adult population, the Board believes it is appropriate that the weight of the cover be sufficient to prevent access by any unauthorized individual. The last sentence of this subsection has been

revised accordingly. This subsection was also amended to clarify the required size of the access opening to the tank as being a manhole with an inside dimension of at least 20 inches square (20 × 20).

The proposal indicated that subsection (e), which provides that a maximum 4-inch diameter inspection port with a sealed cover must be installed to grade level above the inlet tee of a septic tank, would be deleted. One commentator noted that blockage of the inlet baffle of a septic tank is very common. Eliminating the requirement that an inspection port be installed to grade would make it very difficult to identify and repair the blockage. The Board agrees. Accordingly, subsection (e) is reinserted in these final-form regulations. The Board acknowledges that this reinsertion could create problems in that a pumper could damage the inlet, but this is not anticipated to be a major problem.

#### 44. Section 73.41 (relating to general)

Subsection (b) of the existing regulation requires that absorption areas over 5,000 square feet be divided into equal areas. The proposal would have clarified that the equal areas are not to exceed 5,000 square feet. One commentator questioned why equally divided absorption areas need to be limited to 5,000 square feet given the extent of hydrologic and geologic analysis that is typically part of a system siting. The proposal to limit the size of the absorption areas to 5,000 square feet was based on the belief that reaeration of the absorption area (limited to the perimeter of the system) would be minimal in systems above 5,000 square feet. More recent information indicates that perimeter reaeration becomes insignificant in systems larger than 1,000 square feet. The Board believes limiting the size to 1,000 square feet would be impractical. Moreover, the existing language has been interpreted in various ways by different sewage enforcement officers, resulting in uneven application throughout the Commonwealth. Accordingly, subsection (b) has been deleted in these final-form regulations.

#### 45. Section 73.44 (relating to pressurized distribution design)

Subsection (a)(1) of the existing regulations provides that piping used in a pressurized effluent system must, among other things, meet the Department's current standards as listed in the *Technical Manual for Sewage Enforcement Officers*. The Sewage Advisory Committee suggested that the reference to the standards in the technical manual be deleted. The suggested change has been made.

Subsection (b) sets forth design standards for seepage beds of 2,500 square feet or less. Proposed subsection (b)(1) specified, among other things, that check valves are prohibited on all delivery pipes, not those of 25 feet or less as is the current requirement. A commentator supported this change, but suggested that the problem of water hammer in the force line must be addressed as a result. The commentator also suggested that check valves may be needed in some instances, particularly to get from the pump tank to the absorption area.

The Board agrees that the problem of water hammer in the force line should be addressed. Accordingly, a provision has been added to subsection (b)(1) which provides that thrust blocks may be installed in delivery lines when the system designer determines that water hammer may be a problem. As to the commentator's belief that check valves are needed in some instances, the Board notes that check valve usage has been directly linked to the buildup of an anaerobic scum layer which clogs pipe orifices and

sand interfaces. The regulations formalize a Department policy banning the use of check valves. Thus, where pumped volume is large because of pipe length, a transfer tank should be installed to pump effluent to a second tank at the elevation of the base of the absorption area or spray field or a larger volume of effluent should be pumped during each pump cycle.

Subsection (b)(2) of the proposal provides, among other things, that a transfer tank may be used between the treatment tank or storage tank and the dosing tank where the distance from the treatment tank to the absorption area would cause excessive backflow into the dosing tank. One commentator inquired as to what is considered "excessive backflow" in these circumstances. Excessive backflow is that volume of flow back to the dosing tank which will result in a failure to meet the design specifications related to frequency of dose and equal distribution. The system designer may use a transfer tank in these cases to overcome the dose volume lost in long pipe runs.

One commentator suggested that in light of previous recommendations from the Department that lateral end cleanouts be installed on pressure dosed systems, the recommendation should be codified in this section. The Department made this recommendation because of problems associated with the clogging of 3/16 inch holes in the laterals, as currently required under subsection (b)(5). The proposed amendments to this subsection enlarged the size of the holes in the laterals and are finalized in this regulation. Since larger hole sizes (at least 1/4 inch) are now required, clogging should not be a problem. Cleanouts are optional and may be used at the applicant's discretion.

Subsection (c)(2) of the proposal (subsection (c)(1) of these final-form regulations) would have required that discharge holes be at least 3/16 of an inch for systems using pumps in individually designed systems or where seepage beds are greater than 2,500 square feet. One commentator suggested that the discharge hole should be at least 1/4 inch, not 3/16ths. The Board agrees and has made the appropriate revision.

#### 46. Section 73.45 (relating to dosing tanks)

Paragraph (5) of the existing regulation provides that the electrical connections to dosing tanks are to be moisture resistant and located at the highest point of the dosing tank or manhole extension. The Department determined that this subsection needed to be clarified to take into account local electrical codes and physical restraints limiting the location of electrical connections. Accordingly, the subsection has been revised to provide that unless otherwise regulated by local electrical codes, electrical connections shall be moisture resistant and located at a point higher than the inlet pipe or mounted above grade outside of the dosing tank or manhole extension within a tamper-resistant, lockable box.

#### 47. Section 73.46 (relating to dosing pumps, siphons and lift pumps)

Existing § 73.46 outlines requirements relating to dosing pumps. The proposal amended certain requirements for dosing pumps and added requirements for siphons and lift pumps. A number of general comments were received. One commentator suggested that pumps should be submerged at all times to prevent the possibility of explosion and to keep the pump cool. Thus, it was suggested that the volume needed to submerge the pump be added to the minimum dosing tank volume. The heading of this section in the proposal stated, among

other things, "lift station pump." A question was raised as to whether that was the same as lift pump. The heading has been revised to make it clear that the term "lift pump" applies.

The *Technical Manual for Sewage Enforcement Officers* contains a recommendation that effluent pumps be submerged to prevent corrosion and explosions and to increase pump life. However, this recommendation is not applicable to all pumps on the market. The Board believes the adoption of the proposed language in subsection (a)(1) requiring the pumps to "be rated by the manufacturer for handling of sewage effluent" adequately addresses the concerns expressed regarding the possibility of overheating or of an explosion.

Subsection (a)(1) requires that dosing pumps be rated by the manufacturer for handling of sewage effluent. Some commentators suggested that the pumps should be approved by the manufacturer for that use, not rated. The Board notes that the term "rated" is the customary term used by manufacturers when establishing the list of appropriate uses for their products or equipment. Accordingly, the suggested change was not made.

Subsection (a)(12) of the proposal specified that siphon discharge lines be equipped with an observation port and ball valve. One commentator suggested that the requirement that the siphon discharge line be equipped with a ball valve is unnecessary and would add considerable expense. The commentator noted that an observation port (overflow pipe) is required as well as access to grade. If the flow needs to be stopped for a period of time, the septic tank may be pumped. The Board agrees with these comments. Accordingly, the requirement for the installation of a ball valve has been deleted in these final-form regulations.

Subsection (b) of the proposal, among other things, would have provided dosage and discharge rates for lift pumps meeting certain characteristics. Lift pumps would have been required to deliver a minimum dose of 100 gallons when used to lift effluent to the sand filter or be designed to discharge at a rate of 20-30 gallons per minute when used to lift effluent to the sand filter. These rates have been deleted in this final rulemaking and replaced with a requirement that the lift pumps be designed to discharge a minimum flood dose of 2 inches over the sand surface. This would make the requirement consistent with other revisions to the proposal effectuated in these final-form regulations.

Subsection (c) of the proposal specifies that dosing pumps used to pressurize a spray field distribution system be designed in accordance with specified sections of the regulations relating to individual residential spray irrigation systems. One commentator opined that methods other than pumps, such as siphons, may be used to pressurize these systems. The commentator believes the subsection would preclude the use of siphons in these systems.

Subsection (c) does not preclude the use of siphons. However, the Department is not aware of a siphon capable of achieving sufficient pressure to operate the sprinkler head of an individual residential spray irrigation system in a way that the effluent is properly distributed on the spray field. System designers contemplating siphons should check with the manufacturer to determine if use of the siphon is appropriate.

#### 48. Section 73.51 (relating to general)

Existing subsection (e), which is renumbered as subsection (c), provides that soil moisture levels during the construction of the absorption area are to be such that a

sample of the soil taken from the level of the proposed installation will crumble if compressed into a ball. One commentator suggested that the moisture level of the sample should be "at or below field capacity (-0.1 to -0.3 bars)," rather than be based on the crumble method. The commentator believes this would provide a scientific method of testing and an avenue to appeal a sewage enforcement officer's decision based on what is asserted to be a more subjective method used in the field.

The Board acknowledges that the crumble test may be a less scientific method of determining soil moisture than a tensiometer or other methods requiring specialized equipment. As a practical matter, however, most sewage enforcement officers do not have sophisticated equipment to determine soil moisture. In addition, under existing regulations, such as § 72.29 (relating to review of denials and revocations), a property owner may challenge decisions of a sewage enforcement officer related to onlot systems. Results of field capacity tests could be submitted in support of this challenge. The Board believes the existing process adequately addresses the issues raised by the commentator, and, therefore, there is no need to incorporate the changes suggested.

49. *Section 73.52 (relating to standard trenches)*

Existing subsection (a)(1) provides that detailed engineering designs for standard trenches with slopes between 15% and 20% in relation to elevation are to be provided. For slopes between 20% and 25%, subsection (a)(2) provides that these systems be designed by a registered professional engineer. One commentator suggested that there is no reason for the distinction and suggested that engineering design requirements for trenches with slopes between 15% and 25% be uniform. The Board agrees. Subsection (a) has been revised accordingly. It should be noted that, consistent with the rationale provided in comment 1 of this Preamble, the references to professional engineers are being deleted and replaced with a generic term, "designer."

Existing subsection (b)(7) provides that when a trench is being constructed, the minimum width of the undisturbed earth between trenches is to be 5 feet. One commentator suggested that this requirement makes it difficult to fit an onlot system on the property and felt an approach allowing less separation would be more appropriate. The Board disagrees. The 5-foot requirement allows for equipment access for large systems and more lateral movement from systems located on slopes. Reducing this distance may very well result in hydraulic failure of the trenches. However, it is noted that an applicant may request a reduction in the required trench separation distances through the alternate/experimental system procedures of these final-form regulations.

Proposed subsection (c)(13) stated that geotextile fabric may be used to cover the top of the aggregate material used in the construction of trenches. IRRC noted that the use of geotextile fabric is authorized in other sections of the regulations, but that no definition of geotextile fabric is given. IRRC suggested, therefore, that the term be defined. The Board agrees that it would be appropriate to define the term. Accordingly, the term is defined in Section 73.1 of these final-form regulations.

One commentator noted that there was no provision in the proposal which would require the fitting of end caps on trench laterals. The commentator believes this requirement was inadvertently left out of a previous amendment to this section. The Board notes that end caps for pressure distribution systems are currently required un-

der § 73.44(b)(5). The Board acknowledges there is no requirement for the gravity systems. Subsection (c)(16) of these final-form regulations requires end caps for gravity systems.

50. *Section 73.53 (relating to seepage beds)*

Existing paragraphs (2)(i) and (ii) establish certain minimum separation distances between the individual seepage beds of onlot systems. One commentator suggested that the required distance between pressure-dosed seepage beds should be brought in line with gravity beds and pressure-dosed trenches. The commentator believes that a property owner who voluntarily pressure doses a system which could be gravity fed is penalized by the disparity. The Board acknowledges this comment and the regulation has been revised. The references to gravity distribution have been deleted. The final-form regulations merely provides that individual beds of a single onlot system are to be separated by a minimum of 5 feet. The requirement of paragraph (2)(ii) for a minimum separation distance of 20 feet where pressure distribution is required under § 73.43 has been deleted.

Paragraph (2)(iii) of the proposal provided that when elevated sand mound beds are used, this distance is to be measured from the toe of the sand. The paragraph has been renumbered paragraph (2)(ii) and clarified to provide that the distance between seepage beds is to be measured from the toe of the sand of each bed.

51. *Section 73.54 (relating to subsurface sand filter beds and trenches)*

The heading of this section has been revised to make it clear that the section applies to subsurface sand filter beds and trenches, not just subsurface sand filters.

Existing subsection (a)(2) provides that the average percolation rate is to be no greater than 90 minutes per inch to qualify for a subsurface sand filter. One commentator suggested that before qualifying for a subsurface sand filter, a percolation test must fail at 12–36 inches before a deeper test is run. The commentator asserts that this delays construction and increases costs. The commentator believes the regulations should allow a soils scientist to make a determination that the upper layer of soil will not percolate when this is obvious from the soil horizons, such as in areas where heavy argillic horizons overlay sandy C horizons.

The Board does not agree with this recommendation. Soils in the upper horizons are more effective at renovating sewage than are soils in the deeper horizons. A percolation test is a more accurate method of assessing soil permeability than the more subjective soil horizon evaluation, even when done by a soil scientist.

Existing subsection (a)(3) provides that the range of depths for percolation tests relating to the installation of subsurface sand filters is 36 to 72 inches. One commentator noted the maximum depth for the percolation test (72 inches) is inconsistent with the maximum depth at which the system can be installed (60 inches) under subsection (b)(1). The commentator suggested that subsection (b)(1) be revised to allow installation at a depth of 72 inches. The commentator asserts it is common to have argillic layers extending below 60 inches overlying sandy C horizons. The commentator also asserted there is no evidence that subsurface sand filters do not renovate adequately at a depth of 72 inches and believes there is considerable evidence that they work quite well.

The Department is unaware of any documentation that subsurface sand filters work well at a depth of 72 inches



since they are currently required to be installed at a depth of no more than 60 inches and no proposals for the installation of alternate or experimental systems at deeper levels have been submitted. Moreover, the commentator provided no information substantiating the belief that subsurface sand filters do renovate adequately at a depth of 72 inches. The Board and the Department encourage the evaluation of these systems through the alternate/experimental system process. To be consistent with subsection (b)(1), the range of depths at which percolation tests may be run under subsection (a)(3) has been revised by reducing the maximum depth from 72 to 60 inches.

Proposed subsection (a)(3) also would have changed the range of the acceptable average percolation rates for subsurface sand filters from 3-90 minutes per inch to 6-90 minutes per inch. Comments were received suggesting that the change of the minimum from 3 to 6 was inconsistent with the acceptable minimum percolation rate of 3 inches per minute applicable to elevated sand mounds while the sand utilized in both cases is the same. The Board agrees and appropriate changes have been made reestablishing the minimum percolation rate as 3.

52. *Section 73.55 (relating to elevated sand mounds)*

Subsection (c)(1) of the proposal outlined proposed gradation and quality specifications for sand used in elevated sand mounds. The Board received a number of comments indicating that the proposed specifications were too lenient, especially with respect to fine sand. Among other things, it was asserted that the proposed sand specifications allow too many fines and the presence of these fines leads to system failure. Subsection (d) of the proposal provided mechanisms for determining compliance with the gradation and quality specifications outlined in proposed subsection (c).

The technical staff of the Department reviewed the sand specifications and held a series of meetings with the Pennsylvania Aggregate and Concrete Association. In light of the comments received and the further review, subsection (c) has been completely revised and proposed subsection (d) deleted. The review has resulted in an improved sand specification which has more stringent sieve analysis criteria, a soundness test and a better uniformity coefficient. These specifications are based on Department of Transportation specifications outlined in subsection (c) and are currently being used for the construction of free access intermittent sand filters in individual residential spray irrigation systems and have been incorporated into sections of these regulations relating to elevated sand mounds, subsurface sand filters and buried sand filters serving individual residential spray irrigation systems. As a result, the maximum allowable sand passing through the no. 200 sieve will be 10%. Sand specifications for free access sand filters are more stringent because the filter surface is small and requires sand with a higher uniformity coefficient. Most of the sand specified in these regulations will be available Statewide in Department of Transportation certified stockpiles, which should ensure the reliability and availability of the product. Sand for free access filters, however, will be available from suppliers of sand blasting sand as well as various other suppliers.

Proposed subsection (c) also would require sand suppliers to provide certification to the sewage enforcement officer and the permittee that all sand supplied meets the requirements of the subsection. One commentator suggested that the language be clarified to make it clear that the certification applies to every source of the sand (such

as a quarry) and list the amount of sand delivered. This would ensure that all sand is documented as to origin and compliance with Department specifications. The Board has incorporated this suggestion into these final-form regulations. Similar requirements are provided in § 73.162(b)(3) with respect to aggregate used in intermittent sand filters utilized with individual residential spray irrigation systems.

Proposed subsection (e)(4) would have prohibited the stacking of absorption areas vertically on a slope greater than 8%. Two commentators suggested that the term "stacking" is undefined and subject to varying interpretations. They also were concerned that the language did not provide for separation distances that, if followed, would be defined as "not stacking."

The Board acknowledges these concerns. Section 73.55 incorporates, as standard technology, elevated sand mounds on relatively steep slopes which were evaluated under specific criteria as alternate systems. One of the criteria was that these systems be placed on the site to take advantage of down gradient dispersion of effluent through a critical and restricted soil window. Placing systems above or below each other on a grade doubles the hydraulic loading on the down gradient window and may cause mounding. The "stacking" was not evaluated and the Board and the Department are not aware of any information which indicates that stacking elevated sand mounds on slopes greater than 8% can be accomplished without causing a hydraulic problem. Where sites are not conducive to a single elevated sand mound bed installation, elevated sand mound trenches may be proposed. These systems have sufficient trench separation to eliminate hydraulic concerns.

The proposed language of subsection (e)(4) has been deleted and is replaced with language which provides that "locating multiple absorption areas so that one absorption area is placed hydraulically upgradient or downgradient from the other may cause the lower absorption area to fail because of excessive hydraulic loading from the upper absorption area. Unless the potential for such an impact is shown to be nonexistent by the applicant through the alternate/experimental system process, this type of absorption area placement is prohibited." This change is incorporated in subsection (d)(4) of these final-form regulations.

Subsection (e)(5) of the proposal limits sewage loading to an absorption area of an elevated sand mound on slopes of 8-12% to 500 gallons per day. One commentator asserted that this restriction would limit the size of a residence to be served by such a system to a maximum of 4 bedrooms. As a result, the commentator believes, residences with more than 4 bedrooms in these circumstances would need to utilize 2 elevated sand mounds and would potentially require 4 suitable sites where replacement testing is required. It was suggested that loading requirements for the systems be based on the type of structure served (single family residence) rather than flow.

The Board agrees with the commentator that the restriction would limit the size of the residence in some cases, but disagrees with the commentator's suggestion that the loading requirements for the systems be based on type of structure served. The loading capabilities of the systems are necessarily governed by the size of the absorption area available. Following publication of the proposal, the Department became aware of situations where the absorption areas were larger than anticipated and fully capable of achieving a load of more than 500

gallons per day. In light of this information, the proposal to limit loading to 500 gallons per day has been deleted.

53. *Section 73.62 (relating to standards for holding tanks)*

Proposed subsection (b) would have increased the required minimum capacity of a holding tank from 1,000 gallons to 3,000. Existing subsection (c) requires that holding tanks be equipped with an audible and visual warning device to indicate when the tank is filled to within 75% of its capacity. One commentator expressed concerns about the proposed increase in the minimum capacity and questioned the need for an audible warning device. The commentator noted that seasonal homes on leased State park and forest lands are served by previously approved holding tanks which have a capacity of 1,000 gallons and do not have audible alarms. The commentator acknowledged that approval of these systems was intended to eliminate pollution from then existing earthen privies. However, the commentator believes the proposed increase would require the installation of 3,000 gallon tanks on these homes. The commentator suggested there be an exception for these homes with respect to the requirement for audible alarms because they would disturb the neighborhood.

The current required minimum 1,000 gallon capacity of a holding tank will be retained. Following publication of the proposal, the Department received additional information regarding the capacity of holding tank pumper trucks used in rural areas. Many of these trucks have capacities of 1,000 to 1,500 gallons. The Board and the Department suggest that the sizing of a holding tank can be adjusted by the property owner or lessee (provided the lessee has authorization from the property owner) if an existing tank is inadequate or requires pumping too frequently.

The requirement for an audible warning device is being retained. In a sense, the commentator documented the need for an audible warning device. When a seasonal dwelling is not occupied and a holding tank is near overflow, the alarm alerts others that there is an imminent overflow. This allows action to be taken to avert public health problems associated with an insufficient maintenance of a holding tank.

54. *Section 73.64 (relating to chemical toilet or other portable toilet)*

The proposed amendments to this section would have deleted the requirement that permits be issued for the use of chemical or other toilets. The Board received a number of pro and con comments regarding this proposed change. Some commentators noted that enforcement of the existing permitting requirement by local agencies has been inconsistent from area to area and permit fees were allegedly unnecessary and extreme in some cases. Other commentators suggested that the permit requirement be retained because there have been occasions when the number of toilets provided for public events had been inadequate. Other commentators suggested that this section be revised by prescribing that a minimum number of chemical toilets be provided based on some formula.

The Board acknowledges the concerns expressed in the comments. The Board also notes that, in the past, enforcement of this requirement has been spotty and it perceives no reason to believe this situation will improve in the future. The Board believes that reinstating the permit requirement for chemical toilets will only perpetuate the existing problem of spotty enforcement. However, the proposal has been revised to provide an option for local agencies to require permits for chemical or other

portable toilets. This will allow local agencies desirous of requiring permits for these toilets to do so while excusing those which do not.

With respect to the suggestion that these final-form regulations establish some minimal number of toilets for public events, the Board believes that the customer and the supplier can establish the number of units needed or the frequency of service, or both, since either may be adjusted to provide adequate maintenance and service. Moreover, the number of toilets required is necessarily event specific.

The proposed amendments also would have provided that when permanent use of a chemical or other portable toilet is proposed, these toilets would be considered retaining tanks. This provision has been deleted from these final-form regulations. Chemical or other portable toilets may only be used on a temporary basis as provided in this section.

55. *Section 73.162 (relating to intermittent sand filters)*

The proposal, which added this section, outlines certain criteria related to intermittent sand filters used in the installation of individual residential spray irrigation systems. Subsection (b)(2) of the proposal would have required that sand supplied for free access sand filters meet Department of Transportation specifications for type A sand. One commentator suggested that this type of sand is not appropriate for use in a sand filter. As noted in paragraph 52 of this Preamble, sand specifications have been under review by the Department. Subsection (b)(2) has been revised as outlined in paragraph 52 of this Preamble.

Subsection (b)(1)(v) provided specifications regarding precast tank tops which support access covers for free access sand filters. One commentator suggested that, as written, the language requires the use of these tank tops in all cases. The commentator recommended that the use of nonconcrete tank tops be authorized. The Board agrees. The provision has been revised to implicitly allow for other types of tank tops by specifying that the requirements therein are applicable if precast slabs are used as tank tops.

Subsection (b)(3)(viii) of the proposal provided that when two sand filters or chambers are required to treat septic tank effluent, the duplicate units are to be flooded alternately. One commentator asserted that these should be flooded simultaneously rather than alternatively through a header pipe and delivery line. The Board acknowledges the comment. This subsection has been revised in these final-form regulations to provide that the duplicate units, at the discretion of the designer, be flooded alternately, simultaneously or by periodically using ball valves.

Subsection (c)(1) of the proposal would have prohibited the installation of sand filters in areas where bedrock is encountered above the proposed depth of the sand filter or where the seasonal high groundwater table rises above the proposed depth of the sand filter unless a concrete bottom and sides are used. The Department became aware of other methods which are as effective as concrete in providing protection to buried sand filters in these areas. Accordingly, the final-form regulations been revised to authorize material other than concrete so long as the designer considers measures to prevent filter and liner damage and groundwater contamination.

Subsection (c)(2)(ii) of the proposal provided that the minimum sand filter area for buried sand filters serving a single family residence would be based on a maximum

hydraulic load of 0.67 gallons per day per square foot. One commentator asserted that free access sand filters have a loading rate of 5 gallons per day per square foot. The commentator suggested that additional studies should be done to determine the safe loading rate for in-ground sand filters and that the proposed rate of 0.67 was onerous.

The Board notes that this research is currently being conducted under the auspices of Delaware Valley College. The rate specified in the proposal translates to 1.5 square feet per gallon per day. To make this figure consistent with the design requirements for Department permitted sand filters, the rate has been revised to 1.15 square feet per gallon per day in this final rule. This requirement may be reevaluated upon completion of the research project being undertaken at Delaware Valley College.

Another commentator noted that subsection (c)(2) specifies the size of the buried sand filter, but asserts that there is no distinction between that required for septic tank effluent and that required for aerobic tank effluent. The commentator asserts there is considerable evidence to support a smaller filter size for aerobic tank effluent. The Board agrees. Accordingly, a new paragraph is being added to subsection (c)(2) which provides that where aerobic treatment precedes a sand filter, a 1/3 reduction to the filter area may be used to size the filter.

56. *Section 73.165 (relating to disinfection)*

Subsection (a) of the proposal provides that disinfection of effluent by chlorination is required prior to spraying. One commentator suggested that disinfection should be expanded to include methods other than chlorination, such as the use of ultraviolet light and ozone generation. The commentator asserts that chlorination presents certain difficulties to a homeowner such as the handling and toxicity of chlorine, monitoring of concentrations and maintenance of equipment. It was suggested that ultraviolet light disinfection is not toxic, easy to use and maintain and requires no use of chemicals. The commentator also suggested the same could be said for ozone generation except that power demands and complexity are greater than ultraviolet light.

The Board does not agree that either ozone disinfection ultraviolet light technology are currently viable options. SAC believes that ozone disinfection technology provides an unacceptable risk of explosion. The Board believes ultraviolet light technology currently available is not conducive for use in conjunction with sewage effluent from a sand filter. Maintenance problems associated with dirt buildup on the ultraviolet light glass and the masking of biota from ultraviolet light exposure are common problems in larger systems currently in use and these problems have not been eliminated from smaller units. The Department is interested in, and encourages the use of, new methods of disinfection. The use of new methods and ultraviolet disinfection may be proposed under the alternate/experimental procedures of §§ 73.71 and 73.72.

57. *Section 73.167 (relating to operation and maintenance)*

The proposal included a provision which would require the designer of an individual residential spray irrigation system to provide an operation and maintenance manual to the permittee. IRRC suggested that the regulation should specify whether the manual must be written by the system designer or whether factory manuals prepared by the manufacturer of the tanks, filters and spray equipment would suffice. A provision has been added which provides that these manuals may be submitted as

supplements to an operation and maintenance manual. IRRC also suggested that a frequency of inspections of tanks and related equipment should be specified in paragraphs (1) and (2). A frequency of inspections of every 6 months has been incorporated into the regulations.

Paragraph (3)(i) of the proposal provides that chlorine residual sampled after the contact/retention tank must be maintained at a concentration of at least 1.0 ppm. One commentator asserted that information provided at training courses sponsored by the Department indicated that chlorine contact time is to be a minimum of 30 minutes. The commentator believes that the method of achieving 30 minute chlorine contact time by allowing one dose to accumulate in the pump tank prior to pumping will not work. The commentator asserts that this method does not insure that the last effluent to the pump tank will be the last discharge to the spray field. The commentator also suggested that the minimum chlorine residual of 1.0 ppm may not be possible if tablet chlorinators are used.

The existing regulations themselves do not specify a chlorine contact time of 30 minutes. The regulations are very general and chlorine contact time has been outlined in guidance documents issued by the Department in conjunction with training courses related to the design of individual residential spray irrigation systems. This guidance is incorporated into §§ 73.165 and 73.167. System designers are to design a system capable of both achieving the contact time and meeting the fecal coliform effluent limit. There are various methods of achieving the desired result, one of which is manufactured chlorine contact tanks. In-line chlorination followed by a 30 minute contact time in the storage tank may also result in a satisfactory effluent because the system is dosed once per day in the early morning when influent flow is very low. With respect to the proposed minimum chlorine residual requirement of at least 1.0 ppm, the minimum level has been reduced to 0.2 ppm to accommodate the use of tablet chlorinators. The Board notes, however, that some tablet feeders have performed poorly and care should be exercised in the choice of this equipment.

F. *Benefits and Costs*

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

These changes to Chapters 71—73 are necessary to make the existing regulations consistent with recent amendments to the act and to update some technical standards for onlot sewage treatment systems.

Some proponents of new residential subdivision plans will qualify for an exemption from sewage facility planning requirements for their development. In addition, developers and builders will be able to receive deemed approvals if an agency responsible for reviewing sewage facilities plans or onlot sewage system permit applications, or both, does not act in a time period specified in the act or these regulations. This elimination of some planning and the requirements for action within certain time frames are expected to be of benefit to builders, developers, realtors and mortgage lenders.

The Department's authority to impose limitations on new land development as a result of a municipality's lack of an adequate comprehensive sewage facilities plan is limited to certain circumstances. This limited authority will benefit developers, realtors and mortgage lenders who will now be able to sell and finance lots in these areas. However, there is expected to be a cost to property purchasers and builders because appropriate sewage facilities might not be available. Property owners and builders

will not be able to build on these lots until the municipality complies with planning requirements due to severe public health hazards in the municipality.

Developers are authorized to make their own public notifications which were formerly within the sole province of a municipality or local agency when they propose significant developments. This will benefit developers, builders, realtors and mortgage lenders because they will not have to wait for the municipality to make the public notification and as a result, the review process will be shortened and construction may begin more quickly if the plan is approved.

The Department has initiated a compliance assistance program related to these amendments. Municipalities involved in developing official sewage facilities plan update revisions are eligible for up to 50% reimbursement from the Department for the costs incurred in developing these plans. In addition, penalties assessed for failure to develop or implement the plans will be deposited in a special fund. Municipalities assessed penalties may later apply for a return of these monies to help them correct sewage related problems. The Department will continue to work closely with PENNVEST and other sewerage project funding agencies to ensure that viable sewage plans are implemented.

The Department will continue to pay 50% of the costs incurred by local agencies to administer the onlot permitting program. Local agencies also qualify for 85% reimbursement if they meet certain criteria specified in these regulations. In addition, local agencies which assume delegation for new land development also qualify for 85% reimbursement. Fees collected and penalties assessed by local agencies will be retained by the agency for use in the administration of the program and abating public health hazards associated with sewage facilities. The Department will continue to work closely with PENNVEST and the Housing Finance Authority to provide low interest loans to property owners experiencing malfunctioning onlot systems.

The Department's ongoing commitment to the research and development of new and alternative means of onlot sewage disposal will allow more property owners to comply with a broader range of options outlined in the regulations. In addition, the Onlot System Hotline will provide a source of independent information on the Department's requirements and, thus, aid in compliance.

Local agencies which have a quality permitting program will benefit from an opportunity to apply for and receive up to 85% reimbursement for the costs of these activities instead of the current 50%. This is expected to reduce the local costs of administering the program and provide a better local agency to serve the needs of the affected public.

Local agencies which meet certain criteria will be given authority under a delegation agreement to review and approve or disapprove sewage facilities planning modules relating to new land developments. Developers, builders, realtors and mortgage lenders in areas where a local agency has entered into such a delegation agreement are expected to benefit from the more streamlined process since the Department will not be involved in the review process except in an oversight capacity. In addition, the local review is expected to result in a one-stop review process.

The Sewage Facilities Program will benefit from the review fees charged to applicants for sewage facilities planning approvals from the Department. The fees will be

deposited in a special fund created under section 13.2 of the act (35 P.S. § 1750.13b). These fees will be used for, among other things, training of sewage enforcement officers, onlot sewage system research and municipal outreach programs. Developers and other applicants will experience an increased cost for the review of their sewage facilities plans.

Individuals who propose to build a new dwelling to replace an existing dwelling in accordance with the criteria specified in these regulations will benefit from provisions which allow the activity without the need to obtain a permit for sewage facilities. The Commonwealth is expected to experience a cost of continued pollution in cases where the existing system is old and substandard.

Some owners of properties or lots which are too small to support both a well and an onlot sewage disposal system will benefit from an exemption from isolation distance requirements which will permit them to build a residence anyway. The same property owners may experience a cost if they have to treat or upgrade, or both, their water supplies where an expert they relied upon made an erroneous determination with respect to the isolation distance, and hence the exemption.

Property owners, developers, builders, realtors and mortgage lenders will benefit from a streamlined review process for alternate onlot sewage system proposals. In addition, the reclassification of several current types of alternate systems and technologies as standard technology and the implementation of individual residential spray irrigation system standards are expected to make much land previously unusable for these systems more readily available for development.

The mandatory filing system for permit applications will be a small cost to local agencies, but will provide a more organized and readily available source of information for the affected public.

The expanded powers and duties of local agencies will pose more of an administrative cost to the local agencies. However, these costs are expected to be largely offset by the fees the local agencies are now authorized to charge for these expanded services. Developers and builders will have to absorb these higher fees, but are expected to benefit from improved and more streamlined services from the local agency.

The clarified conflict of interest provisions related to the employment of sewage enforcement officers will result in local agencies losing the services of a sewage enforcement officer when conflicting employment is occurring. This will necessitate the services of a replacement sewage enforcement officer, by contract or otherwise. Some sewage enforcement officers will not be able to continue consulting activities and still act as a sewage enforcement officer in certain circumstances.

Applicants for a permit to install an onlot sewage system on a lot which was tested by a previous sewage enforcement officer and determined to be unsuitable for an onlot sewage system will benefit from a fairer assessment process for retesting the same lot. Local agencies will bear the cost of additional soils testing and administrative fees associated with the retesting.

Local agencies applying for reimbursement from the Department for expenses incurred in the administration of the onlot permitting program will benefit from an extension of the application deadline outlined in these final-form regulations.

Sewage enforcement officers and onlot system installers will benefit from the training courses the Department will

develop and administer as a result of these regulations. There will be costs to the Commonwealth to develop and administer these courses.

Purchasers of property will benefit from clauses and warnings required in sales contracts associated with the sale of properties or lots which are exempt from the planning or permitting requirements under the regulations. These exemptions may result in the property or lot being unsuitable for building or otherwise less valuable.

The Department and the public will benefit from provisions which allow actions against sewage enforcement officers who act in violation of applicable law in their capacity as consultants. Developers will benefit from provisions which require the Department to provide technical information regarding sewage treatment systems and the authority of the Department to waive its review of sewage facilities plans.

#### G. Sunset Review

These final-form regulation 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.

#### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 12, 1996, the Department submitted a copy of the notice of proposed rulemaking, published at 26 Pa.B. 1491 to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

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

These final-form regulations were deemed approved by the House Environmental Resources and Energy Committee on May 27, 1997, and was deemed approved by the Senate Environmental Resources and Energy Committee on May 27, 1997. IRRC met on June 5, 1997, and disapproved the amendments in accordance with section 6(a) of the Regulatory Review Act (71 P. S. § 745.6(a)). Under section 7(b) of the Regulatory Review Act (71 P. S. § 745.7(b)), the Department determined it was desirable to implement the final-form regulations without revisions or modifications recommended by IRRC and submitted a report to the Standing Committees of the House and Senate on September 22, 1997. The Committees did not act on the Department's report within 14 days of receipt of the Department's report. These final-form regulations were accordingly deemed approved on October 6, 1997, and may thus be promulgated in accordance with section 7(d) of the Regulatory Review Act.

#### I. 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 the comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 26 Pa.B. 1491.

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

#### J. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapters 71—73, are amended by amending §§ 71.1—71.3, 71.11, 71.14, 71.21, 71.22, 71.31, 71.32, 71.41, 71.43, 71.44, 71.51, 71.53—71.55, 71.62—71.65, 71.72, 71.73, 71.75, 72.1, 72.2, 72.21, 72.22—72.28, 72.31, 72.41—72.44, 72.52—72.55, 72.58, 73.1—73.3, 73.11—73.17, 73.21, 73.31, 73.32, 73.41—73.45, 73.51—73.55, 73.62, 73.64, 73.65, 73.71, 73.72; and by adding §§ 71.58, 71.59, 71.81—71.83, 72.32, 72.33 and 73.161—73.167 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 IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

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

(d) This order shall take effect as set forth in Section A of the Preamble.

JAMES M. SEIF,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 3000 (June 21, 1997).)*

**Fiscal Note:** 7-294; (1) General Fund; (2) Implementing Year 1997-98 is \$934,162; (3) 1st Succeeding Year 1998-89 is \$879,467; 2nd Succeeding Year 1999-00 is \$1,074,812; 3rd Succeeding Year 2000-01 is \$1,270,157; 4th Succeeding Year 2001-02 is \$1,465,502; 5th Succeeding Year 2002-03 is \$1,660,847; (4) Fiscal Year 1996-97 \$2.5 million; Fiscal Year 1995-96 \$2.5 million; Fiscal Year 1994-95 \$2.5 million; (7) Sewage Facilities Enforcement Grants; (8) recommends adoption.

The increased costs to the Sewage Facilities Enforcement Grants Appropriation have been included in the 1997—1998 Governor's Executive Budget Proposal and have also been carried forward for planning purposes.

#### Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### CHAPTER 71. ADMINISTRATION OF SEWAGE FACILITIES PLANNING PROGRAM

#### Subchapter A. GENERAL

#### GENERAL

#### § 71.1. Definitions.

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

\* \* \* \* \*

*Clean Water Act*—The Clean Water Act (33 U.S.C.A. §§ 1251—1387).

*Delegated agency*—A municipality, local agency, multimunicipal local agency or county or joint county department of health to which the Department was delegated the authority to review and approve subdivisions for new land developments as supplements to the official plan of a municipality in which the subdivision is located.

*Equivalent dwelling unit*—For the purpose of determining the number of lots in a subdivision only as it relates to the determination of planning exemptions and fees for planning module reviews under this chapter, that part of a multiple family dwelling or commercial or industrial establishment with flows equal to 400 gallons per day. These flow figures are not intended to be used for the calculation of flows for the design of community sewerage systems or for the allocation of flows related to community sewerage systems. Community sewerage system flows for design and permitting purposes shall be calculated using the procedures established in the Department's *Domestic Wastewater Facilities Manual* (DEP-1357).

*Individual residential spray irrigation system*—An individual sewage system which serves a single dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

\* \* \* \* \*

*Municipality*—A city, town, township, borough or home rule municipality other than a county.

\* \* \* \* \*

*Official plan revision*—A change in the municipality's official plan to provide for additional, newly identified future or existing sewage facilities needs, which may include one or more of the following:

(i) *Update revision*—A comprehensive revision to an existing official plan required when the Department or municipality determines the official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

\* \* \* \* \*

(iii) *Special study*—A study, survey, investigation, inquiry, research report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.

(iv) *Supplement*—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under The Clean Streams Law, and which is reviewed and approved by a delegated agency.

(v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

\* \* \* \* \*

*Retaining tank*—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes:

(i) *Chemical toilet*—A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.

(ii) *Holding tank*—A tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system.

(iii) *Privy*—A tank designed to receive sewage where water under pressure is not available.

(iv) *Incinerating toilet*—A device capable of reducing waste materials to ashes.

(v) *Composting toilet*—A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.

(vi) *Recycling toilet*—A device in which the flushing medium is restored to a condition suitable for reuse in flushing.

*Sewage*—A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes any substance which constitutes pollution under The Clean Streams Law.

*Sewage enforcement officer*—An official of the local agency who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the act and conducts investigations and inspections that are necessary to implement the act and the regulations thereunder.

*Sewage facilities*—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

(i) *Individual sewage system*—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal. The term includes:

(A) *Individual onlot sewage system*—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.

(B) *Individual sewerage system*—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

(ii) *Community sewage system*—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) *Community onlot sewage system*—A system of piping, tanks or other facilities serving two or more lots and collecting, treating and disposing of sewage into a soil absorption area or retaining tank located on one or more of the lots or at another site.

(B) *Community sewerage system*—A publicly or privately-owned community sewage system which uses a

method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

\* \* \* \* \*

*Small flow treatment facilities*—An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using a stream discharge or other disposal methods approved by the Department.

\* \* \* \* \*

*Subdivision*—The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

\* \* \* \* \*

*Working day*—Calendar days as specified in 1 Pa.C.S. § 1908 (relating to computation of time) excluding Saturdays and Sundays, or a day made a legal holiday by the statutes of the Commonwealth or of the United States. The period shall be calculated to exclude the first and include the last day of the period.

### § 71.2. Scope and time periods.

(a) This chapter is adopted in accordance with the duties imposed upon the Department under the act and the Clean Streams Law and applies to municipalities, local agencies and delegated agencies administering the planning provisions of the act and to persons subdividing land or planning, designing or installing sewage facilities.

(b) This chapter governs the sewage planning requirements for sewage facilities being proposed by municipalities to resolve existing sewage disposal problems, to provide for the sewage disposal needs of new land development and otherwise to provide for future sewage disposal needs of a resident or landowner in a municipality.

(c) Time periods referred to in this chapter will be computed under 1 Pa.C.S. § 1908 (relating to computation of time).

### § 71.3. Purposes.

This chapter is separated into six subchapters:

(1) Subchapter A (relating to general) provides general background information.

(2) Subchapter B (relating to official plan requirements) provides a comprehensive sewage planning mechanism to identify and resolve existing sewage disposal problems, to avoid potential sewage problems resulting from new land development and to provide for the future sewage disposal needs of a municipality.

(3) Subchapter C (relating to new land development plan revisions) provides a mechanism for revising sewage facilities plans to provide for new land development.

(4) Subchapter D (relating to official plan requirements for alternative evaluations) provides the planning requirements for evaluating alternatives for sewage facilities.

(5) Subchapter E (relating to sewage management programs) provides the requirements for establishing sewage management programs.

(6) Subchapter F (relating to fees) provides for fees for the review of new land development sewage facilities planning modules.

## Subchapter B. OFFICIAL PLAN REQUIREMENTS GENERAL

### § 71.11. General requirement.

Municipalities are required to develop and implement comprehensive official plans which provide for the resolution of existing sewage disposal problems, provide for the future sewage disposal needs of new land development and provide for the future sewage disposal needs of the municipality. Official plans shall be developed, submitted to the Department for approval and implemented by municipalities under the act and §§ 71.12—71.14, 71.21, 71.22, 71.31, 71.41—71.44 and Subchapters C—F.

### § 71.14. Private request to revise official plans.

(a) A person who is a resident or legal or equitable property owner in a municipality may file a private request with the Department requesting that the Department order the municipality to revise or implement its official plan if the resident or property owner can show that the official plan is not being implemented or is inadequate to meet the resident's or property owner's sewage disposal needs. This request may be made only after a prior written demand upon and written refusal by the municipality to so implement or revise its official plan or failure of the municipality to reply in either the affirmative or negative within 60 days or, failure of the municipality to implement its official plan within the time limits established in the plan's implementation schedule or failure to revise its official plan within the time limits established in this chapter. The request to the Department shall contain a description of the area of the municipality in question and a list of reasons that the plan is believed to be inadequate. The person shall notify the municipality, official planning agency within the municipality and planning commission with areawide jurisdiction in writing of the filing of the request with the Department at the same time notice is sent to the Department. This notification shall include a copy of the documentation supporting the private request which was submitted to the Department.

(b) Private requests to revise an official plan shall contain evidence that the municipality has refused in writing to revise its plan, is not implementing its plan or has failed to act within the time limits established in § 71.13(a) (relating to Department responsibility to require official plan revisions) for plan updates or § 71.53(b) (relating to municipal administration of new land development planning requirements for revisions) for new land developments.

(c) Upon receipt of a private request for revision, the Department will notify the municipality and appropriate official planning agencies within the municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing county or joint county department of health of receipt of the private request and will inform them that written comments shall be submitted to the Department within 45 days after the Department's receipt of the private request for revision.

(d) In arriving at its decision, the Department will consider the following:

- (1) The reasons advanced by the requesting person.
- (2) The reasons for denial advanced by the municipality.
- (3) Comments submitted under this section.

(4) Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities are consistent with this part.

(5) The existing official plan developed under this chapter.

(e) The Department will render its decision, and inform the person requesting the revision and the appropriate municipality, in writing, within 120 days after either receipt of the comments permitted by this section or 120 days after the expiration of the 45-day comment period when no comments have been received or within an extended period if agreed to in writing by the person making the request.

(1) The Department's decision will specify the nature of the revision to the municipality's official plan that the municipality will be required to implement or the reasons for refusal. If the Department orders a requested revision, the order will specify time limits for plan completion, including interim deadlines and compliance schedules the Department deems necessary.

(2) If the Department refuses to order a revision requested under subsection (a), it will notify the person who filed the request, in writing, of the reasons for the refusal.

(3) The Department may not refuse to order a requested revision because of inconsistencies with any applicable zoning, subdivision or land development ordinances, but will make its order subject to any limitations properly placed on the development of the property by the municipality under its zoning, subdivision or land development ordinances or by court orders.

**OFFICIAL PLAN PREPARATION**

**§ 71.21. Content of official plans.**

(a) A municipality shall submit a Task/Activity Report or other appropriate form prior to preparation of an official plan to determine which of the planning elements listed in this section are necessary to meet the specific needs of that municipality. It is recommended that the municipality meet with the Department prior to submitting the Task/Activity Report to the Department. A determination does not constitute a final Department action until the completed plan is submitted by the municipality and acted upon by the Department. If applicable to the specific planning needs of the municipality, as determined by the Department, the completed plan submitted to the Department shall:

\* \* \* \* \*

(2) Evaluate existing sewage facilities in the planning area through the following:

(i) An identification, mapping and description of municipal and nonmunicipal, individual and community sewerage systems in the planning area including:

\* \* \* \* \*

(B) A description of problems with the existing facilities, including existing or projected overload under Chapter 94 (relating to municipal wasteload management) or violations of a National Pollutant Discharge Elimination System permit, a Clean Streams Law permit or other permit, rule or regulation of the Department.

\* \* \* \* \*

(ii) An identification, mapping and description of areas that use individual and community onlot sewage systems in the planning area, including:

\* \* \* \* \*

(C) A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions and Chapter 73 (relating to standards for onlot sewage treatment facilities).

\* \* \* \* \*

(5) Evaluate each alternative listed in response to paragraph (4), including, but not limited to:

(i) Consistency between the proposed alternative and the objectives and policies of:

\* \* \* \* \*

(B) Municipal wasteload management under Chapter 94.

\* \* \* \* \*

(6) Select one alternative to solve the need for sewage facilities in each area studied and support this choice with documentation that shows that the alternative is technically, environmentally and administratively acceptable.

\* \* \* \* \*

**§ 71.22. Coordination of official plans with Federally funded sewage facilities planning.**

Planning for Federally funded sewage facilities under Subchapter II of the Clean Water Act (33 U.S.C.A. §§ 1281—1299) or State Revolving Funding under Title VI of the Water Quality Act of 1987 (33 U.S.C.A. §§ 1382—1387) shall meet the requirements of § 71.31 (relating to municipal responsibility to review, adopt and implement official plans) and be approved by the Department as a revision to the municipal official plan.

**OFFICIAL PLAN APPROVAL**

**§ 71.31. Municipal responsibility to review, adopt and implement official plans.**

(a) A municipality shall develop and evaluate alternatives in official plans and official plan revisions and shall determine, prior to adopting the plan, which technical and administrative alternatives are proposed to be implemented.

(b) A municipality shall request, review and consider comments by appropriate official planning agencies of a municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing county or joint county department of health. Evidence that the official plan has been before these agencies for 60 days without comment is sufficient to satisfy the requirements of this subsection.

(c) A municipality shall submit evidence that documents the publication of the proposed plan adoption action at least once in a newspaper of general circulation in the municipality. The notice shall contain a summary description of the nature, scope and location of the planning area including the antidegradation classification of the receiving water where a discharge to a body of water designated as high quality or exceptional value is proposed and the plan's major recommendations, including a list of the sewage facilities alternatives considered. A 30-day public comment period shall be provided. A copy of written comments received and the municipal response to each comment, shall be submitted to the Department with the plan.



(d) An implementation schedule shall be submitted as part of the official plan. This schedule shall designate the time periods within which the specific phases of the facilities or program will be completed and the methods and sources of financing each phase.

(e) When an official plan or official plan revision identifies a conflict between a proposed alternative and the consistency requirements contained in § 71.2(a)(5)(i)—(iii) (relating to content of official plans), the municipality shall submit written documentation that the appropriate agency has received, reviewed and concurred with the method proposed to resolve identified inconsistencies.

(f) The municipality shall adopt the official plan by resolution, with specific reference to the alternatives of choice and a commitment to implement the plan within the time limits established in an implementation schedule.

**§ 71.32. Department responsibility to review and act upon official plans.**

(a) No official plan or official plan revision will be considered complete by the Department unless it contains the information and supporting documentation required by the Department, including those items required by § 71.31 (relating to municipal responsibility to review, adopt and implement official plans). If a special study is submitted in support of an existing official plan, existing official plan revision or existing update revision, the Department may waive inapplicable requirements of § 71.31 (relating to municipal responsibility to review, adopt and implement official plans).

(b) Within 120 days after submission of a complete official plan or official plan revision, with supporting documentation, the Department will either approve or disapprove the plan or revision, except as provided in § 71.54(d) (relating to Department administration of new land development planning requirements for revisions) for a plan revision for a residential subdivision plan.

(c) Upon the Department's failure to act on a complete official plan or revision within 120 days of its submission, the official plan or official plan revision will be considered approved, unless the Department informs the municipality prior to the end of 120 days that additional time is necessary to complete its review. The additional time may not exceed 60 days.

(d) In approving or disapproving an official plan or official plan revision, the Department will consider:

(1) Whether the plan or revision meets the requirements of the act, the Clean Streams Law and this part.

(2) Whether the municipality has adequately considered questions raised in comments, if any, of the appropriate areawide planning agency, the county or joint county department of health, and the general public.

(3) Whether the plan or revision furthers the policies established under section 3 of the act (35 P. S. § 750.3) and sections 4 and 5 of the Clean Streams Law (35 P. S. §§ 691.4 and 691.5).

(4) Whether the official plan or official plan revision is able to be implemented.

(5) Whether the official plan or official plan revision adequately provides for continued operation and maintenance of the proposed sewage facilities.

(6) Whether the official plan or official plan revision contains documentation that inconsistencies identified in

§ 71.21(a)(5)(i)—(iii) (relating to content of official plans) have been resolved under § 71.31(e).

(7) If the official plan or official plan revision includes proposed sewage facilities connected to or otherwise affecting sewage facilities of other municipalities, whether the other municipalities have submitted necessary revisions to their plans for approval by the Department.

(e) If the official plan or official plan revision is disapproved by the Department, written notice will be given to each municipality included in the plan, together with a statement of reasons for the disapproval.

(f) In a municipality that does not have an official plan, or fails to revise or implement its official plan as required by order of the Department or this part the following apply:

(1) The limitations on the issuance of permits under § 72.23(a) and (b) (relating to limitation on onlot system permit issuance) are in effect.

(2) The Department will not issue a permit under section 5 of The Clean Streams Law (35 P. S. § 691.5) for projects in those areas of the municipality for which an official plan, official plan revision or implementation of an official plan is required.

(3) A supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to do one of the following:

(i) Submit an update revision or special study.

(ii) Implement its plan as required by an order of the Department or this part.

(4) A supplement or revision for new land development will not be denied, nor will an exception to the requirement to revise be found inadequate, solely because an update revision or special study is under review by the Department.

(5) Every contract for the sale of a lot which is located within an area in which permit limitations are in effect and which is subject to permit limitations under this chapter shall contain a statement in the sales contract that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available. This statement shall also clearly state that construction of any structure on the lot may not begin until the Department has approved a major planning requirement, including, but not limited to, a plan update revision or a special study.

(g) The limitations on permit issuance contained in § 72.23(a) and (b) do not apply when the provisions of § 72.23(d) have been met.

**PLANNING GRANTS**

**§ 71.41. Grants for the preparation of official plans.**

Under section 6 of the act (35 P. S. § 750.6) and §§ 71.42 and 71.43 (relating to application for grants; and approval of grants), the Department will administer grants to municipalities, counties and authorities for preparing update revisions and special studies to the extent of the appropriations made by the General Assembly for that purpose. Municipalities, counties and authorities intending to apply for the grants shall submit to the Department an outline of the proposed plan content, time schedule for plan completion and estimated cost by planning task on a form provided by the Department or other form acceptable to the Department prior to begin-

ning the plan. Costs for completion of planning activities outside the scope of the proposed plan content are not eligible for a grant unless proposals for inclusion of additional activities and increased costs associated with these activities have been submitted to and approved by the Department and are within the scope of the act.

**§ 71.43. Approval of grants.**

(a) The Department will not authorize payment of a planning grant to an applicant until the Department has approved the official plan or revision which has been adopted by the municipality.

(b) When the Department has determined that the application is complete, the Department will pay grants to applicants in the order in which the applications were received.

(c) The Department will determine the amount of the grant by evaluating:

- (1) The application for planning grants.
  - (2) The extent and nature of the activities included in the official plan or revision to the official plan and the eligibility of the costs of these activities for grant payments under the act.
  - (3) The cost of performing each activity included in the official plan or revision to the official plan.
  - (4) The contents of existing plans and studies.
  - (5) The conditions imposed upon the municipality by an order or notice of the Department.
  - (6) The final contents of the adopted official plan.
- (d) The Department may pay planning grants for joint municipal plans submitted under § 71.12(b) (relating to municipal responsibility to revise plans) without official adoption of the plan from participating municipalities when:

- (1) The Department has determined that enough municipalities have adopted the plan consistent with § 71.32(d)(7) (relating to Department responsibility to review and act upon official plans) to assure substantial plan implementation.
- (2) Costs for the planning activities done for the non-participating municipalities are deducted from the application for the grant payment.
- (3) The Department has notified the municipality not adopting the joint-municipal plan that its official plan is in a disapproved status; or has determined that the municipality's official plan adequately addresses the existing and future sewage disposal needs of the municipality.

(e) The Department will not withhold planning grants for eligible costs from a municipality, its designated authority or county when the following occur:

- (1) Sufficient appropriations have been made by the General Assembly.
- (2) The official plan has been adopted by the municipality and approved by the Department.
- (3) The official plan complies with the terms of the act and this part.

**§ 71.44. Duplicate planning.**

The Department will not pay grants under the act for information which has been completed previously under local, State or Federal funding programs. The plan shall incorporate this information by reference.

**Subchapter C. NEW LAND DEVELOPMENT  
PLAN REVISIONS**

**§ 71.51. General.**

(a) A municipality shall revise its official plan when:

- (1) A new subdivision is proposed, except as provided by § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) or subsection (b).
- (2) The official plan, or its parts, is inadequate to meet the sewage needs of the new land development.
- (3) Newly discovered or changed facts, conditions or circumstances make the plan inadequate to meet the sewage needs of new land developments.
- (4) A permit is required from the Department under section 5 of the Clean Streams Law (35 P. S. § 691.5).

(b) Except for new land developments proposing the use of retaining tanks, exemptions from sewage facilities planning for new land development will be processed as follows:

(1) Revisions for new land development, exceptions to the requirement to revise and supplements are not required, and permits for onlot systems using a soil absorption area or a spray field may be issued without this planning, when the Department or, in the case of supplements, a delegated agency determines that the following have been met:

(i) The official plan shows that those areas of the municipality are to be served by onlot sewage disposal facilities using a soil absorption area or a spray field as confirmed by signature of the municipal officials.

(ii) The area proposed for the use of individual or community sewage systems is not underlain by carbonate geology nor is this area within 1/4 mile of water supplies documented to exceed 5 PPM nitrate-nitrogen as confirmed by the Department from a USGS geology map or sampling data.

(iii) The area proposed for development is outside of high quality or exceptional value watersheds established under the regulations and policies promulgated under the Clean Streams Law as confirmed by the Department from the location of the new land development on a USGS topographic quadrangle map.

(iv) Subdivided lots and the remaining portion of the original tract after subdivision are 1 acre or larger as confirmed by signature of the applicant.

(v) Complete soils testing and site evaluation establish that separate sites are available for both a permissible primary soil absorption area or spray field and a replacement soil absorption area or spray field on each lot of the subdivision as confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed. The local agency or municipality may require deed restrictions or take other actions it deems necessary to protect the replacement soil absorption area or spray field from damage which would make it unsuitable for future use.

(2) Revisions for new land development and supplements are not required for subdivisions proposing a connection to or an extension of public sewers when all of the following have been met:

(i) The Department or delegated agency determines that existing collection, conveyance and treatment facil-

ities are in compliance with the Clean Streams Law and the rules and regulations thereunder.

(ii) The Department or delegated agency determines that the permittees of the receiving sewerage facilities have submitted information under Chapter 94 (relating to municipal wasteload management) which documents that the existing collection, conveyance and treatment system does not have an existing hydraulic or organic overload or 5-year projected overload.

(iii) The applicant has provided written certification from the permittees of the collection, conveyance and treatment facilities to the municipality in which the subdivision is located and the Department or delegated agency with jurisdiction over the municipality in which the subdivision is located that there is capacity to receive and treat the sewage flows from the applicant's proposed new land development and that the additional wasteload from the proposed new land development will not create a hydraulic or organic overload or 5-year projected overload.

(iv) The municipality has a current approved sewage facilities plan update revision which is being implemented. For the purposes of exempting a subdivision from completing sewage facilities planning under this section, the phrase "a current approved sewage facilities plan update revision which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(3) The Department will provide delegated agencies sufficient information to make the required determinations under paragraphs (1)(ii) and (iii), (2)(i), (ii) and (iv). When the determination under paragraph (1) or (2) is made by a delegated agency, that agency shall submit to the Department quarterly reports which include the names of the subdivisions, location of the subdivisions, number of lots and projected sewage flows for each subdivision exempted from the planning provisions under this subsection.

(4) Information in support of a request for a sewage facilities planning exemption under this section shall be submitted on a form provided by the Department.

(5) This subsection does not apply to new land development proposals intended to be served by sewage facilities which require or which must apply for a new or modified permit from the Department under the Clean Streams Law.

**§ 71.53. Municipal administration of new land development planning requirements for revisions.**

(a) It is the responsibility of the municipality to act upon revisions for new land development. If the new land development is requested by a private developer, the developer or his agent may complete the Department's sewage facilities planning module and submit it to the municipality for action.

(b) The municipality shall review sewage facilities planning modules upon receipt and, if appropriate comments or documents have not been received under subsections (d)(2), (3) and (5), shall forward a copy of the sewage facilities planning modules to the sewage enforcement officer, owner of receiving sewerage facilities and appropriate planning or zoning agencies within 10 days of receipt. The municipality shall determine if the submittal of the sewage facilities planning module is complete within 10 working days of the receipt of comments from the sewage enforcement officer and appropriate planning

or zoning agencies. The municipality shall review and act upon a complete sewage facilities planning module proposing a revision for new land development within 60 days of receipt or additional time as the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to extension will cause the revision for new land development to be deemed approved by the municipality and the complete sewage facilities planning module shall be submitted to the Department by the municipality or applicant. Documentation of the period of time the revision was in possession of the municipality shall be in the form of a completeness checklist signed by an official of the municipality confirming that the requirements of subsection (d) have been met.

(c) Municipal action shall take the form of adopting, adopting with modifications or refusing to adopt the proposal as a revision to the municipality's official plan.

(d) For the purposes of this section, no plan revision for new land development will be considered complete unless it includes the following:

(1) The information contained in § 71.52 (relating to content requirements—new land development revisions) and the Department's sewage facilities planning module.

(2) Comments by appropriate official planning agencies of a municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing county or joint county department of health. Evidence that the sewage facilities planning module has been before these agencies for 60 days without comment shall be sufficient to satisfy this paragraph.

(3) A written commitment from the owner of the receiving community sewerage facilities to provide service to the proposed new land development and the conditions for providing the services.

(4) Documentation that the proposal is consistent with the requirements of § 71.21(a)(5)(i)(A), (B), (E) and (I) (relating to content of official plans) or that inconsistencies have been resolved under § 71.31(e) (relating to municipal responsibility to review, adopt and implement official plans).

(5) A statement from the sewage enforcement officer for the local agency having jurisdiction for individual or community onlot sewage systems in the area where onlot systems are proposed commenting on:

(i) General site suitability for system usage.

(ii) The sewage enforcement officer shall have 20 days from receipt of a sewage facilities planning module from the municipality to provide these comments, which shall be based upon onsite verification of soil tests, general site conditions and other generally available soils information. Evidence that the sewage enforcement officer has been in receipt of the sewage facilities planning module for 20 days without commenting is sufficient to satisfy this subsection.

(6) Evidence documenting newspaper publication. The newspaper publication may be provided by the applicant or the applicant's agent, the municipality or the local agency by publication in a newspaper of general circulation within the municipality affected. When an applicant or an applicant's agent provides the required notice for publication, the applicant or applicant's agent shall notify the municipality or local agency and the municipality and local agency will be relieved of the obligation to publish.

The newspaper notice shall notify the public where the plan is available for review and indicate that all comments regarding the proposal shall be sent to the municipality within which the new land development is proposed. The newspaper publication shall meet the requirement of § 71.31(c) and provide notice of the proposed plan adoption action when the proposal involves one of the following:

- (i) Construction of a sewage treatment facility.
  - (ii) A change in the flow at a sewage treatment facility of greater than 50,000 gpd.
  - (iii) Will result in a public expenditure in excess of \$100,000 for the sewage facilities portion of a project.
  - (iv) Will lead to a major modification of the existing municipal administrative organization or the establishment of new administrative organizations within the municipal government.
  - (v) A subdivision of 50 lots or more.
  - (vi) A major change in established growth projections.
  - (vii) A different land use pattern than that established in the official sewage plan.
  - (viii) The use of large volume onlot sewage systems.
  - (ix) Resolution of a conflict between the proposed alternative and the consistency requirements contained in § 71.21(a)(5)(i)—(iii).
  - (x) The sewage facilities are proposed to discharge into high quality or exceptional value waters.
- (e) Since it is the responsibility of the municipality to implement the provisions of official plan revisions, when reviewing a proposed plan revision the municipality shall consider the information requested in subsection (d) and whether the proposed plan revision is consistent with established municipal goals and capabilities.
- (f) A municipality may refuse to adopt a proposed revision to its official plan for new land development for the following reasons, including, but not limited to:
- (1) The plan is not technically or administratively able to be implemented.
  - (2) Present and future sewage disposal needs of the area, remaining acreage or delineated lots are not adequately addressed.
  - (3) The plan is not consistent with municipal land use plans and ordinances, subdivision ordinances or other ordinances or plans for controlling land use or development.
  - (4) The plan is not consistent with the comprehensive sewage program of the municipality as contained in the official plan.
  - (5) The plan does not meet the consistency requirements of § 71.21(a)(5)(i)—(iii).
- (g) Whenever a municipality refuses to adopt a proposed revision to the official plan, it shall state the reasons for the refusal and forward a copy of this statement to the person making the submission, and to the Department.
- (h) Upon adoption of the proposed revision to the official plan, the municipality shall forward the proposed revision to the Department with the information required in § 71.52 and subsection (d) for review. Adoption of the proposed revision to the official plan shall be by resolution of the municipality.

**§ 71.54. Department administration of new land development planning requirements for revisions.**

- (a) A proposed plan revision for new land development will not be approved by the Department unless it contains the information and supporting documentation required by the act, the Clean Streams Law and regulations promulgated thereunder.
- (b) A proposed plan revision for new land development will not be considered for approval unless accompanied by the information required in § 71.53(d) (relating to municipal administration of new land development planning requirements for revisions). For the purpose of this section, the Department will determine whether a submission for a residential subdivision plan is complete in accordance with § 71.53(d) within 10 working days of its receipt by the Department.
- (c) When a municipality does not have an approved official plan, or fails to revise or implement an official plan when required, §§ 71.32(f) and 72.23(a) and (b) (relating to Department responsibility to review and act upon official plans; and limitations on onlot systems permit issuance) apply.
- (d) Within 120 days after the Department has determined that a proposed plan revision and documentation is complete, the Department will approve or disapprove the proposed plan revision, except that the Department will approve or disapprove revisions for residential subdivision plans within 60 days from the date the Department determines a submission is complete.
- (e) Upon the Department's failure to act upon a proposed plan revision within 120 days of its submission, the proposed plan revision shall be deemed to have been approved, unless the Department informs the municipality prior to the end of the 120-day period that an extension of time is necessary to complete review. The additional time will not exceed 60 days.
- (f) In approving or disapproving an official plan or revision, the Department will consider the requirements of § 71.32(d).

(g) When an official plan revision for new land development is disapproved by the Department, written notice will be given to each municipality included in the plan revision, with a statement of reasons for the disapproval.

**§ 71.55. Exceptions to the requirement to revise the official plan for new land development.**

- (a) A municipality does not have to revise its official plan when the Department determines that the proposal is for the use of individual onlot sewage systems serving detached single family dwelling units in a subdivision of ten lots or less and the following apply:
- (1) The proposal, in addition to the existing or proposed subdivision of which it is a part, will not exceed ten lots.
  - (2) The subdivision has been determined to have soils and site conditions which are generally suitable for onlot sewage disposal systems under § 71.62 (relating to individual and community onlot sewage systems).
  - (3) For the purposes of determining whether a proposal qualifies for an exception under this section, the enumeration of lots shall include only lots created after May 15, 1972.
  - (4) The proposal is consistent with the requirements of § 71.21(a)(5)(iii) (relating to content of official plans).
- (b) Documentation supporting a request for exception under this section shall be submitted to the Department using the Department's sewage facilities planning module and shall include:

(1) A statement by the governing body of the municipality acknowledging that they and an existing municipal planning or zoning agency, or both, have reviewed the proposal and found it to be consistent with the municipality's official plan.

(2) Evidence of review by the municipality's sewage enforcement officer.

(c) The municipality shall review sewage facilities planning modules upon receipt. If appropriate documentation and comments required by subsection (b) were not included in the planning module, the municipality shall forward a copy of the sewage facilities planning module to the sewage enforcement officer and appropriate planning or zoning agency within 10 days of receipt. The municipality shall review and act upon an application for an exception to the requirement to revise an official plan within 60 days of receipt of a complete sewage facilities planning module or additional time that the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to time extension shall cause the application for the exception to the requirement to revise to be deemed approved by the municipality and the complete application shall then be submitted to the Department by the municipality or the applicant. Documentation of the period of time the application for the exception to the requirement to revise was in possession of the municipality shall be in the form of a completeness checklist signed by a municipal official confirming that the requirements of subsections (a) and (b) have been met.

(d) The Department may act on requests for exceptions to the requirement to revise official plans within 30 days of the Department's receipt of the properly completed and submitted components of the Department's sewage facilities planning module, and proper written documentation. If the Department fails to act within the 30-day period, the exception to the requirement to revise the official plan shall be deemed to be applicable.

**§ 71.58. Delegation of new land development planning.**

(a) The Department may, by agreement, delegate to a local agency, multimunicipal local agency or county or joint county department of health the power and duty to require the submittal of and review, and to approve or disapprove sewage facilities planning modules for new land development which are submitted on planning module forms and other documents provided by the Department. Additionally, the following apply:

(1) Sewage facilities planning modules approved by a delegated agency under this section do not constitute a revision or exception to the requirement to revise under this chapter but shall be a supplement to the official sewage facilities plan.

(2) Delegated agencies may assess fees for the review of supplements under this section. Fees received under this section shall be used solely for the purpose of administering the delegated powers and duties related to the new land development planning provisions of this section.

(3) The Department may limit the review of supplements in the delegation agreements to specific classifications of sewage facilities or new land developments.

(4) When delegation is requested, § 72.44(c) and (d) (relating to reimbursement) shall be met as a prerequisite to the delegation.

(5) Delegation of the review and approval of supplements for new land development may be granted by the Department if the local agency or county or joint county department of health has adequately documented the following to the Department:

(i) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202).

(ii) The municipalities to be included in the delegation agreement have a current official sewage facilities plan which is being implemented in accordance with the content of the plan's implementation schedule and the provisions of the act, the Clean Streams Law and this part. For the purposes of determining qualifications for delegation under this section, the phrase "current official sewage facilities plan which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(iii) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect which require one of the following:

(A) Sewage facilities planning approval as a condition attached to final plat approval under the Pennsylvania Municipalities Planning Code.

(B) Documentation that sewage facilities planning is not required under this part.

(iv) When delegation is requested for the review of new land developments proposing the use of public sewerage facilities which do not require a new or modified permit under the Clean Streams Law, the delegation agreement includes coordination procedures to be used with the Department to assure continued compliance with the municipal wasteload management provisions of the Clean Streams Law.

(v) The local agency and any sewage enforcement officer employed by the local agency serving the municipalities to be included in the delegation agreement have not been issued a notice of violation or order by the Department for a violation of the act or the rules and regulations thereunder for the prior 3 years as determined by the Department.

(vi) A workload analysis is completed by the entity requesting delegation which analyzes the volume of work anticipated and the staffing and support resources needed to administer the program and documents that the fees proposed to be charged by the delegated agency to administer the sewage facilities planning reviews are sufficient to allow the delegated agency to act upon supplements within the time limits established by this chapter.

(vii) The administrative procedures, rules, regulations, fee schedules and contracts for services and applicable municipal ordinances, rules and regulations proposed for use by the delegated agency in the administration of the delegated provisions of this chapter have been reviewed by the Department. Delegated agencies shall use forms provided by the Department for the submittal and review of all supplements.

(6) Supplements to an official plan shall be prepared by the person proposing the new land development and shall be reviewed and acted upon by the delegated agency.

(7) The failure of or refusal of a municipality, local agency, multimunicipal local agency or county or joint county department of health to enter into a delegation agreement may not influence the eligibility of the local agency serving that municipality or the local agency itself to receive 85% reimbursement under Chapter 72 (relating to administration of sewage facilities permitting program).

(b) The Department will review the delegated agencies' performance of the duties established by delegation agreements under this section and may revoke the agreements for cause.

**§ 71.59. Delegated agency administration of new land development planning requirements.**

(a) When the Department has delegated the authority to review and approve subdivisions for new land developments to a delegated agency, the regulatory provisions of the Department in §§ 71.54 and 71.55 (relating to Department administration of new land development planning requirements for revisions; and exceptions to the requirement to revise the official plan for new land development) shall be administered by the delegated agency except that the time limits for review shall be in accordance with subsection (c).

(b) A new land development proposal submitted as a revision or an exception to the requirement to revise may be approved by the delegated agency as a supplement to the official plan of the municipality.

(c) The delegated agency shall determine if a submission is complete within 10 working days of its receipt. Delegated agencies shall approve or disapprove supplements within 60 days of the date of a complete submission or additional time that the applicant and delegated agency may agree to in writing.

(d) If planning modules for new land development propose service by sewerage facilities requiring a new or modified permit from the Department under the Clean Streams Law, the new land development planning module shall be forwarded to the Department for final action.

**Subchapter D. OFFICIAL PLAN REQUIREMENTS FOR ALTERNATIVE EVALUATIONS**

**§ 71.62. Individual and community onlot sewage systems.**

\* \* \* \* \*

(b) When an official plan or revision proposes the renovation of sewage effluent by means of a subsurface absorption area or a spray irrigation system, the following shall be provided:

(1) Anticipated raw waste characteristics of the sewage. Where industrial wastes as defined in the Clean Streams Law are expected to be present in the raw sewage, § 72.25(g)(2) (relating to issuance of permits) applies.

(2) Documentation that the soils and geology of the proposed site are generally suitable for the installation of the systems including:

\* \* \* \* \*

(iii) Soil profiles as described in Chapter 73 (relating to standards for onlot sewage treatment facilities) shall be performed to insure that an adequate area with suitable soils is available in the area of the proposed system. These profiles shall be approximately equally distributed among the various soils mapped in the area. For the purpose of this section, each change of slope or change in

erosion characteristic specified as part of the soil classification system of the United States Department of Agriculture, Natural Resources Conservation Service will be equivalent to a change in soil type.

\* \* \* \* \*

(c) This chapter does not preclude the use of individual and community onlot sewage systems using subsurface soil absorption areas on lots less than 1 acre in size or the use of large volume onlot sewage systems. Because of the potential for the creation of a public health hazard or pollution of the waters of this Commonwealth from high density use, improper system siting or inadequate maintenance of individual and community onlot systems, particular attention shall be given in official plans and revisions to the technical and institutional feasibility of using the systems.

(1) Additional permeability testing is required when an official plan or revision proposes the use of a large volume onlot sewage system or a community onlot system with a sewage flow in excess of 10,000 gallons per day, and may be required for other onlot system proposals where the total absorption area is greater than 5,000 square feet or where soil profiles or geology reveal slowly permeable conditions below the depth at which the percolation test was performed. Sufficient testing shall be conducted to:

\* \* \* \* \*

(2) A preliminary hydrogeologic evaluation is required when the use of subsurface soil absorption areas is proposed and one of the following exists:

\* \* \* \* \*

(ii) A subdivision of more than 50 equivalent dwelling units with a density of more than one equivalent dwelling unit per acre is proposed.

\* \* \* \* \*

(3) A preliminary hydrogeologic evaluation shall include as a minimum, in map and narrative report form:

\* \* \* \* \*

(ii) Estimated wastewater dispersion plume using an average daily flow of 262.5 gallons per equivalent dwelling unit per day or other flow supported by documentation.

\* \* \* \* \*

**§ 71.63. Retaining tanks.**

(a) Retaining tanks are designed and constructed to facilitate ultimate disposal of the sewage at another site. This requires the control of retaining tanks through specific restrictions on their use.

(b) General requirements for retaining tank use are as follows:

(1) The official plan or revision shall meet the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions).

(2) Proposed disposal sites, the method of disposal and the retaining tank cleaner for retaining tank waste shall be approved by the Department in a manner consistent with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) prior to approval of the official plan or revision allowing the use of retaining tanks.

(3) A municipality, sewer authority or sewage management agency may delegate or contract for the collection and disposal of the contents of the retaining tanks except that the ultimate responsibility for the proper collection

and disposal of the contents shall remain with the municipality, authority or agency.

(4) Whenever the local agency issues permits for retaining tanks, the municipality or local agency may impose other conditions it deems necessary for operation and maintenance of the tanks to prevent a nuisance or a public health hazard.

(c) Holding tanks require regular service and maintenance to prevent their malfunction and overflow and shall be used in lieu of other methods of sewage disposal only when the following additional conditions are met:

(1) The applicable official plan or revision thereto indicates the use of holding tanks for that lot and provides for replacement by adequate sewerage services in accordance with a schedule approved by the Department.

(2) The applicable official plan or revision includes municipal financial assurances of the replacement project's implementation, such as public financing, bonding or other security of sufficient present value to assure completion or other assurances either singularly or in combination that the Department deems necessary.

(3) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed full responsibility for maintaining existing and new holding tanks. The ordinances, regulations or restrictions shall, as a minimum, include:

(i) Identification of the administrative entity to receive, review and retain pumping receipts from permitted holding tanks.

(ii) An annual inspection of holding tanks within the municipality with completion and retention of a written inspection report.

(iii) Procedures and penalties for correction of malfunctions or public health hazards from holding tanks.

(d) The restrictions in subsection (c)(1)—(3) do not apply to holding tanks when the local agency, municipality or the Department determines that the use is necessary to abate a nuisance or public health hazard.

(e) The restrictions in subsection (c)(1) and (2) do not apply to holding tanks when the use is for institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gallons per day.

(f) A privy or chemical toilet is designed to receive sewage where there is no water under pressure and no piped wastewater. Privies shall be used in lieu of other methods of sewage disposal only when the following conditions are met:

(1) The applicable official plan or the revision thereto indicates the use of privies for that lot and documents that soil and site suitability testing of that lot under §§ 73.11—73.16 has been conducted, and the site meets the requirements for the ultimate sewage disposal by one of the systems described under §§ 73.51—73.55 and 73.167 (relating to construction of absorption areas; and spray fields) to assure that adequate sewage facilities will be available to that lot in the future.

(2) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed responsibility for assuring the removal of a privy and the installation of an approved onlot sewage disposal system when water under pressure or

pipled water is available to the lot or when the property owner installs water under pressure or piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on that lot.

(g) The restrictions in subsection (f) do not apply:

(1) To a privy or chemical toilet when proposed for use on a lot of record in existence prior to May 15, 1972, which is 1 acre or larger and is not served now and will not be served in the future by water under pressure, piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on that lot.

(2) To temporary use of portable retention tanks or portable chemical toilets when their use is proposed at construction sites or at the site of public gathering and entertainments.

#### § 71.64. Small flow treatment facilities.

(a) Small flow treatment facilities require adequate operation and maintenance to prevent the creation of environmental problems or public health hazards associated with improperly treated sewage. This requires the control of small flow treatment facilities through specific restrictions on their use.

(b) Small flow treatment facilities are restricted to use as a replacement or repair system which the Department determines is necessary to abate an existing nuisance or public health hazard or as a system to serve residential dwellings or commercial facilities which generate domestic wastewater not containing industrial waste.

(c) When an official plan or update revision proposes the use of small flow treatment facilities, the official plan or revision shall, as a minimum, contain the following, in addition to the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions):

(1) Documentation that soils are not suitable for the installation of individual or community onlot sewage disposal systems, excluding individual residential spray irrigation systems proposed for use in areas outside the watershed of waters classified as high quality or exceptional value under §§ 93.6 and 93.9 (relating to general water quality criteria; and designated water uses and water quality criteria).

(2) A preliminary hydrogeologic evaluation when the small flow treatment facility will use land disposal or a dry stream channel discharge for final disposal. This evaluation shall include:

(i) The most recent 7 1/2' United States Geologic Survey Topographic map with the discharge accurately plotted.

(ii) The discharge rate and quality, including seasonal variations.

(iii) An identification on the topographic map of existing groundwater uses for 200 feet in width on each side of the channel downstream from the discharge from the system until perennial stream conditions are reached.

(3) Documentation, using the information developed in paragraph (2), which confirms that existing or proposed drinking water uses will be protected and that effluent will not create a public health hazard or a nuisance.

(4) Documentation that the proposed use of these small flow treatment facilities does not conflict with comprehensive sewage planning for the area.

(5) An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system which shall include documentation that one or a combination of the following operation and maintenance requirements have been established or approved in writing by the municipality:

(i) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(ii) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(iii) A municipal ordinance which requires that the small flow treatment facilities be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(iv) Municipal ownership of the system.

(v) Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.

(vi) A properly chartered association, trust or other private entity which is structured to manage the system.

(vii) Establishment of bonding, escrow or other security prior to planning approval. The bonding, escrow or other security shall be forfeited to the municipality upon notice of continuing noncompliance of the system with the operation, maintenance and monitoring standards contained in the permit or noncompliance with the municipal assurances for management of the operation and maintenance requirements established through this section. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement must provide for a refund of a portion of the original bond so that only 10% of the cost of the equipment and installation is retained by the bond-holder. The remaining bond totaling 10% of the cost of the equipment and installation shall be maintained for the life of the system.

(6) An evaluation of the density of development and the number and density of other similar systems in the watershed. As a result of that evaluation, the Department may impose additional conditions or limit the construction or operation of small flow treatment facilities.

(7) An evaluation of the alternatives available to provide sewage facilities which documents that the use of small flow treatment facilities is a technically, environmentally and administratively acceptable alternative.

(d) Small flow treatment facilities and their appurtenances shall meet applicable design, installation, operation and other standards established for small flow treatment facilities by the Department under sections 202 and 207 of the Clean Streams Law (35 P. S. §§ 691.202 and 691.207) and shall obtain a Clean Streams Law permit and if there is a discharge to surface water, a National Pollutant Discharge Elimination System permit, prior to construction and operation.

(e) Plans and specifications shall be prepared by a licensed professional engineer in compliance with Chapter 91 (relating to general provisions).

(f) The Department may require independent oversight of the system installation.

**§ 71.65. Individual and community sewerage systems.**

(a) When an official plan or revision proposes the use of publicly or privately-owned individual or community sewerage system, the official plan or revision shall contain the following, in addition to the requirements of Subchapters B and C (relating to the official plan requirements; and new land development plan revisions):

(1) An evaluation of alternatives available to provide sewage facilities and proof that the proposed sewage facilities are the best short- and long-term, environmentally acceptable alternative.

(2) An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system under Subchapter E (relating to sewage management programs).

(b) When the proposed discharge from the individual or community sewerage system is to a dry stream channel or land disposal site, the information as required in § 71.64(c)(2) and (3) (relating to small flow treatment facilities and appropriate Department guidance manuals) shall be included with the official plan or revision.

(c) Individual and community sewerage systems and their appurtenances shall meet applicable design and other standards established by the Department under sections 202 and 207 of the Clean Streams Law (35 P. S. §§ 691.202 and 691.207) and shall obtain a Clean Streams Law permit and if there is a discharge to surface water, a National Pollutant Discharge Elimination System permit, prior to construction and operation.

**Subchapter E. SEWAGE MANAGEMENT PROGRAMS**

**§ 71.72. Sewage management programs for Department permitted sewage facilities and community onlot sewage systems.**

(a) When an official plan or revision to an official plan for existing needs areas or new land development proposes the construction of Department permitted nonmunicipal sewage facilities, or a community onlot sewage system permitted by a local agency (except for small flow treatment facilities which shall comply with the management provisions of § 71.64(c)(5)) (relating to small flow treatment facilities) the official plan or revision shall evaluate the options available to assure the long-term proper operation and maintenance of the proposed sewage facilities. The municipality, prior to adoption of that official plan or revision, shall require one or more of the following:

(1) A bond or escrow account sufficient to cover the costs of future operation and maintenance of the sewage facilities under local ordinances. Bonding, escrow or other security shall be forfeited to the municipality upon notice by the Department of continuing noncompliance of the system with the operation and maintenance standards established through a condition in the permit issued by the Department or local agency. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life or until the system is in compliance and being properly operated and maintained. The bonding, escrow



or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement shall provide for a refund of a portion of the original bond so that only 10% of the cost of the equipment and installation is retained by the bondholder. The remaining bond totaling 10% of the cost of the equipment and installation shall be maintained for the life of the system.

(2) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(3) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(4) A municipal ordinance which requires the system to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(5) Establishment of a properly chartered association, trust or other private legal entity to assure long-term administration of an operation and maintenance program.

(6) Municipal ownership of the sewage facilities upon completion.

(7) Establishment of, or inclusion of, the sewage facilities under a management agency through existing municipal codes, including but not limited to, municipal authorities, sanitary boards and boards of health.

(8) Establishment of, or inclusion of, the sewage facilities under a management agency through the adoption of local ordinances under municipal codes.

(9) One or a combination of the requirements in paragraphs (1)—(8) or other actions permitted by and consistent with the act and the Clean Streams Law found necessary by the municipality to insure proper installation, maintenance and operation of the proposed sewage facilities.

**§ 71.73. Sewage management programs for sewage facilities permitted by local agencies.**

(a) When sewage facilities are permitted by local agencies, the municipality is responsible for taking actions necessary to assure continued compliance of these sewage facilities with the act, the Clean Streams Law and regulations promulgated thereunder.

(b) When an official plan or official plan revision shows, or the Department determines, that existing sewage facilities permitted by the local agency need periodic inspection, operation or maintenance to provide long-term proper operation, or are not properly functioning because of inadequate operation and maintenance, the municipality shall revise its official plan to establish a sewage management program for these types of facilities. The update revision shall include the following as a minimum:

(1) Identification of the specific legal authority to be used by municipal officials and their designated employees to enter lands and make inspections of onlot sewage facilities. The policy concerning a schedule of inspections and methods of notification of landowners of this policy shall be included.

(2) Standards consistent with section 8(b)(9) of the act (35 P. S. § 750.8(b)(9)) for operation, maintenance, repair or replacement of sewage facilities which include:

(i) Removal of septage or other solids from treatment tanks once every 3 years or whenever an inspection program reveals that the treatment tanks are filled with solids in excess of 1/3 of the liquid depth of the tank or with scum in excess of 1/3 of the liquid depth of the tank.

(ii) Maintenance of surface contouring and other measures, consistent with Chapter 73 (relating to standards for sewage disposal facilities) to divert stormwater away from the treatment facilities and absorption areas and protection of the absorption areas from physical damage.

(iii) Requirements for the use of water conservation devices to reduce hydraulic loading to the sewage system.

(iv) Requirements for the operation and maintenance of electrical, mechanical and chemical components of the sewage facilities; collection and conveyance piping, pressure lines and manholes; alarm and flow recorder devices; pumps; disinfection equipment and related safety items.

(v) Requirements for septage pumpers/haulers which are consistent with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

(vi) Requirements for holding tank maintenance.

(3) A discussion of the specific requirements of the sewage management program and administrative or legal functions needed to carry out the program.

(4) Establishment of a fee schedule for the cost of municipal services related to implementing the provision of the sewage management program.

(5) Identification of the authority to be used to enforce the requirements of the sewage management program or restrain violations of the program.

(6) Identification of penalty provisions for violations of the program requirements.

(7) Draft ordinances, regulations or policies which relate to the sewage management program.

(8) Other requirements consistent with the act and the Clean Streams Law.

(c) When the official plan update identifies a local agency as the entity responsible for administering a municipal sewage management program and when the local agency identified in the official plan update agrees to administer the program, the local agency is eligible for reimbursement of eligible costs for administrative and personnel expenditures to implement sewage management programs under § 72.44 (relating to reimbursement).

(d) When the official plan identifies the municipality as the entity responsible for administering a municipal sewage management program and when that municipality's onlot system permitting program is administered by a multimunicipal local agency or a county or joint county department of health, the municipality is eligible for reimbursement of eligible costs for the administrative and personnel expenditures to implement a sewage management program. Application for eligible costs shall be submitted by the municipality in accordance with the provisions of § 72.44.

§ 71.75. Private request to require a sewage management program.

A person who is a resident or a legal or equitable property owner in a municipality may file a private request with the Department requesting that the Department order the municipality to revise its official sewage plan under § 71.14 (relating to private request to revise official plans) when the resident or property owner can show one of the following:

(1) That existing sewage facilities within the municipality are not being properly operated and maintained under this part.

(2) That a revision for new land development does not adequately address the administrative, technical or legal functions needed to carry out operation and maintenance of the proposed facilities.

Subchapter F. FEES

Table with 2 columns: Sec. and description. Rows: 71.81. General requirements, 71.82. Delegated agency fees, 71.83. Department fees.

§ 71.81. General requirements.

Delegated agencies and the Department may charge fees for the review of sewage facilities planning modules for new land development.

§ 71.82. Delegated agency fees.

Delegated agencies shall establish fees for the review of sewage facilities planning modules for new land development in fee schedules formally adopted by the delegated agency and available to the public. Fees may be charged for each review of a planning module.

§ 71.83. Department fees.

(a) Fees charged by the Department for the review of sewage facilities planning modules for new land development shall be as follows and will be shown on and be specific to each type of planning module component:

(1) For onlot proposals not qualifying under § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) as an exception to the requirement to revise, the fee is \$30 per equivalent dwelling unit or lot.

(2) For surface discharge proposals with flows greater than 2,000 gallons per day or onlot proposals requiring a permit under the Clean Streams Law, the fee is \$1,500. For proposals submitted by and proposing discharges by political subdivisions, the fee is \$500.

(3) For public sewerage proposals, the fee is \$50 per equivalent dwelling unit or lot, whichever is greater.

(4) For all other proposals, the fee is \$35 per equivalent dwelling unit or lot, whichever is greater.

(5) For proposals consisting of one lot subdivided from a parent tract existing as of December 14, 1995, there is no fee. The subdivision of a second lot from that tract shall disqualify the applicant from the fee exemption.

(b) A subsequent submission which proposes substantial changes to the original submittal following a planning module denial shall be considered a new submission for the purpose of fee assessment. Denial of a planning module does not include the planning module completeness review procedure.

(c) Fees may not be charged for activities relating to determinations by the Department under § 71.51(b) (relating to general).

CHAPTER 72. ADMINISTRATION OF SEWAGE FACILITIES PERMITTING PROGRAM

Subchapter A. GENERAL

§ 72.1. Definitions.

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

\* \* \* \* \*

Alternate sewage system—A method of demonstrated onlot sewage treatment and disposal not described in this part.

\* \* \* \* \*

Clean Streams Law—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Conventional sewage system—A system employing the use of demonstrated onlot sewage treatment and disposal technology in a manner specifically recognized by this part. The term does not include alternate sewage systems or experimental sewage systems.

\* \* \* \* \*

Delegated agency—A municipality, local agency, multimunicipal local agency or county or joint county department of health to which the Department has delegated the authority to review and approve subdivisions for new land developments as supplements to the official plan of a municipality in which the subdivision is located.

Experimental sewage system—A method of onlot sewage treatment and disposal not described in this title which is proposed for the purpose of testing and observation.

Individual residential spray irrigation system—An individual sewage system which serves a single dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

\* \* \* \* \*

Municipality—A city, town, township, borough or home rule municipality other than a county.

\* \* \* \* \*

Official plan revision—A change in the municipality's official plan to provide for additional, newly identified future or existing sewage facilities needs, which may include one or more of the following:

(i) Update revision—A comprehensive revision to an existing official plan required when the Department or municipality determines an official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

(ii) Revision for new land development—A revision to a municipality's official plan resulting from a proposed subdivision as defined in the act.

(iii) Special study—A study, survey, investigation, inquiry, research report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.

(iv) Supplement—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified

permit from the Department under the Clean Streams Law, and which is reviewed and approved by a delegated agency.

(v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

*Person*—An individual, association, public or private corporation for-profit or not-for-profit, partnership, firm, trust, estate, department, board, bureau or agency of the United States or the Commonwealth, political subdivision, municipality, district, authority or other legal entity which is recognized by law as the subject of rights and duties. The term includes the members of an association, partnership or firm and the officers of a local agency or municipal, public or private corporation for profit or not-for-profit.

*Qualified registered professional engineer*—A person registered to practice engineering in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

*Qualified registered professional geologist*—A person registered to practice geology in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems.

*Qualified soil scientist*—A person certified as a sewage enforcement officer and who has documented 2-years' experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems (as defined in the Soil Science Society of America "Glossary of Soil Science") and either a bachelor of science degree in soils science from an accredited college or university or certification (certified professional soil scientist, certified professional soil classifier or certified professional soil specialist) by the American Registry of Certified Professionals in Agronomy, Crops and Soils (now known as ARCPACS: A Federation of Certifying Boards in Agriculture, Biology, Earth and Environmental Sciences).

\* \* \* \* \*

*Retaining tank*—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes, the following:

(i) *Chemical toilet*—A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.

(ii) *Holding tank*—A tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system.

(iii) *Privy*—A tank designed to receive sewage where water under pressure is not available.

(iv) *Incinerating toilet*—A device capable of reducing waste materials to ashes.

(v) *Composting toilet*—A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.

(vi) *Recycling toilet*—A device in which the flushing medium is restored to a condition suitable for reuse in flushing.

*Sewage*—A substance that contains waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes any substance which constitutes pollution under the Clean Streams Law.

*Sewage enforcement officer*—An official of the local agency who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the act and conducts investigations and inspections that are necessary to implement the act and the regulations thereunder.

*Sewage facilities*—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

(i) *Individual sewage system*—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal. The term includes:

(A) *Individual onlot sewage system*—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.

(B) *Individual sewerage system*—A system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

(ii) *Community sewage system*—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) *Community onlot sewage system*—A system of piping, tanks or other facilities serving two or more lots and collecting, treating and disposing of domestic sewage into a soil absorption area or retaining tank located on one or more of the lots or at another site.

(B) *Community sewerage system*—A publicly or privately owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area or retention in a retaining tank.

*Sewage management program*—A program conforming to Chapter 71, Subchapter E (relating to sewage management programs), authorized by the official action of a municipality for the administration, management and regulation of the disposal of sewage.

*Soil horizon*—A layer of soil approximately parallel to the soil surface, the chemical and physical characteristics of which are distinguishable by observation or other method of analysis from the chemical and physical characteristics in adjacent layers of soil.

*Soil profile*—The collection of soil horizons, including the natural organic layers on the surface.

*Soil mottling (redoximorphic features)*—A soil color pattern consisting of patches of different color or shades of

color interspersed with the dominant soil color which results from prolonged saturation of the soil.

*Subdivision*—The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

\* \* \* \* \*

*Working day*—Calendar days as specified in 1 Pa.C.S. § 1908 (relating to computation of time) excluding Saturdays and Sundays, or a day made a legal holiday by the statutes of the Commonwealth or the United States. The period shall be calculated to exclude the first and include the last day of the period.

**§ 72.2. Scope.**

(a) This chapter is adopted in accordance with the duties imposed upon the Department under the act and the Clean Streams Law and applies to local agencies and sewage enforcement officers administering the act and to persons installing individual or community onlot sewage systems.

(b) This chapter is separated into four subchapters. Subchapter A relates to general provisions. Subchapter B relates to the permitting requirements of the act (35 P. S. § 750.7). Subchapter C relates to the administration of permits for individual and community onlot sewage systems (35 P. S. § 750.8 and 750.10). Subchapter D relates to certification of sewage enforcement officers (35 P. S. §§ 750.8 and 750.11).

(c) This chapter governs the issuance of permits for retaining tanks, or for individual and community onlot sewage systems which employ renovation of sewage effluent in a soil absorption area or spray field, except for large volume onlot sewage systems. The use of large volume onlot sewage systems creates a danger of pollution of the waters of this Commonwealth, regulation of large volume onlot sewage systems by the Department is necessary to avoid the pollution, and large volume onlot sewage systems require permits issued by the Department under sections 201, 202, 207 and 402 of the Clean Streams Law (35 P.S. §§ 691.201, 691.202, 691.207 and 691.402). A local agency or sewage enforcement officer may not issue a permit for an individual or community onlot sewage system which does one of the following:

- (1) Discharges directly to the surface of the ground or to the surface waters of this Commonwealth except when the proposed sewage system is an individual residential spray irrigation system which conforms with the standards established under Chapter 73 (relating to standards for onlot sewage treatment facilities).
- (2) Is a large volume onlot sewage system.
- (3) Is proposing or designed for the disposal of substances defined as industrial wastes under the Clean Streams Law.
- (4) Violates this chapter, Chapter 71 or 73, the act or the Clean Streams Law.

**Subchapter B. PERMIT REQUIREMENTS**

**§ 72.21. General.**

(a) A local agency shall employ or contract with at least one sewage enforcement officer and one alternate sewage enforcement officer who have been certified by the Certification Board under Subchapter D (relating to certification

of sewage enforcement officers). References to sewage enforcement officer in this part also apply to alternate sewage enforcement officers.

(b) A local agency shall employ an adequate number of sewage enforcement officers or contract with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer the applicable provisions of this chapter within the time periods in this chapter and in accordance with this chapter and Chapter 73 (relating to standards for onlot sewage treatment facilities).

(c) A local agency may not issue a permit for the installation of an individual or community onlot sewage system except by and through a certified sewage enforcement officer employed or contracted by the local agency.

(d) The local agency by action of its sewage enforcement officer shall issue a permit for an individual or community onlot sewage system when the proposed system is in compliance with the act and this part.

(e) The actions of local agencies include actions of their designated sewage enforcement officers.

(f) A property owner proposing a bonded disposal system under § 73.77 (relating to bonded disposal systems) shall bear the cost of activities associated with conducting, observing or confirming percolation tests.

**§ 72.22. Permit issuance.**

(a) A person may install, award a contract for construction or construct an individual or community onlot sewage system, or install, construct, occupy or use a building to be served by that system without first obtaining a permit from the local agency, except as provided in subsections (c)—(e).

(b) A permit shall be required by the local agency for alterations or connections to an existing individual or community onlot sewage system when the alteration or connection requires the repair, replacement or enlargement of a treatment tank or retention tank, or the repair, replacement, disturbance, modification or enlargement of a soil absorption area or spray field, or the soil within or under the soil absorption area or spray field.

(c) Multiple installations of chemical toilets or other portable toilets proposed for temporary use at a construction site, a recreation activity or a temporary facility shall be covered by one permit.

(d) A permit is not required for the installation of a recycling toilet, incinerating toilet, composting toilet or other type of water conservation device where the existing onlot system will not be altered.

(e) Except when a local agency or municipality requires a permit by ordinance, no permit or official plan revision is required for the installation of an individual onlot sewage system for a residential structure occupied or intended to be occupied by the property owner or a member of the property owner's immediate family on a contiguous tract of land 10 acres or more if the owner of the property was the owner of record as of January 10, 1987. For the purposes of this subsection, the term "immediate family" means a brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the property owner.

(f) The installation of a permit-exempt system under subsection (e) is not required to be approved by or meet the standards of the Department or local agency under their rules and regulations for the siting, design or installation of onlot sewage systems, except for the siting

requirements of subsection (g), unless a permit is required by a regulation or ordinance of a local agency or municipality, or the person qualifying for the permit exemption chooses to not use the permit exemption. A permit exemption may also be granted where a 10-acre parcel or lot is subdivided from a parent tract after January 10, 1987. When one permit exemption has been granted for a lot, tract or parcel under this section, any lot, tract or parcel remaining after subdivision of the lot or parcel which received the permit exemption or any lots or parcels subdivided from either lot, tract or parcel in the future will not be eligible for a 10-acre permit exemption and shall meet the planning, permitting, siting and construction standards of the Department relating to onlot sewage systems. Owners of a lot, tract or parcel which otherwise qualified for the permit exemption, who do not choose to use the permit exemption remain exempt from the planning requirements of the act with respect to that lot, tract or parcel.

(g) Owners of property qualifying for a permit exemption under subsections (e) and (f) shall install permit-exempt systems in accordance with the following siting requirements.

(1) The perimeter of the septic tanks and absorption area shall be located at least 200 feet from the perimeter of any property line, nonutility right-of-way, 100-year floodplain or any river, stream, creek, impoundment, well, watercourse, storm sewer, lake, dammed water pond, spring, ditch, wetland, water supply or any other body of surface water and 10 feet from any utility right-of-way.

(2) Before a person who meets the requirements of subsections (e) and (f) for a permit-exempt system installs a system, the person shall notify the local agency of the installation and shall provide documentation relating to the siting requirement of this subsection which is satisfactory to the local agency. The local agency may charge a fee, not to exceed \$25, to verify that the system is located in accordance with the siting requirements.

(h) A permit is not required when a new dwelling is proposed to replace a previously existing dwelling when the local agency determines that the size and anticipated use of the new dwelling, as determined under §§ 73.16 and 73.17 (relating to requirements for absorption areas; and sewage flows), are the same as or less than those of the previously existing dwelling and the previously existing dwelling was in use within 1 year of the anticipated date of completion of construction of the new dwelling. This exception does not apply when an active investigation of a malfunction is under way by the local agency or the Department.

**§ 72.23. Limitation on onlot system permit issuance.**

(a) The local agency may not issue permits for individual or community onlot sewage systems unless the following exist:

(1) The proposed system is consistent with the method of sewage disposal contained in the approved official plan, special study or update revision of the municipality in which the system is to be located.

(2) The municipality is implementing its official plan, special study or update revision in accordance with a schedule approved by the Department.

(3) The municipality has received approval of a revision for new land development or exception to the requirement to revise from the Department, a supplement for new land development has been approved by the delegated

agency serving the municipality or the Department or delegated agency has determined that no planning is required under § 71.51(b) (relating to general).

(b) Permits may not be issued when the municipality has one or more of the following:

(1) No approved official plan.

(2) Not received Department approval of an update revision or special study to the official plan.

(3) Not implemented its plan as required by this part or by an order of the Department.

(c) Permit limitations under this section shall be restricted to those areas of the municipality identified in writing to the municipality by the Department as posing a serious risk to the health, safety and welfare of persons within or adjacent to the municipality because of the municipality's failure to revise or implement its plan. The limitations shall remain in effect until the municipality has submitted the official plan, update revision or special study to the official plan to, and received the approval of the Department, or has commenced implementation of its plan, update revision or special study in accordance with a schedule approved by the Department.

(d) The limitations on permit issuance contained in this section do not apply:

(1) To those areas of the municipality where the Department or the local agency finds that a replacement soil absorption area or spray field could be installed on the lot if the original system failed. This determination shall be based on the results of a minimum of two complete soils and site evaluations confirmed by the local agency's sewage enforcement officer.

(2) To those areas of the municipality outside of the areas delineated in an order of the Department as requiring an update revision.

(3) To existing subdivisions or sections thereof where the Department or delegated agency finds that either lots or homes in the subdivision or sections thereof have been sold in good faith to a purchaser for value prior to May 15, 1972, and not for the purpose of avoiding the permit limitation provisions of this section. This paragraph does not relieve the municipality of its planning responsibilities as specified in the act.

(4) When the Department or the local agency finds it necessary to issue permits for the abatement of pollution or the correction of health hazards, or both.

(5) To interim repairs to or the replacement of existing malfunctioning onlot sewage systems.

**§ 72.24. Applications for permits.**

(a) Application for a permit to install an individual or community onlot sewage system shall be made by the owner, owner in equity or a person who is an authorized agent of the owner or owner in equity to the local agency, on a form provided by the Department. For purposes of this section, an authorized agent shall have written permission to apply for a permit, signed by the owner or owner in equity of the lot for which the application is made.

(b) The local agency may require additional information consistent with the act needed to assure that the system or the site will comply with the requirements of the act and this part.

(c) The local agency shall maintain and make available for public inspection a permanent record of all permit

applications submitted, indicating the date received, type of submission and date of disposition.

**§ 72.25. Issuance of permits.**

(a) A permit shall be issued when the local agency has determined that the application is complete and meets the requirements of the act and this part.

(b) The local agency shall issue or deny a permit for a conventional system in writing within 7 days after receiving a complete initial application.

(c) If the local agency determines that an initial application is incomplete or that it is unable to verify the information contained in an application, the local agency shall notify the applicant in writing within 7 days of receipt of the application. The notice shall include the reasons why the application is not acceptable. When the required information is received, the local agency shall act upon the application within 15 days.

(d) A person desiring to install an experimental onlot sewage system shall submit complete preliminary design plans and specifications to the sewage enforcement officer and the Department for review and comment at least 60 days prior to submitting an application for a permit. The Department will determine if classification as an experimental system is appropriate for the submission and provide review comments within 60 days to the sewage enforcement officer.

(e) Applications for alternate system permits submitted to municipalities or local agencies which are not delegated agencies, shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated by the municipality or local agency to the applicant in writing within 15 days of receipt of the application.

(1) Applications for alternate system permits found to be complete shall be submitted to the Department within 5 days of the determination of completeness by the local agency or authorized representative for the Department's determination whether the classification as alternate is appropriate for the submission and the Department's review of comments.

(2) Permits for alternate systems shall be issued or denied by the local agency within 45 days of transmittal of a complete application to the Department. The local agency shall consider the written comments submitted by the Department regarding the application.

(3) In municipalities or local agencies which are delegated agencies or which employ or contract with sewage enforcement officers authorized to review alternate sewage systems under § 72.43(1) (relating to powers and duties of the Department), permit applications for alternate systems shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated to the applicant in writing within 15 days of receipt of the application. Permits for alternate systems shall be issued or denied by the local agency within 30 days of receipt of a complete application.

(f) Failure of a local agency to act on an application does not constitute permit approval. If the local agency does not act upon an application within 7 days of receipt, or within 15 days of receipt of supplemental information under subsection (c), the applicant may request a hearing before the local agency.

(g) A local agency may not issue individual or community onlot sewage system permits for the following systems; permits for these systems are issued by the Department:

(1) A large volume onlot sewage system.

(2) Subsurface disposal or other method of disposal of a substance defined as industrial waste under the Clean Streams Law.

(3) A method of sewage disposal other than renovation of sewage in a subsurface absorption area, an individual residential spray irrigation system or temporary storage in a retaining tank.

(h) Prior to the issuance of a permit for an individual residential spray irrigation system, the local agency shall require documentation that the municipality in which the system is to be located, has taken action to assure compliance of the system with § 73.167 (relating to operation and maintenance of individual residential spray irrigation systems) for the life of the system. The assurance shall be established through one or a combination of the following options which have been established or approved in writing by the municipality:

(1) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(2) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(3) A municipal ordinance which requires individual residential spray irrigation systems to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(4) Municipal ownership of the system.

(5) Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.

(6) A properly chartered association, trust or other private legal entity which is structured to manage the system.

(7) Bonding, escrow or other security established prior to the issuance of a permit for an individual residential spray irrigation system and forfeited to the municipality upon notice of continuing noncompliance of the system with the operation and maintenance standards in § 73.167 (relating to operation and maintenance of individual residential spray irrigation systems) and monitoring standards in § 72.42(a)(24) (relating to powers and duties of local agencies). The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement shall provide for a refund of a portion of the original bond so that only 10% of the cost of equipment and installation is retained by the bondholder. The remaining bond totalling 10% of the cost of equipment and installation shall be maintained for the life of the system.

(i) When a local agency has issued a permit under this section and the Department disagrees with the basis for the issuance of the permit, the Department will not require the revocation of that permit unless the Depart-

ment has provided to the local agency justification for its decision based on the specific provisions of statute or regulation.

**§ 72.26. Denial of permits.**

(a) Notice of denial of a permit shall be in writing to the applicant and shall include the reasons for denial and advise the applicant of the right to a hearing before the local agency. The local agency shall provide the Department with a copy of the notice of denial within 7 days of issuance.

(b) The sewage enforcement officer shall accept prior testing data and information obtained by a previous sewage enforcement officer, if the site and prior testing is certified by the previous sewage enforcement officer and meets all of the criteria contained in paragraphs (1)–(10) and the current sewage enforcement officer certifies the data and information to the local agency using a “Verification of Prior Testing” Form provided by the Department. There shall be a presumption that, unless the prior sewage enforcement officer’s certification has been revoked or suspended by the Department or the prior sewage enforcement officer’s certification has been voluntarily surrendered to the Department or Certification Board, the testing data and information obtained by the prior sewage enforcement officer is valid unless the currently employed sewage enforcement officer finds that one or more of the criteria in the following paragraphs are not met:

(1) The soil testing performed on the property in question has not been cited in a revocation, suspension or other agreement to surrender certification which indicates violations of soil testing procedures by the previous sewage enforcement officer.

(2) The exact location of the test to be used for issuance of a permit shall be verifiable by at least one of the following methods:

(i) Location of the test pit and percolation hole remnants on the lot by the current sewage enforcement officer.

(ii) The existence of recorded measurements from at least two permanent landmarks on the property in question establishing the original test location.

(iii) A scale drawing of the lot or property in question indicating the location of the tests by reference to at least two permanent landmarks.

(iv) Identification of the exact location of the tests by the prior sewage enforcement officer, if the certification has not been revoked, suspended or voluntarily surrendered to the Department or Certification Board.

(3) Verification that the percolation test and soils evaluation were conducted in accordance with the applicable regulations.

(4) Soils description and percolation test data are available and recorded on the prescribed form, or its equivalent, in sufficient quantity and quality to be interpreted by others.

(5) The soil probes were conducted within 10 feet of the proposed absorption area.

(6) The percolation test on the lot was performed on the site of the proposed absorption area.

(7) The person who originally observed, confirmed or conducted the testing was certified under the current certification requirements of the act.

(8) No inaccuracies or falsifications of the test data are apparent or identifiable.

(9) No changes to the site have occurred since the time of the original testing which will materially affect the siting or operation of an individual or community onlot sewage disposal system.

(10) Receipt of a notarized statement from the property owner which indemnifies and holds harmless the new sewage enforcement officer, municipality and local agency for the actions of the new sewage enforcement officer in verifying the prior testing data and information obtained by a previous sewage enforcement officer.

(c) If, after conducting a verification of prior testing under subsection (b) the currently employed sewage enforcement officer denies an application for a permit or rejects the previous tests performed within the immediately preceding 6 years, retesting and reapplication fees shall be waived to the applicant and the local agency shall pay for any equipment and operators required for a retest and for any necessary redesign of the system if:

(1) The tests were certified by signature of a sewage enforcement officer.

(2) Local agency records document that the sewage enforcement officer who certified the tests was employed or under contract with the local agency at the time the testing was conducted and certified.

(3) The testing documents soils and site suitability for onlot sewage disposal.

(d) Subsection (c) does not apply if the local agency documents that one of the following exists:

(1) Changes have occurred in the physical condition of lands which will materially affect the siting or operation of an individual or community onlot sewage disposal system covered by a permit as verified by the sewage enforcement officer conducting the testing in accordance with the criteria outlined in subsection (b).

(2) The original soils testing was performed by a sewage enforcement officer whose certification was one of the following:

(i) Revoked by the Department and any subsequent appeal denied.

(ii) Voluntarily surrendered to avoid prosecution or a hearing.

(iii) Suspended by the Department for violations related to the siting, design or installation inspection of onlot systems.

(3) The soils testing and redesign required by the new sewage enforcement officer has been conducted by the local agency using its staff and equipment or contracted services.

(4) The testing under review was conducted more than 6 years prior to the date of the submittal of a permit application for the lot in question.

(e) A person aggrieved by the action of a sewage enforcement officer in the issuance or denial of a permit, or another action taken under section 7 of the act (35 P. S. § 750.7) other than a permit revocation, may within 30 days of receipt of notice of the action, file a request for a hearing before the local agency. The request shall be in writing.

**§ 72.27. Expiration and transfer of permits.**

(a) A permit shall expire if construction or installation of an individual or community onlot sewage system and

the structure for which the system is to be installed has not begun within 3 years after permit issuance. A new permit shall be obtained prior to beginning the construction or installation. When issuing a new permit the local agency may require information necessary to confirm the validity of the original application as provided by § 72.26(b) (relating to denial of permits).

(b) A permit may be transferred from the permit holder to a new property owner with the transfer of the property. Transfers are not valid until approved in writing by the local agency, and until new property owners receive a copy of the application under which the permit was issued.

#### § 72.28. Revocation of permits.

(a) A permit shall be revoked by the local agency at any time for one or more of the following reasons:

(1) When a change has occurred in the physical conditions of lands which will materially affect the operation of an individual or community onlot sewage disposal system covered by a permit issued by the local agency under this chapter.

(2) When one or more tests material to the issuance of the permit has not been properly conducted.

(3) When information relevant to the issuance of the permit has been falsified.

(4) When the original decision of the local agency otherwise failed to conform with the act and this part.

(5) When the permittee has violated the act, this part or the requirements of the permit.

(b) The notice of revocation of a permit shall be in writing to the permit holder and shall include the reasons for revocation, notice of the permit holder's opportunity to request a hearing before the local agency within 10 days of receipt of the revocation notice, and notice that no further construction or use of either the sewage system or the structure for which it is intended may take place until a new permit is issued or the revocation is reversed by the local agency.

(c) If a permit holder fails to file a written request for a hearing under this chapter within 10 days after receipt of notice of revocation, revocation shall be final.

#### § 72.31. Conditions related to the installation of permit exempt systems.

A person installing a permit-exempt system shall indemnify and hold harmless the Commonwealth, the local agency, the sewage enforcement officer serving the municipality in which the system is located and the municipality where the system is located from and against damages to property or injuries to any persons and other losses, damages, expenses, claims, demands, suits and actions by any party against the Commonwealth, the local agency, sewage enforcement officer and the municipality in connection with the malfunctioning of the onlot sewage system installed under the permit exemption provisions of this chapter. It is the sole responsibility of the property owner who installed or contracted for the installation of a sewage system under the permit exemption provisions of this chapter or the property owner who accepted responsibility for the system upon purchase of the property under the disclosure provisions of § 72.32(a) (relating to sales contracts) to correct or have corrected any system malfunction which contaminates surface water or groundwater or discharges to the surface of the ground. Malfunctions of systems installed under this chapter which contaminate groundwater or surface water or discharge

to the surface of the ground shall constitute a nuisance and shall be abatable in a manner provided by law.

#### § 72.32. Sales contracts.

(a) Every contract for the sale of a lot which is served by an individual sewage system which was installed under the 10-acre permit exemption provisions of § 72.22(e)—(g) (relating to permit issuance) shall contain a statement in the contract that clearly indicates to the buyer that soils and site testing were not conducted and that the owner of the property or properties served by the system, at the time of a malfunction, may be held liable for any contamination, pollution, public health hazard or nuisance which occurs as the result of the malfunction of a sewage system installed in accordance with the 10-acre permit exemption provisions of § 72.22(e)—(g).

(b) Every contract for the sale of a lot served by a holding tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system and which is designed and constructed to facilitate ultimate disposal of the sewage at another site, shall contain a statement in the contract that clearly indicates that the property is served by such a tank and shall provide a history of the annual cost of maintaining the tank from the date of its installation or December 15, 1995, whichever is later.

(c) Every contract for sale of a lot which is served by an individual sewage system which was installed under § 72.33 (relating to well isolation distance exemption) with an isolation distance less than the distance specified by § 73.13 (relating to minimum horizontal isolation distances) shall contain a statement in the contract that clearly indicates to the buyer that the isolation distances required by regulation between the individual onlot system components and the well on the property being sold were not met.

(d) Every contract for the sale of a lot which is within an area in which permit limitations are in effect shall contain a statement in the contract that clearly indicates to the buyer that sewage facilities are not available for that lot and construction of a structure to be served by sewage facilities may not begin until the municipality completes a major planning requirement.

(e) Every contract for the sale of a lot for which a required revision for new land development, exception to the requirement to revise or a required supplement has not been approved shall contain a statement that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available nor may construction begin until sewage facilities planning has been approved.

(f) Every contract for the sale of a lot for which there is no currently existing community sewage system available shall contain a statement in the contract clearly indicating to the buyer that there is no community sewage system available, that a permit for an individual sewage system will have to be obtained and the buyer should contact the local agency charged with administering the act before signing the contract to determine the procedure and requirements for obtaining a permit for an individual sewage system if one has not already been obtained.

(g) A contract for the sale of a lot which does not conform to the requirements of this section is not enforceable by the seller against the buyer. Any term of the contract purporting to waive the rights of the buyer to the disclosures required in this section is void.



**§ 72.33. Well isolation distance exemption.**

(a) Any minimum distance requirement between a private well and a proposed absorption area specified in Chapter 73 (relating to standards for onlot sewage treatment facilities) is not applicable if the local agency finds that the installation of a proposed individual sewage system does not pose a threat of pollution to any well on the same lot within the distance specified by regulation. The minimum distance between a proposed individual sewage system on the applicant's lot and any wells on any other lot, regardless of the ownership of that lot, shall meet the minimum horizontal isolation distances in § 73.13 (relating to minimal horizontal isolation distances) except as provided in § 73.3(b) (relating to policy).

(b) If a repair to a malfunctioning onlot system is being considered under § 73.3(b), the requirements of this section may be waived at the sole discretion of the local agency.

(c) The applicant shall submit a formal written request for a well isolation distance exemption to the local agency. The request shall include:

- (1) Appropriate groundwater studies.
- (2) Payment of fees or costs incurred by the local agency to review the groundwater study.
- (d) Upon receipt of the items required in subsection (c), a local agency, other than a delegated agency, shall act upon an application for an exemption under this section within 45 days after receipt of a request for an exemption. A delegated agency shall act on any application for an exemption under this section within 30 days after receipt of a request for exemption.

(e) The local agency, municipality, sewage enforcement officer and Department will incur no liability as a result of the local agency granting an exemption under this section.

**Subchapter C. ADMINISTRATION OF  
PERMITTING REQUIREMENTS**

**§ 72.41. Powers and duties of sewage enforcement officers.**

(a) A sewage enforcement officer has the power and duty to issue, deny and revoke permits, and to take all other actions necessary to administer and enforce section 7 of the act (35 P. S. § 750.7), except that a sewage enforcement officer may not conduct hearings under section 16 of the act (35 P. S. § 750.16).

(b) A sewage enforcement officer shall issue permits only within the jurisdiction of the local agency in which the sewage enforcement officer is employed. When a sewage enforcement officer encounters a conflict of interest as specified in subsections (f)—(k), the local agency shall employ a certified sewage enforcement officer not having a conflict of interest regarding the system or lot.

(c) The local agency shall notify the sewage enforcement officer and the Department in writing of the specific conditions of employment, including, but not limited to, the following:

- (1) The geographic boundaries.
- (2) The specific permit applications to be processed.
- (3) The rate of compensation to the sewage enforcement officer.
- (4) The duration of employment.

(d) A sewage enforcement officer shall accept payment only from the local agency for services performed in conjunction with administration of the act.

(e) A sewage enforcement officer shall only accept an application or other processing fees for the local agency under the following conditions:

(1) The fee is in the amount prescribed by the local agency's adopted fee schedule.

(2) The fee is rendered in accordance with the local agency's adopted receipt system as required by § 72.42(a)(7) (relating to powers and duties of local agencies).

(3) The sewage enforcement officer has received written direction from the local agency to accept these fees on behalf of the local agency.

(f) A sewage enforcement officer may advise an applicant regarding available options for the planning, design and construction of an individual or community onlot disposal system, but may not select the final system design, as specified in subsection (g) except as provided by subsection (i).

(g) A sewage enforcement officer may not plan, design, construct, sell or install an individual or community onlot sewage system within the geographic boundaries of the sewage enforcement officer's authority, as specified by the local agency.

(h) A sewage enforcement officer may not, orally or in writing, suggest, recommend or require the use of any particular consultant, soil scientist or professional engineer, or any individual or firm providing these services where these services may be required or are subject to review under this article.

(i) A sewage enforcement officer may not perform consulting or design work or related services required or regulated under the act within the municipality or local agency by which the officer is employed or with which the officer has a contractual relationship unless the services are set in the fee schedule of the local agency, the fees are paid directly to the local agency and the records and products relating to consultation or design work are reviewed by and any subsequent permit is issued by another sewage enforcement officer employed by or under contract with the same local agency.

(j) A sewage enforcement officer may not conduct a test, issue a permit, participate in the official processing of an application or official review of a planning module for an individual or community onlot sewage system in which the sewage enforcement officer, a relative of the sewage enforcement officer, a business associate of the sewage enforcement officer or an employer of the sewage enforcement officer, other than the local agency, has a financial interest.

(k) For purposes of subsection (j), a financial interest includes full or partial ownership, agreement or option to purchase, leasehold, mortgage or another financial or proprietary interest in; or serving as an officer, director, employe, contractor, consultant, or another legal or fiduciary representative of a corporation, partnership, joint venture or other legal entity which has a proprietary interest in one or more of the following:

- (1) One or more lots to be served by the system.
- (2) The development or sale of the lots to be served by the system.
- (3) A contract, either written or oral, to perform a service in the development of one or more of the lots to be

served by the system. The service may be before or after the fact of development and may include professional as well as other services.

(4) A contract, either written or oral, to sell, plan, design, construct, install or provide materials or component parts for the system.

(l) Prior to issuing a permit, the sewage enforcement officer shall conduct personally, observe or otherwise confirm in a manner approved by the Department all tests used to determine the suitability of a site for an individual or community onlot sewage system. A sewage enforcement officer shall accept testing conducted by a prior sewage enforcement officer for the local agency provided the site, data and prior testing meet the criteria specified in § 72.26(b)—(d). When a sewage enforcement officer accepts testing by a prior officer, a copy of the Department's "Verification of Prior Testing" form or other form as may be specified by the Department, shall be attached to each copy of the permit application.

(m) Prior to issuing a permit, the sewage enforcement officer shall confirm that the application is complete and that the proposed system design is in compliance with the requirements of the act and this part.

(n) The sewage enforcement officer shall give timely written notice to applicants or permittees of approval, denial or revocation of a permit under this chapter.

(o) The sewage enforcement officer shall advise the local agency of a violation of the act or this part, known to the sewage enforcement officer, which occurs within the local agency's jurisdiction.

(p) The sewage enforcement officer shall advise the local agency of its responsibility to restrain a violation of the act or this part and shall independently take action within the scope of his authority necessary to restrain or correct the violation.

(q) The sewage enforcement officer shall submit the Department's copy of the completed Application For Sewage Disposal System, with necessary attachments, within 7 days of acting upon the application.

**§ 72.42. Powers and duties of local agencies.**

(a) The local agency has the power and duty to:

(1) Employ or contract with sewage enforcement officers to administer section 7 of the act (35 P. S. § 750.7) and this part.

(2) Employ or contract with other technical and administrative personnel necessary to support the activities of the sewage enforcement officer.

(3) Set rates of compensation for the sewage enforcement officer and other employees necessary for the administration of the act by the local agency.

(4) Maintain offices and purchase equipment and supplies necessary for the administration of the act.

(5) Establish a schedule of fees for the processing of applications and other services provided by the local agency. This fee schedule may establish different charges for various activities and types of systems consistent with the administrative costs of reviewing applications, conducting necessary tests and investigations and supervising the installation of the system.

(6) Collect the appropriate fees as designated in the established fee schedule. The local agency shall maintain records of income, expenses and transactions of the local agency in a manner consistent with accepted accounting practice.

(7) Establish a system of receipts of monetary transactions. The receipt system shall provide to the local agency and to the applicant a record of the amount tendered to the local agency and the specific purpose of the transaction.

(8) Adopt and maintain standards and procedures for applications and permits for individual and community onlot sewage systems identical to those of the Department, as contained in this part.

(9) Adopt and maintain other regulations the local agency deems necessary for the administration and enforcement of section 7 of the act as long as they are consistent with the act and this part.

(10) Submit reports and data to the Department as required by this part or an order of the Department.

(11) Submit to the Department annually the name and address of its certified sewage enforcement officer and alternate sewage enforcement officer.

(12) Make or cause to be made inspections and tests necessary to carry out sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act. For this purpose, the authorized representatives of the local agency have the right to enter upon lands.

(13) Proceed under sections 7, 8, 12, 13, 13.1, 13.2(b) 14, 15, and 16 of the act to restrain violations of the act and this part, and to abate nuisances in accordance with existing statutes, or as defined in the act.

(14) Notify the Department in writing within 15 days of a change in the sewage enforcement officer or his address.

(15) Cease issuing permits in designated areas when ordered to do so by the Department under section 10(7) of the act (35 P. S. § 750.10(7)), after notice and opportunity for a Departmental hearing. The local agency may issue permits in these areas for the abatement of existing health hazards and public nuisances.

(16) When applicable, establish a program for requiring, verifying, forfeiting, administering and enforcing the provision of financial assurances under § 73.151 (relating to standards for financial assurances). Costs for administering this program shall be included in the fee schedule of the local agency.

(17) Adopt by resolution a list of individuals who are sewage enforcement officers employed by companies or corporations under contract with the local agency to perform the services of sewage enforcement officers.

(18) Set and collect fees necessary to support the administrative and personnel costs of a maintenance inspection and enforcement program.

(19) Charge for engineering or consulting services required by the local agency to complete its review of a permit application. The application or review fees charged for these services shall be reasonable and in accordance with the ordinary and customary charges by the engineer or consultant for similar service in the community, and fees may not exceed the rate or cost charged by the engineer or consultant to the local agency when fees are not reimbursed by or otherwise imposed on applicants.

(i) If the applicant disputes the amount of the fees or charges, the applicant shall, within 10 working days of the date of billing, notify the local agency that the fees or expenses are disputed as unreasonable or unnecessary, in which case the local agency may not delay or disapprove an application for any approval or permit due to the applicant's dispute over fees or charges.

(ii) If, within 20 days from the date of billing, the local agency and the applicant cannot agree on the amount of fees or charges which are reasonable and necessary, the applicant and local agency shall comply with the procedure established in section 8(b)(4) of the act (35 P. S. § 750.8(b)(4)) to resolve the fee or charge dispute.

(20) Complete and provide to the applicant the results of any site suitability review, soil probe testing and soil percolation testing within 20 working days of the local agency's receipt of a permit application.

(i) The testing and results of the testing may be deferred to a later date that the applicant may request in writing or by a later date agreed to by the sewage enforcement officer and the applicant, which is confirmed in writing by the sewage enforcement officer.

(ii) A one-call system serial number shall be obtained prior to soil testing by the permit applicant or the contractor retained by the applicant to perform the test excavation. This notification shall take place no less than 3 and no more than 10 working days prior to the excavation. The deadline for permit review by the local agency in this subsection does not apply to an applicant who fails to comply with the one-call system notification requirement.

(iii) It is the obligation of the applicant to have the site prepared in the manner required by written instructions provided to the applicant after receipt of at least 48 hours' notice from the local agency or sewage enforcement officer of the anticipated time the soils tests will be performed. Written instructions shall include provisions for deferral of testing due to weather.

(iv) Failure of the local agency to comply with these time limits shall entitle the applicant, upon request, to a refund of fees paid by the applicant for soil testing that was not performed by the local agency, and the applicant shall be entitled to submit results of soils tests, on forms provided by the Department conducted in a manner consistent with this article by a certified sewage enforcement officer, who need not be employed by or under contract with the local agency. These test results shall be accepted by the local agency and its sewage enforcement officer, who shall rely upon the results of these tests in acting on an application.

(v) An applicant who, after receiving the notice of testing, fails to have the site prepared for soil testing in a manner required by the local agency, does not have the right to submit the results of soils testing performed by a certified sewage enforcement officer not employed by or under contract with the local agency, nor is the applicant entitled to a refund of fees paid for soil testing as provided in this section.

(vi) Neither the municipality, local agency, local agency's sewage enforcement officer nor the Department will be held liable on a cause of action arising out of soil tests performed under this section by a certified sewage enforcement officer not employed by or under contract with the local agency.

(21) Make inspections of and verify measurements made by applicants on public or private properties which are determined by the local agency's authorized representative to have natural or manmade features from which specific isolation distances are required prior to the approval of onlot sewage disposal system usage in subdivisions or individual lots. The local agency's authorized representative shall have the right to enter upon lands for these purposes.

(22) Determine if a proposed individual residential spray irrigation system will create a nuisance or adversely impact existing and proposed drinking water supplies and report this information to any affected municipality served by the local agency.

(23) Assure that an individual residential spray irrigation system discharge is sampled at least once per year by the property owner through a testing laboratory for fecal coliforms, carbonaceous biological oxygen demand, suspended solids and disinfectant residual or effectiveness. Individual effluent samples may not exceed a BOD<sub>5</sub> of 25 mg/l and suspended solids concentration of 30 mg/l. Free chlorine residual shall be maintained at a range of 0.2—2.0 PPM unless a higher level is required to control disease producing organisms. This disinfection shall produce an effluent which will contain a concentration not greater than 200 fecal coliform organisms per 100 milliliters in a single sample. The local agency shall review the results of these samples and the most recent system inspection conducted under § 73.167 (relating to operation and maintenance) and take any necessary action to resolve operational or maintenance problems identified through the sample results. Additional sampling may be required by the local agency if the annual sample indicates a violation of the limitations specified in this paragraph.

(24) A county health department and joint county departments of health may also administer the continuing maintenance provisions of § 71.73 (relating to sewage management programs) when the municipality relinquishes and the county health department or joint county department of health accepts the authority and conforms with § 71.73.

(b) The local agency may offer a program to provide financial assurance, for a fee, for systems installed under § 73.77 (relating to general requirements for bonded disposal systems). Financial assurance provided by the local agency shall comply with § 73.151.

(c) The local agency may not orally or in writing, suggest, recommend or require the use of a particular consultant, soil scientist or professional engineer, or an individual or firm providing these services when these services may be required or are subject to review under this part.

#### **§ 72.43. Powers and duties of the Department.**

(a) The Department is empowered to review the performance of local agencies and their sewage enforcement officers in the administration of sections 7, 8, 12, 13, 13.1, 13.2(b), 14, 15 and 16 of the act (35 P.S. § 750.7, 750.8, 750.12, 750.13, 730.13a, 750.13b(b) and 750.14—750.16).

(b) The Department and its authorized representatives may enter upon lands, make inspections and require the submission of papers, books and records by the local agency, or its sewage enforcement officer.

(c) If the Department finds that a local agency has failed to effectively administer section 7, 8, 12, 13, 13.1, 13.2(b), 14, 15 or 16 of the act or this part, the Department, in addition to other remedies it may seek at law or in equity, may order the local agency to take actions the Department deems necessary to obtain effective administration. These actions may include, but are not limited to:

(1) Negotiation with other local agencies for cooperation in areawide administration.

(2) Modification of administrative, testing or reporting procedures.

- (3) Retention of expert consultants.
- (4) Employment of additional personnel.
- (5) Satisfactory participation by the local agency's sewage enforcement officer in special training programs designed to strengthen a specific weakness in the administration of the act and this part.
- (6) Coordination of permit issuance for sewage systems with building permit issuance or with subdivision approval under local ordinances that the local agency may be administering at the time of the order.
- (d) The Department has the duty to establish a training program for sewage enforcement officers. The Department will require timely and satisfactory completion by sewage enforcement officers of training courses sponsored by the Department. Satisfactory completion means attendance at all sessions of training and attainment of a minimum grade of 70% on tests given as part of the training course.
- (e) The Department is empowered to revoke or suspend the certification of sewage enforcement officers for cause, or to reinstate the certification under this part. The actions of the Department will become final only after provision of notice and an opportunity for hearing before the Certification Board, under § 72.58 (relating to Certification Board hearings and procedures).
- (f) The Department will suspend a sewage enforcement officer's certification if the Department determines that the sewage enforcement officer has done one of the following:
  - (1) Demonstrated incompetence to act as a sewage enforcement officer as evidenced by errors in planning, administration or permit issuance duties which evidence a failure or inability to understand and apply the requirements of the act and this part.
  - (2) Failed to complete satisfactorily a sewage enforcement officer's training course required by the Department under subsection (k).
  - (3) Demonstrated negligence or provided false information related to the administration of the act or this part or committed violations of this part which are not related to the issuance of a permit.
- (g) The Department may reinstate the certification of a person within 2 years from the date of suspension or after 2 years following the effective date of a revocation. Prior to reinstatement, the Department will require, as a minimum, that the person take and pass the appropriate certification examination administered by the Certification Board. The Department may require satisfactory completion of a special training program designed to strengthen a specific weakness in the sewage enforcement officer's administration of the act or this part. The program may entail the use of testing procedures including, but not limited to:
  - (1) Field evaluation of technical performance.
  - (2) Written or oral examination of standards and procedures.
- (h) The Department will revoke the certification of a sewage enforcement officer whenever the Department determines that the sewage enforcement officer has done one of the following:
  - (1) Demonstrated a willful disregard of, or willfully or repeatedly issued permits in violation of the act or this part.

- (2) Failed repeatedly to attend mandated sewage enforcement officer's training required by the Department under subsection (k).
- (3) Failed to comply with the applicable terms of a Departmental order for effective administration of sections 7, 8, 12, 13, 13.1, 13.2(b), 14, 15 and 16 of the act.
- (4) Issued a permit at a time when his certification was suspended.
- (5) Willfully issued a permit outside of the geographic boundaries of authority specified by the local agency.
- (6) Issued a permit which he believed to be in violation of the act or this part before being directed to do so by the local agency under a hearing.
- (7) Failed to advise the local agency of a violation of the act, this part or the responsibility of the local agency to restrain the violation.
- (8) Failed to take the necessary action to restrain a violation of the act or this part.
- (9) Knowingly and willfully submitted false information to the Department or to the local agency in a report or form required by the act, this part or by order of the Department or the local agency.
- (10) Committed an act requiring suspension under subsection (f) and had his certification suspended previously.
- (11) Issued a permit in violation of § 72.41 (relating to powers and duties of sewage enforcement officers).
- (12) Had his certification suspended for more than 2 years.
- (13) Demonstrated negligence or knowingly provided false information related to the administration of the act or this part or knowingly committed violations of the act or this part which are not related to the issuance of a permit.
  - (i) The Department will consider complaints filed by local agencies or the public relating to the performance of local sewage enforcement officers as part of the Department's evaluation of the local agency and sewage enforcement officer.
  - (j) The Department may establish minimum training requirements using a Department curriculum of training as a prerequisite for applicants for certification as sewage enforcement officers. The curriculum may include a period of training under another certified sewage enforcement officer selected by the Department as a prerequisite to certification for candidates who pass the certification test.
  - (k) The Department may require a certified sewage enforcement officer whose performance has been evaluated and found deficient to complete a training course which may include a curriculum of training or a period of training under the direction of another certified sewage enforcement officer selected by the Department for a time period established by the Department.
    - (1) The Department may require this training as an alternative to suspension or as a requirement for reinstatement of a suspended certification.
    - (2) The local agency employing the training sewage enforcement officer shall authorize that officer to provide the training services within the jurisdiction of that local agency.
    - (3) The costs of Department-required training incurred by the training sewage enforcement officer and the local

agency employing the training sewage enforcement officer shall be paid by the Department from funds made available under section 13.2 of the act (35 P.S. § 750.13b).

(l) The Department may delegate the review of certain alternate sewage systems as designated by the Department to sewage enforcement officers, within the area of their jurisdiction, qualified by the Department to review the systems.

(m) The Department has the duty to require local agencies to take necessary action to provide timely service, including, but not limited to, utilizing the services of an alternate sewage enforcement officer, employing temporary sewage enforcement officers and entering into contracts for service.

#### § 72.44. Reimbursement.

(a) Reimbursement may not exceed the total program cost minus total program income.

(b) Except as provided in subsection (c) the Department will reimburse local agencies to the extent of the appropriations made by the General Assembly for that purpose. Reimbursement shall be made annually in an amount equal to 1/2 of eligible expenses of administering and enforcing sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act (35 P.S. §§ 750.7, 750.8, 750.12, 750.13, 750.13a and 750.14—750.16), as defined by subsections (h)—(j).

(c) A local agency complying with the act in a manner deemed satisfactory by the Department will be reimbursed in an amount equal to 85% of the cost of the expenses incurred in the administration and enforcement of the act from funds specifically appropriated by the General Assembly for this purpose if the local agency submits documentation which supports that it qualifies for the increased reimbursement as provided in subsection (d). Eligible expenses are defined in subsections (h)—(j).

(d) To qualify for 85% reimbursement, a local agency shall:

(1) Document the acceptance, delegation or transfer of the administration of sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of the act from one or more municipalities.

(2) Employ or contract with at least one sewage enforcement officer actively engaged in activities related to the administration of the act in that local agency at least 1,200 hours per year, including leave and holidays.

(3) Employ or contract with adequate administrative support staff.

(4) Employ or contract with one alternate sewage enforcement officer.

(5) Employ or contract with a qualified soil scientist.

(6) Submit to the Department for review and comment administrative procedures, permit procedures, ordinances of the member municipalities related to the administration of the act, rules, regulations, permit-related fee schedules and contracted services proposed for use in the local agency.

(7) Employ or have a contractual arrangement with sufficient technical staff to provide for local agency response to signed written requests for service within the time frames established by the administrative procedures and regulations of the local agency.

(e) Applications for reimbursement shall be in quadruplicate, on the appropriate form supplied by the Department, and received by the Department of Environmental Protection, Post Office Box 8466, Harrisburg, Pennsylvania

17105-8466, no later than March 1 each year for expenses incurred during the prior calendar year. Upon cause shown, the Secretary may extend the March 1 deadline for the filing of applications for reimbursement for not more than 60 days.

(f) Applications for reimbursement shall include the following:

(1) An itemized statement in the form of an employe time and activity record.

(2) A report of total fees, fines and other money collected by the local agency during the calendar year in the enforcement of the act.

(3) The Department central file copies of the Application for Sewage Disposal System permit denials, final inspections and expirations during the prior calendar year.

(4) Municipal ordinances, acts, regulations or procedures used in enforcing the act for local agencies applying for reimbursement for the first time or when major changes are made.

(5) Copies of additions, deletions and amendments made during the preceding calendar year to municipal ordinances, acts or procedures used in enforcing the act.

(6) Proof of payment of expenses claimed, as specified in subsection (k).

(7) A copy of the schedule of fees charged to the permit applicant.

(g) An employe time and activity record shall be kept by the local agency. This is an itemized record noting the employe's name, the date of duty and application number for each task performed, the complaint or malfunction investigated, related administrative or clerical duties performed, hours spent, miles travelled and applicable hourly rate of pay, not including fringe benefits.

(h) Costs associated with the following are eligible for reimbursement, when related to enforcement and administration of the sewage facilities permitting program:

(1) Permit application processing activities, including soil evaluation and testing procedures.

(2) Administrative, management or clerical activities.

(3) Postage, office supplies and duplicating.

(4) Nonmechanically powered tools for the sewage enforcement officer's use.

(5) Costs of purchasing office equipment and maintaining offices, including building maintenance and utilities prorated on an equitable basis with other services.

(6) Employer costs for social security, workers' compensation, unemployment compensation and the following fringe benefits:

(i) Health care.

(ii) Pension programs.

(iii) Life insurance.

(iv) Errors and omissions insurance written specifically and billed separately to cover the sewage enforcement officer's enforcement responsibilities where the defense of official immunity, under 42 Pa.C.S. § 8546 (relating to defense of official immunity), is not applicable to the sewage enforcement officer.

(7) Mileage expenses at the Commonwealth rate for application processing, complaint and malfunction investigations, and required Department training courses or

other related meetings or functions required by the Department. The reimbursement of mileage expenses at the Commonwealth rate includes the cost to maintain automotive insurance coverage, and shall be the exclusive means for reimbursement of the costs.

(8) Expenses for sewage enforcement officers to attend required Department training courses or other related meetings or functions required by the Department including:

(i) Regular rate of pay for the actual hours of attendance at the course.

(ii) Lodging, meals and subsistence at the Commonwealth rate when the course is outside a 50-mile radius of both the sewage enforcement officer's place of employment and residence and no course has been scheduled within that 50-mile radius.

(9) Chemical and bacteriological supplies and analysis for confirming violations.

(10) The legal daily rate and mileage expenses for subpoenaed witnesses at a hearing.

(11) Legal services costs incurred for:

(i) Prosecuting or restraining violations and defending against appeals.

(ii) Preparing ordinances consistent with and necessary for enforcement of the act and this part.

(iii) Preparing for and conducting hearings.

(12) The legal daily rate and mileage expenses for subpoenaed witnesses at a hearing before a magistrate, when the witnesses are essential to substantiate a violation.

(13) Fees for special consultants retained by the local agency for technical consultation on specific permits.

(14) Investigations and inspections related to complaints and malfunctions.

(i) Costs associated with the staffing and administration of a sewage management program under Chapter 72, Subchapter E (relating to sewage management programs) are eligible costs.

(g) Ineligible costs include, but are not limited, to the following:

(1) Retainer fees.

(2) Legal fees resulting from an appeal or suit against the Commonwealth.

(3) Expenses for use of earth moving or excavating equipment.

(4) Clothing purchase or allowance.

(5) Development or duplication of maps.

(6) Payment for surveillance activities by employees other than sewage enforcement officers.

(7) Sewage enforcement officer certification or renewal fees and other related expenses, such as mileage and travel expenses to the certification examination.

(8) Activities and costs associated with improper administration of the act.

(9) Cost to the local agency to maintain insurance coverage in the following areas:

(i) Errors and omissions except as provided in subsection (h)(6)(iv).

(ii) Liability.

(10) Expenses for activities resulting from the submission of additional information to supplement a reimbursement application or from activities performed as a result of a Department audit.

(11) Expenses for employee attendance at local agency meetings which do not pertain to administration of section 7, 8, 12, 13, 13.1, 14, 15 or 16 of the act.

(12) Fixed or indirect costs other than those in subsection (h)(5).

(k) Proof of payment of expenses claimed shall, at a minimum, include the following:

(1) Payroll records or copies of both sides of cancelled checks stating the gross amount paid or a statement from the sewage enforcement officer certifying that he has received salaries or wages from the municipality of which he is a full-time employee.

(2) One copy of the time and activity record or receipted itemized invoices.

(3) Proof of attendance at training courses required by the Department. Reimbursable expenses for attendance at the courses shall be identified separately under "other expenses" in the reimbursement application.

(4) Copies of hotel receipts for overnight lodging.

(5) Minutes of local agency meetings for which employee attendance is claimed as a reimbursable expense which reflect discussions involving the administration of section 7, 8, 12, 13, 13.1, 14, 15 or 16 of the act.

(i) The Department may withhold reimbursement for falsification of information included in or submitted in support of the application, or for intentional omission of information required to be submitted with the application.

**Subchapter D. CERTIFICATION OF SEWAGE ENFORCEMENT OFFICERS**

**§ 72.52. Conditions of certification or reinstatement of certification.**

(a) The Certification Board shall issue a sewage enforcement officer certificate to a person who meets the following:

(1) Is a natural person or individual. Associations, partnerships or corporate entities are not qualified for certification.

(2) Has passed an applicable examination prepared by the Department.

(3) Has not had his certification revoked previously. After 2 years from a previous revocation, the Certification Board may reexamine and reinstate the certification of a person if that person requests reinstatement. In determining fitness for reinstatement, the Certification Board shall consider the nature and gravity of the misconduct which resulted in the previous revocation and the recommendation of the Department.

(4) Has not had his certification lapsed due to failure to complete mandatory training during a previous renewal cycle unless the training has been subsequently completed.

(b) Certification shall be for a period of up to 2 years. Upon the payment of a fee of \$50 by the certificateholder, the Certification Board shall renew a valid certificate of a qualified applicant, except that applicants for renewal who are employed by the Commonwealth in administering the act and whose activities under the act are limited solely to Commonwealth service are not subject to the fee

requirements of this subsection. Fees collected in excess of the actual administrative cost to the Certification Board to process certification renewals shall be dedicated to training sewage enforcement officers.

(c) If the Certification Board does not meet with in 30 days of receiving the examination results from the certification testing contractor, an applicant for certification who meets the requirements of subsection (a) will be deemed certified, except that an applicant who is in violation of the regulations under the act or who is restrained from certification by § 72.43 (relating to powers and duties of the Department) will not be deemed certified.

**§ 72.53. Certification examination.**

(a) The Department will prepare an examination to be used by the Certification Board in determining the fitness of candidates for certification and will establish the passing grade for the examination and for each part of the examination in the areas of sewage facilities planning, program administration, technical criteria and enforcement.

(b) The Department will submit the examination to the Certification Board, which shall by letter to applicants at least 25 days prior to each examination announce the location, time, scope and passing grade for the examination. Annually, the Board will publish in the *Pennsylvania Bulletin* the dates, sites, scope and passing grade for all examinations scheduled in that calendar year.

(c) The Certification Board will schedule a date for the examination at least four times in each calendar year.

(d) An individual who takes, but does not successfully pass the examination on three occasions, is not permitted to retake the examination administered by the Certification Board for 1 year, and until the applicant has completed a training course approved by the Department. Thereafter, a candidate may take the examination only once in a calendar year until the examination is passed.

**§ 72.54. Applications for certification.**

(a) Correctly completed applications, documentation of the successful completion of required precertification training courses and an application fee of \$25 shall be received by the Board at least 40 days prior to scheduled examinations.

(b) Incomplete or erroneous applications shall be returned to the applicant.

(c) The application fee is a processing fee and may not be refunded.

**§ 72.55. Certification renewal.**

(a) Application for renewal will be sent to certified sewage enforcement officers at least 2 months prior to renewal date. In addition to the application, a curriculum of mandatory training will be sent to any sewage enforcement officer who has not completed the required training.

(b) An applicant for renewal of certification shall submit a signed application for renewal, with fee, to the Certification Board by the renewal date. When the application for renewal is submitted later than the renewal date, but no later than 2 years after the renewal date, the Certification Board may renew a certification for good cause shown.

(c) If the applicant has not completed a training course required by the Department for certification renewal by the renewal date, the certificate will lapse.

(d) If a sewage enforcement officer's certification lapses, a new certification shall be obtained under § 72.52 (relating to conditions of certification).

**§ 72.58. Certification Board hearings and procedures.**

(a) Actions by the Department to revoke or suspend sewage enforcement officer certifications become final only after notice and opportunity for a hearing before the Certification Board. The filing of an appeal with the Certification Board does not operate as an automatic supersedeas of the action of the Department. If no request for a hearing is filed with the Secretary of the Certification Board within 30 days of receipt of notice of the action by the certificateholder, the action becomes final. Requests for a hearing shall set forth with specificity the grounds for the appeal, including objections to the Department's action. If the request for a hearing does not specify the grounds for the appeal, the certificateholder shall, upon notification from the Secretary of the Certification Board, be given the opportunity to file an amended request for a hearing within 30 days of receipt of the notification. The amended request shall conform to the content requirements for a request for a hearing. The Certification Board may dismiss an appeal if a certificateholder fails to file an amended request for a hearing or to comply with the requirements for filing an amended request for a hearing. The adjudications of the Certification Board shall otherwise be in accordance with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

(b) In hearings before the Certification Board, 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) applies, unless it is inconsistent with this chapter. Discovery in hearings before the Certification Board shall be permitted as provided in the Pa.R.C.P.

(c) In proceedings before the Certification Board, the burden of proceeding and the burden of proof is the same as at common law, in that the burden normally rests with the party asserting the affirmative of an issue. The affirmative of the issue shall be established by a preponderance of the evidence. The Certification Board may require the other party to assume the burden of proceeding with the evidence in whole or in part, if that party is in possession of facts or should have knowledge of facts relevant to the issue.

(d) Actions and adjudications of the Certification Board shall be by a vote of a majority of members present at a meeting called for consideration of the action or adjudication. Three members of the Certification Board constitute a quorum.

(e) The Certification Board may hear matters brought before it as a whole or may appoint hearing examiners. Hearings held by hearing examiners not members of the Certification Board shall be decided by the Board based upon its review of the record and the examiner's proposed adjudication.

(f) An applicant is not entitled to a hearing when a certificate was denied because the applicant failed to pass the certification examination or failed to successfully complete a training program required by the Department.

CHAPTER 73. STANDARDS FOR ONLOT SEWAGE TREATMENT FACILITIES

GENERAL

§ 73.1. Definitions.

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

\* \* \* \* \*

Aggregate—Coarse material manufactured from stone, gravel or slag, having Type B characteristics as described in Department of Transportation specifications, Form 408, section 703.3, Table B and uniform size and grading equivalent to American Association of State Highway and Transportation Officials No. 57, as described in Form 408, section 703.3, 2 Table C.

Agricultural areas—Areas used primarily for the production of crops and where the soil is without vegetative cover during certain periods of the year.

Alternate sewage system—A method of demonstrated onlot sewage treatment and disposal not described in this chapter.

\* \* \* \* \*

Buried sand filter—A system of piping, sand media, aggregate and collection piping in a buried liner used for the intermittent filtration and biochemical treatment of sewage.

Clean Streams Law—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Conventional sewage system—A system employing the use of demonstrated onlot sewage treatment and disposal technology in a manner specifically recognized by this chapter. The term does not include alternate or experimental sewage systems.

Dosing pump—The pump housed in a dosing tank which provides a measured volume of sewage effluent to the pressurized distribution system in an absorption area.

Experimental sewage system—A method of onlot sewage treatment and disposal not described in this title which is proposed for the purpose of testing and observation.

Filter tank—The tank housing the piping and sand of the free access sand filter.

Forested areas—Areas where the predominant vegetative cover is comprised of trees with a closed canopy.

Free access sand filter—An accessible system of tanks, dose piping, sand media, aggregate and collection piping used for the intermittent filtration and biochemical treatment of sewage.

Geotextile—Material consisting of mesh polypropylene, polyester, nylon or similar material, used to prevent migration of fine aggregate into coarser aggregate.

Grassed area—An area where the predominant vegetative cover is comprised of grasses, bushes or trees not forming a closed canopy.

Individual residential spray irrigation system—An individual sewage system which serves a single dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

\* \* \* \* \*

Lift pump—A submersible pump used to convey effluent to the sand filter and from the sand filter to the chlorine/retention tank.

Municipality—A city, incorporated town, township, borough or home rule municipality other than a county.

NSF—National Sanitation Foundation.

\* \* \* \* \*

Person—The term includes an individual; association; public or private corporation for-profit or not-for-profit; partnership; firm; trust; estate; department; board; bureau or agency of the United States or the Commonwealth; political subdivision; municipality; district; authority; or other legal entity which is recognized by law as the subject of rights and duties. The term includes the members of an association, partnership or firm and the officers of a local agency or municipal, public or private corporation for-profit or not-for-profit.

\* \* \* \* \*

Retaining tank—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes the following:

\* \* \* \* \*

Sewage—A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals; a substance harmful to the public health, to animal or aquatic life or to the use of water for domestic water supply or for recreation; or a substance which constitutes pollution under The Clean Streams Law.

Sewage enforcement officer—An official of the local agency who reviews permit applications and sewage facilities planning modules and issues permits as authorized by the act and conducts the investigations and inspections that are necessary to implement the act and regulations thereunder.

Sewage facilities—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

(i) Individual sewage system—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal.

(A) Individual onlot sewage system—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating or disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.

(B) Individual sewerage system—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

(ii) Community sewage system—A sewage facility, whether publicly or privately-owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) Community onlot sewage system—A community sewage system which uses a system of piping, tanks or



other facilities for collecting, treating and disposing of sewage into a soil absorption area or retaining tank.

(B) *Community sewerage system*—A publicly or privately-owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

*Small flow treatment facility*—An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using a stream discharge or other methods approved by the Department.

\* \* \* \* \*

*Soil mottling (redoximorphic features)*—A soil color pattern consisting of patches of different colors or shades of color interspersed with the dominant soil color which results from prolonged saturation of the soil.

\* \* \* \* \*

*Solids retainer*—A deflection device at the outlet tee or baffle of a septic tank designed to deflect buoyed solids from escaping the tank.

*Spray field*—Piping, spray heads and ground surface to the outside edges of the wetted perimeter, used for the application and treatment of the sewage effluent in an individual residential spray irrigation system.

\* \* \* \* \*

*Undisturbed soil*—Soil or soil profile, unaltered by removal or other man-induced changes, except for agricultural activities, that would adversely affect the siting or operation of onlot systems.

\* \* \* \* \*

**§ 73.2. Scope.**

This chapter applies to sewage enforcement officers administering the act, as well as to persons installing individual onlot sewage systems or community onlot sewage systems as defined in this chapter.

**§ 73.3. Policy.**

(a) A person planning or designing a facility or intending to utilize individual or community sewage systems is advised of the importance of good water conservation practices and the potential value of water conservation, recycle or reuse systems as a means of prolonging the life of the sewage system, as well as ensuring the availability of adequate water supplies in the future.

(b) When considering corrective measures for malfunctioning sewage disposal systems which have been constructed in accordance with this chapter or applicable regulations at the time of construction, the efforts of the local agency or the Department will not be restricted by this chapter. It will be the policy of the Department and local agencies administering this chapter to first consider all individual onlot and community onlot sewage systems described in this chapter, excluding holding tanks, in the correction of existing malfunctions and, when the systems cannot be constructed in accordance with this chapter, to provide the best technical guidance possible in attempting to resolve existing pollution or environmental health problems. When application of best technical guidance results in the absorption area or spray field encroaching on the regulated isolation distance to a well, the proper well abandonment procedure or the relocation of the well should be considered. The requirements of § 72.33 (relating to well distance exemption) may be waived at the discretion of the local agency. This policy will not limit or

preclude the use of experimental systems as provided in §§ 73.71 and 73.72 (relating to experimental sewage systems; and alternate sewage systems), small flow treatment systems permitted under the Clean Streams Law or, when no other alternatives are available, holding tanks.

(c) The Department recognizes the existence of technologies related to onlot sewage disposal which are not specifically addressed in this chapter as well as technologies from other disciplines which may be applied to the design or construction of an onlot sewage disposal system. Experimental sewage system permits provide a method for the testing and evaluation of new concepts and technologies applicable to onlot disposal in this Commonwealth. Experimental permits may be limited in number on a Statewide basis. The Department will determine the number of experimental permits that may be issued for a specific experimental technology or design. An experimental onlot sewage disposal system permit shall be required for all technologies, methods, system components, systems and designs the Department deems experimental. Alternate sewage systems provide a classification for innovative and alternative technology which has been developed through the experimental program, by application of existing technologies from other disciplines or through technological advances from other areas of the United States. The alternate sewage system permit will provide a method for utilizing proven technologies within this Commonwealth without constant changes to this chapter. Systems shall be permitted only where it is demonstrated that the proposed system will protect the public health and prevent pollution of the waters of this Commonwealth.

**GENERAL SITE LOCATION AND ABSORPTION AREA REQUIREMENTS**

**§ 73.11. General.**

(a) A person may not install, and a sewage enforcement officer may not issue a permit for or approve, a sewage system which violates this chapter.

(b) A structure may not be occupied before the sewage system is finally inspected, approved and covered. Except when the sewage enforcement officer requires a change to the installation schedule because of weather and soil conditions, the permit may be modified with conditions to be established by the local agency to allow use of a septic tank as a temporary holding tank. In these instances, §§ 71.61 and 71.63(b)(1) and (2), (c)(1) and (2), 73.61 and 73.62(b) do not apply. Absorption areas shall be covered by the permittee within 5-calendar days after final inspection and approval to prevent damage.

(c) Liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. A sewage system may not discharge untreated or partially treated sewage to the surface of the ground or into the waters of this Commonwealth except as specifically permitted under sections 202 and 207 of the Clean Streams Law (35 P. S. §§ 691.202 and 691.207) and individual residential spray irrigation systems permitted by local agencies under section 7.3 of the act (35 P. S. § 750.7c).

(d) Where additional absorption area is installed to increase the total area of an existing system and flows are generated from a common treatment tank, loading per square foot of the new area and the existing area shall be equal.

(e) Discharge from roof gutters, foundation drainage, floor drains not from sewage generating connections and

surface runoff may not be discharged to a treatment tank; nor may the discharges be permitted to flow over an absorption area or spray fields.

(f) The discharge of inadequately disinfected effluent or the discharge of effluent in a manner inconsistent with the system design specifications from an individual residential spray irrigation system shall constitute a nuisance.

**§ 73.12. Site location.**

(a) A proposed absorption area or spray field having the following characteristics shall be considered unsuitable for the installation of an onlot system or an individual residential spray irrigation system and a permit shall be denied where:

(1) The slope of the proposed absorption area or spray field is greater than 25%.

(2) The area is identified by completed Federal Flood Insurance mapping as a floodway. Where there is no flood mapping, a flood way extends 50 feet from the top of the stream bank as determined by the local agency. This paragraph is not applicable to spray fields.

(3) One or more rock outcrops exist within the proposed absorption area.

(4) In areas underlain by limestone, depressions left by earlier sinkholes exist either in whole or in part within the proposed absorption area or spray field.

(b) Absorption areas or spray fields may not be placed in or on fill unless the fill has remained in place for a minimum of 4 years to allow restoration of natural permeability. The fill shall be composed of clean mineral soil and meet the provisions of § 73.14 (relating to site investigation).

(c) Absorption areas or spray fields shall be sited only in or on undisturbed soils.

**§ 73.13. Minimum horizontal isolation distances**

(a) Minimum horizontal isolation distances shown in subsections (b)—(e) shall be maintained between the sewage disposal system and the features itemized except as provided by § 72.33 (relating to well isolation distance exemption). If conditions warrant, greater isolation distances may be required.

(b) The minimum horizontal isolation distances between the features named and treatment tanks, dosing tanks, lift pump tanks, filter tanks and chlorine contact/storage tanks shall comply with the following:

- (1) Property line, easement or right-of-way—10 feet.
- (2) Occupied buildings, swimming pools and driveways—10 feet.
- (3) An individual water supply or water supply system suction line—50 feet.
- (4) Water supply line under pressure—10 feet.
- (5) Streams, lakes or other surface waters—25 feet.
- (6) A cistern used as a water supply—25 feet.

(c) The following minimum horizontal isolation distances shall be maintained between the features named and the perimeter of the aggregate in the absorption area:

- (1) Property line, easement or right-of-way—10 feet.
- (2) Occupied buildings, swimming pools and driveways—10 feet.

(3) An individual water supply or water supply system suction line—100 feet.

(4) Water supply line under pressure—10 feet.

(5) Streams, water courses, lakes, ponds or other surface water—50 feet (for the purposes of this chapter wetlands are not surface waters).

(6) Other active onlot systems—5 feet.

(7) Surface drainageways—10 feet.

(8) Mine subsidence areas, mine bore holes or sink holes—100 feet.

(9) Rock outcrop or identified shallow pinnacle—10 feet.

(10) Natural or manmade slope greater than 25%—10 feet.

(11) A cistern used as a water supply—25 feet.

(12) Detention basins, retention basins and stormwater seepage beds—10 feet.

(d) The following minimum horizontal isolation distances shall be maintained between the features named and the wetted perimeter of the spray field:

- (1) Property lines, easements or right of ways—25 feet.
- (2) Occupied buildings and swimming pools—100 feet.
- (3) An individual water supply or water supply suction line—100 feet.
- (4) A cistern used as a water supply—25 feet.
- (5) Water supply line under pressure—10 feet.
- (6) Streams, watercourses, lakes, ponds or other surface waters—50 feet. For the purposes of this chapter wetlands are not surface waters.
- (7) Mine subsidence, boreholes, sinkholes—100 feet.
- (8) Roads or driveways—25 feet.
- (9) Unoccupied buildings—25 feet.
- (10) Rock outcrop—25 feet.

(e) The area within the wetted perimeter of the spray field may not be sited over an unsuitable soil profile

**§ 73.14. Site investigation.**

(a) *Absorption area.* Soil tests to determine the presence of a limiting zone and the capacity of the soil to permit the passage of water shall be conducted prior to permit issuance.

(1) On all locations where the installation of an absorption area is proposed, at least one excavation for examination of the soil profile shall be provided.

(2) The depth of the excavation shall be to the top of the limiting zone, or a maximum of 7 feet.

(3) All soil profile excavations shall be conducted within 10 feet of the proposed absorption area. A description of the soil profile shall be recorded on the site investigation and percolation test report form for onlot disposal of sewage issued by the Department.

(4) Where soil has been removed by grading or excavation, the surface of the undisturbed soil shall be considered to be the point from which the depth to limiting zone is measured. Excavating soil to system installation depth for the purpose of installing the system may not be considered disturbing the soil.

(5) When the examination of the soil profile reveals a limiting zone within 20 inches of the mineral soil surface,

percolation tests may not be conducted and a permit will be denied except as provided in § 73.77 (relating to general requirements for bonded disposal systems).

(6) Where examination of the soil profile reveals the absence of a limiting zone within 20 inches of the mineral soil surface, percolation tests shall be performed within the proposed absorption area. The average percolation rate shall be within the range indicated in § 73.16 (relating to absorption area requirements).

(7) The location and depth to the limiting zone of all soil profile excavations and the location of all percolation tests conducted on a lot shall be indicated on the plot plan of the Application for Sewage Disposal System issued by the Department or attached diagram.

(b) *Spray field.*

(1) Soil tests to determine the presence of a limiting zone shall be conducted prior to permit issuance.

(2) A minimum of 4 soil profile evaluations shall be evenly spaced within 10 feet of the perimeter of the proposed spray field when the spray field is less than or equal to 20,000 square feet.

(3) Spray fields in excess of 20,000 square feet shall be evaluated by evenly spacing the soil profiles within 10 feet of the perimeter of the proposed spray field at intervals of 100 feet or less.

(4) Soil profile information collected within the proposed spray field area shall be considered in the design and permitting of the system. Additional soils profiles, both on the perimeter or within the proposed spray field, may be required when the sewage enforcement officer identifies trends in the soils profiles or surface features which document variable soils conditions in the area of the proposed spray field. These trends include, but are not limited to, unsuitable soil areas mixed with suitable soils within the proposed site and surface features such as rock outcrops, mine subsidence, boreholes and sink-holes.

(5) Soil profiles shall be evaluated to the depth of bedrock, or rock formation or 40 inches whichever is shallower.

(6) When the examination of the soil profile reveals a limiting zone of a seasonal high water table within 10 inches of the mineral soil surface or a limiting zone as indicated by bedrock or coarse fragments with insufficient fine soil to fill voids that are located within 16 inches of the mineral soil surface, a permit for an individual residential spray irrigation system will be denied.

**§ 73.15. Percolation tests.**

Percolation tests shall be conducted in accordance with the following procedure:

(1) *Number and location.* Six or more tests shall be made in separate test holes spaced uniformly over the proposed absorption area site.

(2) *Results.* Percolation holes located within the proposed absorption area shall be used in the calculation of the arithmetic average percolation rate.

(3) *Type of hole.* Holes having a uniform diameter of 6 to 10 inches shall be bored or dug as follows:

(i) To the depth of the proposed absorption area, where the limiting zone is 60 inches or more from the mineral soil surface.

(ii) To a depth of 20 inches if the limiting zone is identified as seasonal high water table, whether perched

or regional; rock formation; other stratum; or other soil condition which is so slowly permeable that it effectively limits downward passage of effluent, occurring at less than 60 inches from the mineral soil surface.

(iii) To a depth 8 inches above the limiting zone or 20 inches, whichever is less, if the limiting zone is identified as rock with open joints or with fractures or solution channels, or as masses of loose rock fragments including gravel with insufficient fine soil to fill the voids between the fragments, occurring at less than 60 inches from the mineral soil surface.

(4) *Preparation.* The bottom and sides of the hole shall be scarified with a knife blade or sharp-pointed instrument to completely remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. Loose material shall be removed from the hole. Two inches of coarse sand or fine gravel shall be placed in the bottom of the hole to protect the soil from scouring and clogging of the pores.

(5) *Procedure for presoaking.* Holes shall be presoaked, according to the following procedure, to approximate normal wet weather or in-use conditions in the soil:

(i) *Initial presoak.* Holes shall be filled with water to a minimum depth of 12 inches over the gravel and allowed to stand undisturbed for 8 to 24 hours prior to the percolation test.

(ii) *Final presoak.* Immediately before the percolation test, water shall be placed in the hole to a minimum depth of 6 inches over the gravel and readjusted every 30 minutes for 1 hour.

(6) *Determination of measurement interval.* The drop in the water level during the last 30 minutes of the final presoaking period shall be applied to the following standard to determine the time interval between readings for each percolation hole:

(i) If water remains in the hole, the interval for readings during the percolation test shall be 30 minutes.

(ii) If no water remains in the hole, the interval for readings during the percolation test may be reduced to 10 minutes.

(7) *Measurement.* After the final presoaking period, water in the hole shall again be adjusted to approximately 6 inches over the gravel and readjusted when necessary after each reading.

(i) Measurement to the water level in the individual percolation holes shall be made from a fixed reference point and shall continue at the interval determined from paragraph (6) for each individual percolation hole until a minimum of eight readings are completed or until a stabilized rate of drop is obtained whichever occurs first. A stabilized rate of drop means a difference of 1/4 inch or less of drop between the highest and lowest readings of four consecutive readings.

(ii) The drop that occurs in the final period in percolation test holes, expressed as minutes per inch, shall be used to calculate the arithmetic average percolation rate.

(iii) When the rate of drop in a percolation test is too slow to obtain a measurable rate, the rate of 240 minutes per inch shall be assigned to that hole for use in calculating the arithmetic average percolation rate. The absorption area may be placed over holes with no measurable rate when the average percolation rate for the proposed absorption area is within the limits established in § 73.16 (relating to absorption and spray field area requirements), Table A.

(iv) When a percolation test hole is dry at the end of a 10 minute testing interval, that hole may not be used in the calculation of the arithmetic average percolation rate. If 1/3 or more of the percolation test holes are dry at the end of a 10 minute testing interval, the proposed absorption area may not be designed or installed over these holes unless the local agency determines that an anomaly caused the fast percolation rate and a retest of the area is within the acceptable percolation rate limits. If no anomaly is discovered, the local agency may accept the percolation test results from the remaining holes if the results are supplemented with the results of additional percolation testing conducted outside of the area in which the dry percolation holes were found.

**§ 73.16. Absorption and spray field area requirements.**

(a) *General.* Absorption areas and spray fields for single family dwellings not served by a community sewage system shall be designed based on a minimum flow of 400 gpd for all dwellings having three bedrooms or less. The minimum flow of 400 gpd shall be increased by 100 gpd for each bedroom over three.

(b) *Absorption areas.*

(1) Only the bottom of the aggregate area of the bed or trench shall be used in calculating absorption area requirements.

(2) Absorption area requirements for single family dwellings served by a community sewage system and for apartments or nonresidential establishments served by an individual onlot or community onlot sewage system shall be designed based on flows listed in § 73.17 (relating to sewage flows) for the type of facility to be served.

(3) For nonresidential establishments, a volume of 200 gpd shall be the minimum volume used in calculating the size of the absorption area.

(c) *Required absorption area.* Table A shall be used in calculating the square footage of absorption area required based on flows determined in subsections (a) and (b). Table A includes allowances for garbage grinders, automatic washing machines or dishwashers and water softeners.

(d) *Substitute.* When a substitute for aggregate, such as a leaching chamber, large diameter pipe, or other material or device, is used in the absorption area, subsection (b)(1) applies.

**TABLE A  
Minimum Aggregate Absorption Area Requirements for Treatment Tank Effluent:**

Average Percolation Rate Expressed as Minute Per Inch	Square Feet of Aggregate Area Per Gallon Per Day	
	All Systems Except Elevated Sand Mounds and Subsurface Sand Filters	Subsurface Sand Filters and Elevated Sand Mounds
Less than 3.0 <sup>D</sup>	Unsuitable	Unsuitable
3 - 5 <sup>C</sup>	Unsuitable	1.50 <sup>AB</sup>
6 - 15 <sup>C</sup>	1.19 <sup>B</sup>	1.50 <sup>AB</sup>
16 - 30 <sup>C</sup>	$(\text{Avg. Perc Rate} - 15) \times (0.040) + 1.19^{\text{B}}$	1.50 <sup>AB</sup>
31 - 45 <sup>C</sup>	$(\text{Avg. Perc Rate} - 30) \times (0.030) + 1.79^{\text{B}}$	$(\text{Avg. Perc Rate} - 30) \times (0.026) + 1.50^{\text{AB}}$
46 - 60 <sup>C</sup>	$(\text{Avg. Perc Rate} - 45) \times (0.028) + 2.24^{\text{B}}$	$(\text{Avg. Perc Rate} - 45) \times (0.022) + 1.89^{\text{A}}$
61 - 90 <sup>C</sup>	$(\text{Avg. Perc Rate} - 60) \times (0.023) + 2.66^{\text{A}}$	$(\text{Avg. Perc Rate} - 60) \times (0.020) + 2.22^{\text{A}}$
91 - 120 <sup>ACD</sup>	Unsuitable	$(\text{Avg. Perc Rate} - 90) \times (0.017) + 2.82^{\text{A}}$
121 - 150 <sup>CD</sup>	Unsuitable	$((\text{Avg. Perc Rate} - 120) \times (0.015) + 3.33) (1.05)^{\text{A}}$
151 - 180 <sup>CD</sup>	Unsuitable	$((\text{Avg. Perc Rate} - 150) \times (0.014) + 3.78) (1.10)^{\text{A}}$
Greater than 181 <sup>CD</sup>	Unsuitable	Unsuitable

A Pressure dosing required.

B One third reduction may be permitted for use of an aerobic tank.

C May be considered for experimental or alternate proposals.

D Unsuitable for subsurface sand filters.

(e) *Spray fields.* Table B shall be used in calculating the square footage of spray fields based on flows determined in Subsection (a). Table B includes allowances for garbage grinders, automatic washing machines, dishwashers and water softeners.

TABLE B

Soil Characteristics		Slope	Required Spray Field Area (Ft <sup>2</sup> )	
Depth To Rock	Depth To Water Table		3 Bedroom Home	Additional Area Per Bedroom
16 to 20 inches	10 to 40 inches	≤12%	40,000	10,000
		≥12%	80,000	20,000
	>40 inches	≤12%	15,000	3,750
		>12%	30,000	7,500
>20 inches	10 to 20 inches	≤12%	20,000	5,000
		≥12%	40,000	10,000
	>20 inches	≤12%	10,000	2,500
		>12%	20,000	5,000

§ 73.17. Sewage flows.

(a) The flow figures in this subsection and subsection (b) are peak daily flows for the design of community onlot sewage systems. These flow figures are not intended to be used for the calculation of flows for the design of community sewerage systems or for the allocation of flows related to community sewerage systems. Design and permit sewage flows for a community sewerage system are to be calculated using the procedures established in the Department's "Domestic Wastewater Facilities Manual." The sewage flow from single family dwellings served by a community onlot sewage system or from apartments, rooming houses, hotels and motels served by an individual or community sewage system shall be determined from the following table:

Type of Establishment Residential	Gallons/Unit/day Gallons/unit	BOD/unit
Hotels and motels	100	.30
Multiple family dwellings and apartments, including townhouses, duplexes and condominiums	400	1.13
Rooming houses (per unit)	200	.60
Single family residences	400*	.90

\*For units of 3 bedrooms or less; for each bedroom over 3, add 100 gallons.

(b) The sewage flow, which shall exclude any industrial waste, for nonresidential establishments served by an individual or community sewage system shall be determined from the following table:

Type of Establishment Commercial	Gallons/day	BOD/day
Airline catering (per meal served)	3	.03
One licensed operator Beauty shops	200	—
Bus service areas not including food (per patron and employe)	5	.02
Country clubs not including food (per patron and employe)	30	.02
Drive-in theaters (not including food—per space)	10	.06

Type of Establishment Commercial	Gallons/day	BOD/day
Factories and plants exclusive of industrial wastes (per employe)	35	.08
Laundries, self-service (gallons/washer)	400	2.00
Mobile home parks, independent (per space)	400	1.00
Warehouses (per employe)	35	—
Work or construction camps (semipermanent) with flush toilets (per employe)	50	.17
Work or construction camps (semipermanent) without flush toilets (per employe)	35	.02
Churches (additional kitchen waste per meal served)	3	—
Churches (additional with paper service per meal served)	1.5	—
Schools, boarding (per resident)	100	.17
Schools, day (without cafeterias, gyms or showers per student and employe)	15	.04
Schools, day (with cafeterias, but no gym or showers per student and employe)	20	.08
Schools, day (with cafeterias, gym and showers per student and employe)	25	.10
Camps, hunting and summer residential (night and day) with limited plumbing including water-carried toilet wastes (per person)	50	.12

Type of Establishment	Gallons/day	BOD/day
Recreational and Seasonal Fairgrounds and parks, picnic—with bathhouses, showers, and flush toilets (per person)	15	.06
Fairgrounds and parks, picnic (toilet wastes only, per person)	5	.06
Swimming pools and bathhouses (per person)	10	.06

(c) Actual water meter or sewer meter flow data indicating peak daily flows different than those shown in this section over a 1-year period for a similar nonresidential establishment may be accepted for use in sizing the onlot disposal system. If average daily flows are used, the peak daily flow shall be calculated by multiplying the average daily flow by two.

(d) Establishments with food preparation facilities are required to install adequately designed pretreatment units and traps to reduce greases and biological oxygen demand (BOD) prior to discharge to an individual or community sewage system.

**BUILDING SEWERS**

**§ 73.21. Specifications.**

(a) Building sewers shall be constructed of a durable material acceptable to the Department or the local agency.

(b) The local agency may restrict the type of materials used by code, ordinance or resolution and shall notify the applicant when restrictions are imposed.

(c) When the average daily flow of sewage from an establishment is 1,000 gallons or less, building sewers shall be at least 3 inches in diameter unless otherwise specified by local plumbing or building codes. When the average daily flow exceeds 1,000 gallons per day, building sewers shall be at least 6 inches in diameter unless otherwise specified by local plumbing or building codes.

(d) Cleanouts shall be provided at the junction of the building drain and building sewer.

(e) Cleanouts shall be provided at intervals of not more than 100 feet.

(f) Bends ahead of the treatment tank shall be limited to 45° or less where possible. If 90° bends cannot be avoided, they shall be made with two 45° bends.

(g) The grade of the building sewer shall be at least 1/8 inch per foot; however, the grade of the 10 feet of building sewer immediately preceding the treatment tank may not exceed 1/4 inch per foot.

(h) Building sewers shall be constructed with watertight joints, shall be of sufficient strength to withstand imposed loads and installed on material suitable for preventing damage from settling.

(i) The building sewer shall be installed to allow continuous venting of the treatment tank through the main building stack unless otherwise specified by local plumbing or building codes.

(j) Building sewers shall be connected to treatment tanks by means of watertight mechanical seals or hydraulic grouting. Use of Portland cement grouting is not permitted.

**TREATMENT TANKS**

**§ 73.31. Standards for septic tanks.**

(a) *Capacity.*

(1) The minimum liquid septic tank capacity for any installation is 900 gallons.

(2) For single-family dwelling units, not served by a community onlot system, a minimum daily flow of 400 gpd shall be used to determine required septic tank capacity. This figure shall be increased by 100 gallons for each additional bedroom over three. The daily flow indicated provides for use of garbage grinders, automatic washing machines, dishwashers and water softeners.

(3) The minimum septic tank capacity shall be calculated from the following table using estimated sewage flows from paragraph (2), or § 73.17(a)—(c) (relating to sewage flows):

Design flow (gallons per day)	Tank capacity (gallons)
0—500	(3.5 x flow exceeding 400 gpd) + (900)
500—5,000	(1.50 x flow exceeding 500 gpd) + (1,250)
5,000—7,500	(1.45 x flow exceeding 5,000 gpd) + (8,000)
7,500—10,000	(1.35 x flow exceeding 7,500 gpd) + (11,625)
over 10,000	(1.50 x the daily flow)

Note: Septic tanks may be connected in series to attain required capacity.

(b) *Construction.*

(1) Tanks shall be watertight and constructed of sound and durable material not subject to excessive corrosion or decay.

(i) Precast concrete tanks shall have a minimum wall thickness of 2 1/2 inches and be adequately reinforced.

(ii) Precast slabs used as covers shall have a thickness of at least 3 inches and be adequately reinforced.

(iii) Tanks having a liquid capacity of 5,000 gallons or less may not be constructed of blocks, bricks or similar masonry construction.

(iv) Tanks having a capacity in excess of 5,000 gallons may be constructed onsite to meet the standards of the National Concrete Masonry Association for reinforcement and waterproofing as listed in the most recent edition of its publication "Concrete Masonry Foundation Walls," copyright 1957 NCMA.

(v) Steel tanks shall meet United States Department of Commerce Standards 177-62.

(2) The depth of liquid in any tank or its compartments shall be:

(i) Not less than 2 1/2 nor more than 5 feet for tanks having a liquid capacity of 600 gallons or less.

(ii) Not less than 3 feet nor more than 7 feet for tanks having a liquid capacity of more than 600 gallons.

(3) No tank or compartment may have an inside horizontal dimension less than 36 inches.

(4) Septic tank installations may consist of tanks with multiple compartments or multiple tanks. The first compartment or tank shall have at least the same capacity as the second but may not exceed twice the capacity of the second. Tanks or compartments shall be connected in series and may not exceed four in number in any one installation.

(c) *Inlet and outlet connections.*

(1) The bottom of the inlet shall be a minimum of 3 inches above the bottom of the outlet.

(2) Inlet baffles or vented tees shall extend below the liquid level at least 6 inches. Penetration of the inlet device may not exceed that of the outlet device.

(3) The outlet baffles or vented tees of each tank or compartment shall extend below the liquid surface to a distance equal to 40% of the liquid depth. Penetration of outlet baffles or tees in horizontal cylindrical tanks shall be equal to 35% of the liquid depth.

(4) The inlet and outlet baffles or vented tees shall extend above liquid depth to approximately 1 inch from the top of the tank. Venting shall be provided between compartments and each tank.

(5) The outlet baffles or vented tees of the last compartment or tank shall be equipped with a solids retainer.

(d) *Treatment tank access.*

(1) Access to each tank or compartment of the tank shall be provided by a manhole with an inside dimension of at least 20 inches square (20 × 20) or in diameter, with a removable cover. The top of the tank containing the manhole or the top of a manhole extension may not be more than 12 inches below grade level. If access is extended to grade, the access cover shall be airtight. Grade level access covers shall be secured by bolts or locking mechanisms, or have sufficient weight to prevent unauthorized access.

(2) The ground shall slope away from any access extended to grade level.

(e) *Inspection port.* A maximum 4-inch diameter inspection port with sealed cover shall be installed to grade level above the inlet tee.

**§ 73.32. Standards for aerobic treatment tanks.**

## (a) Capacity shall comply with the following:

(1) The rated treatment capacity of an aerobic treatment tank shall be specified by the manufacturer. The manufacturer's data shall be in conformance with the approved test sequence and protocol in subsection (b).

(2) The minimum manufacturer's rated treatment capacity of an aerobic treatment tank approved under this section is 400 gallons per day.

(3) For single family dwelling units not served by a community system, a minimum daily flow of 400 gpd shall be used to determine required aerobic tank capacity. This figure shall be increased by 100 gallons for each additional bedroom over three. The daily flow indicated provides for use of garbage grinders, automatic washing machines, dishwashers and water softeners.

(4) For all other installations, the rated treatment capacity shall meet or exceed the estimated daily sewage flow as determined from § 73.17(a), (b) or (c) (relating to sewage flows).

(b) Testing and approval shall comply with the following:

(1) Aerobic treatment tanks serving single family dwellings, or establishments, with flows of 1,500 gpd or less shall bear the seal of the NSF indicating testing and approval by that agency under Standard No. 40.

(2) Units tested and awarded a seal under other than the current standard shall be approved for use until expiration of the seal. Units initially submitted for testing

or resubmitted for testing shall be approved under the version of Standard No. 40 in effect at that time.

(3) Aerobic treatment tanks serving establishments with flows exceeding 1,500 gpd shall have either:

(i) NSF certification under Criteria C-9.

(ii) Performance data certified by NSF under the provisions of that agency's Standard Performance Evaluation Method.

(c) The Department will provide local agencies with a current list of aerobic sewage treatment tanks that have been found to be in conformance with the Department's standard.

(d) Multiple aerobic treatment tanks connected for the purpose of achieving required hydraulic capacity shall only be permitted where the tanks are connected by parallel. All tanks shall have equal capacity and receive equal loading.

(e) Every aerobic sewage treatment tank shall be equipped with a visual and audible alarm system which shall be designed to respond to any electrical or mechanical failure or malfunction of the tank or any component thereof.

**DOSING AND DISTRIBUTION REQUIREMENTS****§ 73.41. General.**

Effluent from the treatment tank shall be discharged to the dosing tank, to the distribution box or directly to the absorption area through a watertight line a minimum of 3 inches in diameter unless otherwise specified by local plumbing or building codes. All lines shall be placed on a minimum grade of at least 1/4 inch per foot, sloping away from the treatment tank. If a distribution box is used, the lines from that box to the laterals shall meet the same standard. If a free access sand filter or buried sand filter is used, the lines from the treatment tank to the pump station and the filter tank to a lift station or chlorine contact tank or storage tank shall meet the standards of this section. Connections of lines to tanks and distribution boxes shall be made using water tight mechanical seals or hydraulic grouting. Use of Portland cement grouting material is not permitted.

**§ 73.42. Gravity distribution.**

(a) Gravity distribution may be used in all instances, except where prohibited by § 73.43 (relating to pressurized distribution).

(b) The distribution system shall be arranged to provide for uniform distribution of the effluent.

(c) The flow shall be equally divided between individual laterals of a trench system or between seepage beds by use of a distribution box.

(d) The flow shall be divided between individual laterals in a seepage bed by a distribution box or by an unperforated pipe header connecting all laterals within the bed. Where distribution is by means of an unperforated pipe header, the terminal ends of all individual laterals shall also be connected with unperforated pipe.

(e) Distribution boxes shall comply with the following:

(1) When a distribution box is used, it shall be installed level to provide equal distribution of treatment tank effluent to each line. For testing purposes, the

person responsible for the installation shall provide an adequate amount of water to check the level of the inlet and outlet lines.

(2) Construction shall comply with the following:

(i) Distribution boxes shall have removable covers.

(ii) Each lateral shall be connected separately to the distribution box.

(iii) The bottom of all outlets shall be at the same elevation, and the bottom of the inlet shall be at least 1 inch above the bottom of the outlet. The bottom of the outlet shall be at least 4 inches above the bottom of the distribution box.

(iv) Baffles shall comply with the following:

(A) A baffle shall be installed in the distribution box in the event that treatment tank effluent is discharged to the distribution box by a pump or siphon.

(B) The baffle shall be perpendicular to the inlet, be secured to the bottom of the box and extend vertically to a point level with the crown of the inlet pipe.

(v) A tee or elbow directed toward the bottom of the distribution box may be substituted for the baffle required by subparagraph (iv).

(3) Distribution boxes shall be installed on an adequate base of undisturbed or properly compacted earth or aggregate outside of the absorption area. Lightweight nonconcrete distribution boxes shall be anchored or otherwise secured to prevent shifting after installation. Adjustable distribution box weirs may be used on the outlet of the box.

(f) Laterals shall be a minimum of 3 inches in diameter unless a larger diameter is specified by local plumbing or building codes. Bends used in the disposal field shall be made with standard fittings.

(g) The maximum length of individual laterals employing gravity distribution is 100 feet.

**§ 73.43. Pressurized distribution.**

Pressurized distribution is required in the following instances:

(1) All elevated sand mounds.

(2) When the percolation rate exceeds 60 minute/inch.

(3) All systems having a total absorption area in excess of 2,500 square feet.

(4) Individual residential spray irrigation system spray fields and buried sand filters.

**§ 73.44. Pressurized distribution design.**

(a) General requirements are as follows:

(1) The piping used in a pressurized effluent system shall have watertight joints.

(2) Systems using pressure distribution shall meet the general requirements of §§ 73.52, 73.53, 73.55, and 73.166.

(3) Delivery pipes from dosing pumps shall be installed to facilitate drainage of the distribution piping back to the dosing tank between doses.

(b) Seepage beds of 2,500 square feet or less shall meet the following design standards.

(1) Conveyance of effluent from the dosing tank to the absorption area shall be through a delivery pipe sized to minimize friction loss. Check valves shall be prohibited on delivery pipes. Where the system designer determines

that water hammer may be a problem, thrust blocks may be installed on delivery pipes.

(2) When equally sized absorption areas are dosed simultaneously, a header pipe shall be used to connect the delivery pipe from the tank to the manifolds. The header pipe shall be sized to minimize friction loss. Effluent application rates per square foot of absorption areas served by a common header shall have a maximum design variation of 10%. If the distance from the treatment tank to the absorption area would cause excessive backflow into the dosing tank, a transfer tank may be used between the treatment tank or storage tank and dosing tank.

(3) Distribution of effluent to the individual laterals shall be by a central manifold extending into the absorption area from the delivery pipe or header. The manifold shall have the following minimum diameters:

<i>Sq. ft. of Absorption Area</i>	<i>Minimum Manifold Diameter</i>
200 to 1,199	1 1/2"
1,200 to 2,500	2"

(4) Laterals shall be extended from both sides of the manifold by opposing tees or a double sanitary tee.

(5) Laterals shall consist of 1 1/2 inch diameter pipe, with holes placed along the bottom of the pipe; an end cap shall be cemented on the terminal end of the lateral. Minimum hole size shall be 1/4 inch.

(6) The first hole in the lateral shall be 3 feet from the manifold. Additional holes shall be placed 6 feet on center with the last hole placed directly in the end cap.

(7) The maximum length of a lateral from the manifold to the end cap shall be 51 feet and contain nine holes.

(8) The location and spacing of the laterals shall conform to § 73.53(3)—(6) (relating to seepage beds).

(9) Opposing laterals may not differ in length by more than 6 feet.

(10) When less than the maximum length of lateral is used, as described in paragraph (7), the lateral shall be shortened in 6-foot sections with hole spacing maintained as required in paragraph (6).

(11) All systems shall be designed to maintain a minimum of 3 feet of head at the terminal end of each lateral.

(12) The minimum pump capacity (gpm) shall be calculated by multiplying the total number of discharge holes contained in the laterals of a proposed distribution layout by the gpm factor determined by the hole size at the design head level.

(13) Total pump head shall be calculated by addition of all losses incurred due to elevation changes, pipe and fitting friction losses, and the head level to be maintained at the terminal end of the lateral as specified in paragraph (11).

(14) For purposes of calculating head loss due to friction, head loss in the standard lateral as described in paragraph (7) shall be assumed to be 0. Head loss due to friction in pipe and fittings used in construction of the pressure system shall be calculated using a friction loss table for smooth-walled plastic pipe (C=150).



(15) When siphons are used in a pressure distribution system, each discharge hole shall be at least 5/16 inch in diameter. The discharge from all of the holes in the distribution system may not be less than the minimum rate of the siphon and may not vary from the average discharge rate of the siphon by more than 20%.

(c) Seepage beds of greater than 2,500 square feet shall meet the following design standards:

(1) The diameter of individual laterals, size and spacing of discharge holes, and minimum diameter of the distribution manifold may not be restricted by subsection (b) except that no discharge hole may be less than 1/4 inch for systems using pumps or 5/16 inch for systems using siphons.

(2) The maximum length of a lateral designed under this subsection or subsection (d) shall be 100 feet.

(3) Discharge rates from the individual holes of the lateral at design head shall be calculated using the sharp-edged discharge hole equation:  $gpm=11.82(d^2)(Eh)$

gpm=gallons per minute

(d)=diameter of hole (inches)

(h)=head to be maintained at the terminal ends of the lateral (in feet).

(4) All piping and fittings in the system shall be sized to minimize friction losses to provide as uniform distribution of effluent as possible.

(5) The design head at the terminal end of the last lateral shall be at least 3 feet.

(6) The head loss due to friction from the beginning of the distribution manifold to the terminal end of the last lateral may not exceed 15% of the head level to be maintained at the terminal end of the lateral.

(7) Spacing of laterals and discharge holes in the laterals shall provide for uniform distribution of the effluent over the seepage bed.

(8) The arrangement of laterals and discharge holes shall result in the discharge holes being spaced at the apexes of either squares or equilateral triangles.

(i) The maximum spacing between discharge holes shall be 10 feet where an equilateral triangle pattern is utilized.

(ii) The maximum spacing between discharge holes shall be 8 feet where a square pattern it utilized.

(9) The minimum pump capacity shall equal the total discharge from all holes in the laterals when operating at designed head.

(10) The permittee shall conduct a test pressurization of the completed distribution system in the presence of the sewage enforcement officer prior to covering the piping system from view. During the test, the permittee shall confirm that all joints are watertight and that a discharge is occurring from each hole.

(d) Design of pressure distribution in trenches shall comply with the following:

(1) Subsection (c)(1)—(4) and (10) applies to design of trenches utilizing pressurized effluent distribution.

(2) Variation in head in the laterals caused by differences in elevation or friction losses shall be compensated for by individual design of the laterals.

(3) The effluent application rate per square foot of any two trenches served by a common dosing tank shall have a maximum design variation of 10%.

(4) Equalization of loading may be accomplished by variation of discharge hole diameter between trenches, variation of spacing of discharge holes between trenches or another method approved by the Department or sewage enforcement officer.

(5) The maximum spacing between discharge holes is 10 feet.

(6) The manifold for a trench system shall be placed on undisturbed soil a minimum of 6 inches above the trench bottom.

(7) A minimum isolation distance of 3 feet shall be maintained between the manifold and the beginning of any trench. The individual laterals in the trench shall be connected to the manifold using unperforated pipe. The area beneath the manifold and connecting pipe shall consist of undisturbed or compacted soil.

(8) The design head at the terminal end of each lateral shall be at least 3 feet.

#### § 73.45. Dosing tanks.

Dosing tanks shall be constructed to the following specifications:

(1) Dosing tanks shall be constructed of materials to the specifications outlined in § 73.31(b) (relating to standards for septic tanks).

(2) For all systems other than individual residential spray irrigation systems, the dosing tank shall be designed so that the estimated daily flow shall be discharged to the absorption area in one or more doses. Minimum dose volume shall be five times the internal liquid capacity of the delivery pipe, manifold and laterals, or 100 gallons, whichever is greater. When a siphon is used in a pressure distribution system, the minimum dose volume shall be equal to the internal liquid capacity of the delivery line plus five times the internal liquid capacity of the manifold and laterals.

(3) The dosing tank shall have a minimum liquid capacity equal to or greater than two times the designed dose volume.

(4) Sufficient space shall be provided for electrical connections and proper pump control operation.

(5) Unless otherwise regulated by local electrical codes, all electrical connections shall be moisture resistant and at a point higher than the inlet pipe, or mounted above grade outside of the dosing tank or manhole extension within a tamper resistant, lockable control box.

(6) A watertight manhole, at least 20 inches square or 24 inches in diameter, extended to grade, shall be provided for access to the dosing tank. Manhole covers shall meet the specifications of § 73.31(d).

#### § 73.46. Dosing pumps, siphons and lift pumps.

(a) Dosing pumps for all onlot sewage disposal systems except individual residential spray irrigation systems shall meet the following specifications:

(1) The pump shall be sized to deliver a flow in gpm equal to or greater than the combined flows from all discharge holes in the laterals when operating at designed level of head and shall be rated by the manufacturer for handling of sewage effluent.

(2) The intake of the dosing pump shall be at least 6 inches from the bottom of the tank. The intake of any dosing pump shall be at a lower elevation than the lowest lateral.

(3) Pumps may not be suspended above the bottom of the tank by chains or similar equipment.

(4) A disconnect shall be incorporated into the piping within the dosing tank for ease of pump removal.

(5) An effective warning device, as described in § 73.62(c) (relating to standards for holding tanks), shall be installed in the dosing tank to indicate failure of the pump or siphon. Electrically operated warning systems shall be on a circuit and breaker separate from the pump.

(6) A siphon or other discharge mechanism may be substituted for a pump where site conditions permit the use of a gravity flow device, if the average discharge rate of the device meets the requirements of paragraph (1).

(7) A copy of the performance curve of the pump or discharge specifications for the siphon to be used shall be attached to the system design. A copy of the manufacturer's specification showing that the pump is designed to handle sewage or sewage effluent shall also be attached to the system design.

(8) When an aeration tank is used which results in a periodic pump discharge from the treatment tank, the discharge mechanism may be substituted for a dosing tank and pump if the periodic discharge rate meets the criteria in subsections (a)(1) and (b)(2) and § 73.45(2) (relating to dosing tanks).

(9) Pumps or siphons serving systems having total absorption areas greater than 2,500 square feet shall have a minimum discharge capacity at least two times the estimated peak flow for the facility served.

(10) When an establishment produces more than 50% of its total daily flow during a peak flow period, the minimum dose volume shall equal the anticipated flow during the peak period.

(11) Pumps employed for the purpose of lifting effluent to a higher elevation may not be deemed dosing pumps when the system does not meet the criteria of § 73.43 (relating to pressurized distribution). Pumps for this purpose shall have a discharge capacity at least two times the estimated peak flow of the facility served when operating at designed level of head, but at least 5 gpm and shall be rated by the manufacturer for handling sewage effluent.

(12) Siphon discharge lines shall be equipped with an observation port. The access to the observation port shall be extended to grade, capped and secured to prevent unauthorized entry.

(b) Lift pumps shall meet the following specifications:

(1) Meet the standards in subsection (a)(1)—(5), (7) and (8).

(2) Be designed to discharge a minimum flood dose of 2 inches over the sand surface.

(c) Dosing pumps used to pressurize a spray field distribution system shall be designed in accordance with the specifications in subsection (a)(1)—(5) and (7).

**CONSTRUCTION OF ABSORPTION AREAS**

**§ 73.51. General.**

(a) In all systems, if an absorption area is proposed, the top of the limiting zone shall be at least 4 feet below the bottom of the aggregate. Coarse aggregate used in the distribution system shall meet the requirements of the Department of Transportation specifications, Publication #408, section 703. The size and grading of the aggregate

shall meet AASHTO No. 57 requirements from a PADOT certified stockpile and shall be of Type B quality requirements.

(1) Where the depth to the top of the limiting zone is 60 inches or greater, the system shall be installed so that the bottom of the aggregate is a minimum of 4 feet above the limiting zone.

(2) Where the depth to the top of the limiting zone is less than 60 inches, an elevated sand mound is required. Isolation from the limiting zone shall be achieved as required by § 73.55(a)(3)—(5) (relating to elevated sand mounds).

(3) An absorption area may not be installed where less than 20 inches of suitable undisturbed mineral soil exists.

(4) When infiltration chambers or other devices which require no aggregate are used, adequate provisions to protect the infiltrative surfaces from damage by operation of pressure distribution systems shall be made.

(b) Before and after installation, equipment and vehicles shall be kept off the proposed absorption area, including the downslope area, to prevent undue compaction of the soil. Care shall be exercised during construction to prevent undue compaction and damage to the system and the downslope area.

(c) Soil moisture levels during construction of the absorption area shall be such that a sample of natural mineral soil taken from the level of the proposed installation will crumble if compressed into a ball.

**§ 73.52. Standard trenches.**

(a) *Design.* The maximum slope of the undisturbed soil of a proposed absorption area where a trench system may be permitted is 25%.

(1) For slopes between 15% and 25%, detailed design in relationship to elevation shall be provided.

The designer shall inspect the installation and verify that, to the best of his knowledge and belief, the system was installed in accordance with the plans and specifications. Copies of the plans and specifications and the designer's report are to be attached to the applicant's copy, sewage enforcement officer's copy and the Department's copy of the application for sewage permit.

(b) *Construction.* Trenches in an absorption area shall be constructed in accordance with the following:

(1) There shall be a minimum of two trenches per field.

(2) Trenches shall follow approximately the ground surface contours so that variations in trench depth shall be minimized.

(3) There shall be at least 6 feet of soil between the treatment tank or dosing tank and the nearest trench.

(4) The width of the bottom of the individual trench shall be 12 to 72 inches.

(5) The depth to the bottom of the absorption area shall be 12 to 36 inches.

(6) The bottom of the absorption area shall be level to a tolerance of 2 inches per 100 feet.

(7) The minimum width of undisturbed earth between trenches shall be 5 feet. When elevated sand mound trenches are used, the distance between trenches shall be measured from the toe of the sand of each trench.

(8) The minimum depth of aggregate material under laterals shall be 6 inches.

(9) Laterals shall be placed in the center of the trench. The first or last discharge hole of a lateral may be no more than 5 feet nor less than 2 feet from the ends of the trench.

(10) Laterals shall be level to a maximum tolerance of 4 inches of fall per 100 feet toward the terminal end of the lateral.

(11) The minimum depth of aggregate material over the laterals shall be 2 inches.

(12) The depth of aggregate shall be uniform throughout the absorption area.

(13) The top of the aggregate material shall be covered with geotextile fabric, untreated building paper or a 2-inch layer of hay, straw or similar material to prevent backfill material from settling into the aggregate.

(14) The minimum depth of earth cover over the aggregate in all installations shall be 12 inches. Where the top of the aggregate is less than 12 inches from the undisturbed soil surface, the soil cover shall extend beyond the absorption area by at least 3 feet on all sides.

(15) The backfill material shall consist of soil suitable for the growth of vegetation, and be seeded to control erosion.

(16) Trench laterals shall be fitted with end caps.

#### § 73.53. Seepage beds.

Whenever seepage beds are employed, they shall meet the requirements of § 73.52(b)(5), (6), (8) and (10)—(16) (relating to standard trenches) in addition to the following specifications:

(1) The maximum slope of the undisturbed soil of a proposed absorption area where a seepage bed may be permitted is 8.0%.

(2) The required absorption area may be provided by one or more seepage beds:

(i) The individual beds of a single onlot system shall be separated by a minimum of 5 feet.

(ii) When elevated sand mound beds are used, the distance between beds shall be measured from the toe of the sand of each bed.

(3) The bed shall contain a minimum of two laterals or two opposing sets of laterals when pressure distribution is used.

(4) Laterals shall be equally spaced a maximum of 6 feet on center, except as provided in § 73.44(c)(8) (relating to pressurized distribution design).

(5) Laterals shall be placed no further than 5 feet nor less than 2 feet from the sidewalls of the bed.

(6) Laterals shall be placed in the bed so that the first and last discharge holes may be no more than 5 feet nor less than 2 feet from the ends of the bed.

#### § 73.54. Subsurface sand filter beds and trenches.

(a) *General.* Subsurface sand filters without underdrains shall meet the following criteria:

(1) Subsurface sand filters may not be utilized on soils where the limiting zone occurs at less than 6 feet below the mineral soil surface.

(2) The average percolation rate, as determined by § 73.15 (relating to percolation tests), shall be greater than 90 minutes per inch.

(3) The average percolation rate at a depth between 36 and 60 inches shall be within the range of 3—90 minutes per inch.

(4) The average percolation rate obtained from paragraph (3) shall be applied to § 73.16(c) (relating to absorption area requirements) for determination of the absorption area and other system requirements.

(5) System design shall meet the requirements of § 73.52 (relating to standard trenches) or § 73.53 (relating to seepage beds) except as modified by subsection (b).

(b) *Construction.* Subsurface sand filters shall be constructed as follows:

(1) The maximum depth of the excavation shall be 5 feet.

(2) Sand meeting the specifications of § 73.55(c) (relating to sand specifications) shall be placed in the entire bed or trench to a minimum depth of 12 inches.

#### § 73.55. Elevated sand mounds.

(a) *Design.*

(1) The maximum slope of the undisturbed soil, to the extremities of the berm, of a proposed absorption area where elevated sand mound trenches may be permitted is 12%.

(2) The maximum slope of the undisturbed soil, to the extremities of the berm, of a proposed absorption area where an elevated sand mound bed may be permitted is 12%.

(3) The limiting zone is the base elevation for measuring the required depth of sand to achieve a minimum of 4 feet of satisfactory material between the bottom of the aggregate and the top of the limiting zone.

(4) A minimum of 1 foot of sand shall be placed under the aggregate in all elevated sand mound systems.

(5) Existing mineral soil shall be utilized. No mineral soil in the area of the elevated sand mound may be removed or disturbed for the purpose of adding or mixing fill material.

(6) Elevated sand mound trenches shall meet the requirements of § 73.52(b) (relating to standard trenches) and this section.

(7) Elevated sand mound beds on slopes up to 8% shall meet the requirements of § 73.53 (relating to seepage beds) and subsection (b). Other sand mound beds shall comply with subsection (d).

(b) *Construction.*

(1) Vegetation shall be cut close to the ground throughout the area to be utilized for the absorption area and berm. Bushes and trees shall be cut flush with the ground surface; roots shall be left in place. Cut vegetation or organic litter shall be raked and removed from the absorption and berm areas.

(2) The proposed absorption area not obstructed by stumps or other obstacles shall be roughed or plowed parallel with the contour to a maximum depth of 6 inches, using a multiple share chisel plow or similar implement attached to light-weight equipment. Rotary tilling is prohibited.

(3) Under no circumstances may equipment travel on the plowed soil surface until the sand is in place.

(4) Immediately after plowing, sand shall be placed over the exposed plowed surface. Sand shall be placed from the upslope side of the bed using only lightweight equipment.

(5) The slope of the sand not directly beneath the aggregate area shall be approximately 50%.

(6) The top of the sand directly beneath the aggregate shall be level to a tolerance of  $\pm 2$  inches per 100 feet.

(7) The mound shall be surrounded by a berm consisting of mineral soil containing less than 20% coarse fragments with no coarse fragments greater than 4 inches in diameter, more stable and less permeable than the sand, and lightly compacted during construction to contain and protect the mound interior. The width of this berm shall be a minimum of 3 feet at the top of the aggregate.

(8) Upon completion, the outside slope of the berm may be no greater than 50% and shall be seeded to assure the stability of the berm. The cover over the aggregate shall be a minimum of 1 foot of soil suitable for the growth of vegetation.

(9) No equipment may be permitted on the downslope side of the mound with the exception of lightweight equipment that is used to form the downslope berm. To the greatest extent possible, aggregate and the cover material shall be placed from the upslope side of the mound.

(10) When a mound system with trenches is used, the area between the individual trenches shall be filled with mineral soil. A minimum distance of 5 feet shall separate sand of individual trenches. This measurement shall be from the toe of the sand.

(11) The area surrounding the mound shall be grated to provide for diversion of surface runoff waters.

(c) *Sand.* Sand suppliers shall provide certification in writing to the sewage enforcement officer and permittee, with the first delivery to the job site from every sand source listing the amount of sand delivered, and that all sand supplied meets the requirements posted in the Department of Transportation specifications Publication #408, section 703. The size and grading shall meet bituminous concrete sand Type B #1 or #3 requirements from a Department of Transportation certified stockpile. The sieve analysis shall be conducted in accordance with PTM #616 and #100.

(d) *Elevated sand mound beds.* Elevated sand mound beds on slopes greater than 8% shall meet the requirements of § 73.53 and subsection (b). In addition, the following apply:

(1) The absorption area shall have a minimum length to width ratio of 4 to 1.

(2) The long axis of the absorption area shall be perpendicular to the slope. The bed construction shall follow the ground surface contours.

(3) Upon completion, the outside slope of the berm may be no greater than 33.3%.

(4) Designing the location of multiple absorption areas so that one absorption area is placed hydraulically upgradient or downgradient from the other may cause the lower absorption area to fail because of excessive hydraulic loading from the upper absorption area. Unless the potential for an impact is shown to be nonexistent by the applicant through the alternative/experimental system process, this type of absorption area placement is prohibited.

## RETAINING TANKS

### § 73.62. Standards for holding tanks.

(a) A holding tank shall be constructed to meet the specifications of § 73.31(b)(1) (relating to standards for septic tanks).

(b) The minimum capacity of a holding tank is 1,000 gallons or a volume equal to the quantity of waste generated in 3 days, whichever is larger.

(c) The holding tank shall be equipped with a warning device to indicate when the tank is filled to within 75% of its capacity. The warning device shall create an audible and visual signal at a location frequented by the homeowner or responsible individual.

(d) Disposal of waste from a holding tank shall be at a site approved by the Department.

### § 73.64. Chemical toilet or other portable toilet.

(a) When proposed for use at temporary construction sites, facilities providing temporary recreational or sporting activities (such as a special event) or temporary seasonal facilities other than those intended for human habitation, chemical toilets or other portable toilets may be exempt from the onlot permitting requirements of Chapter 72 (relating to administration of sewage facilities permitting program) at the discretion of the local agency but improper installation or maintenance of these toilets shall constitute a nuisance under section 14 of the act (35 P. S. § 750.14) and be enforceable by the local agency.

(b) If multiple chemical toilets or other portable toilets are proposed for temporary use at construction sites, recreational activities or seasonal facilities, all units proposed for installation shall be included under one permit.

### § 73.65. Recycling toilet, incinerating toilet or composting toilet.

(a) Recycling, incinerating and composting toilets shall bear the seal of the NSF indicating testing and approval by that agency under Standard No. 41.

(b) The device utilized shall meet the installation specifications of the manufacturer and shall be operated and maintained in a manner that will preclude any potential pollution or health hazards.

(c) If the installation of a recycling toilet, incinerating toilet or composting toilet is proposed for a new residence or establishment, an onlot sewage system or other approved method of sewage disposal shall be provided for treatment of washwater or excess liquid from the unit, except as provided in subsection (e). Both sewage disposal facilities shall be included under one permit.

(d) When the installation of a recycling toilet, incinerating toilet, composting toilet or another type of water conservation device is proposed for an existing residence or facility and no alteration of the onlot system is proposed, a permit is not required.

(e) When a composting toilet or incinerating toilet is proposed for installation on a lot meeting the requirements of § 71.63 (relating to retaining tanks), it shall be deemed equivalent to and permitted as a privy. The device shall be operated and maintained in accordance with the manufacturer's specifications. Discharges of liquids from these units, except to onlot sewage systems meeting the requirements of this part or other method of sewage disposal approved under this chapter or approved by the Department are prohibited.

**EXPERIMENTAL AND ALTERNATE SYSTEMS****§ 73.71. Experimental sewage systems.**

(a) Experimental systems may be considered for individual or community systems in any of the following cases:

(1) To solve an existing pollution or public health problem.

(2) To overcome specific site suitability deficiencies, or as a substitute for systems described in this chapter on suitable lots.

(3) To overcome specific site suitability deficiencies, or as a substitute for systems described in this chapter on suitable lots.

(4) To evaluate new concepts or technologies applicable to onlot disposal.

(5) To evaluate the applicability to onlot disposal of established concepts or technologies having successful use in comparable applications in the field of engineering.

(6) To demonstrate a design having successful use in other jurisdictions under environmental conditions similar to or more restrictive than those in this Commonwealth.

(7) To utilize under varying site conditions an experimental design, either in whole or in part, which has been deemed successful by the Department.

(b) A person desiring to install an experimental sewage system or alter a component of an existing system using a method, technology or design determined to be experimental by the Department shall submit complete preliminary design plans and specifications to the sewage enforcement officer and the Department for review and comment prior to submitting an application for a permit. The Department will determine if classification as an experimental system, method, technology or design is appropriate for the submission and provide review comments to the sewage enforcement officer.

(c) The following criteria shall be considered in the design of experimental systems:

(1) The volume and rate of sewage flow, including reductions attributed to water conservation devices and recycling devices.

(2) The chemical and bacteriological characteristics of the flow, including the varying nature, if any, of the contributing sources.

(3) The treatment of the sewage flow, including, if appropriate:

(i) The type of treatment, that is aerobic, anaerobic, chemical, or other.

(ii) The degree and extent of treatment afforded, including the chemical and biological characteristics of the effluent.

(iii) The hydraulic design, including flow rates, retention time, settling rates, and sludge and scum storage.

(4) The materials of construction including durability and chemical resistance of all system components.

(5) The characteristics and limitations of the disposal site, including, if appropriate:

(i) The depth, composition and projected effects of any limiting zone identified through extensive onsite evaluation of the soils present.

(ii) The determination of the soil permeability through percolation tests, hydraulic conductivity tests or other acceptable testing procedures conducted on the site.

(iii) The chemical and bacteriological characteristics of the subsurface or other waters.

(iv) The natural and modified slope of the disposal site and contiguous areas, with particular attention to downslope areas.

(v) The relationship of the disposal site to existing and proposed drainage patterns, including surface and subsurface flows.

(vi) The stability and renovative abilities of controlled fill areas.

(6) The design of the absorption area, including:

(i) Dimensions.

(ii) Method of distribution and hydraulic design considerations of the distribution system.

(iii) Rate of application.

(iv) Relationship to other sewage disposal systems or features, water supply sources, surface waters, recharge areas, rock outcrops and other site improvements.

(v) Determination of hydraulic loading limitations—that is, interface acceptance rate of hydraulic conductivity of receiving soils—in accordance with accepted principles of hydraulic flow.

(7) Effect upon the groundwater, including:

(i) Fecal coliform.

(ii) Chlorides.

(iii) Nitrates.

(iv) Nutrients.

(v) Other degrading material.

(8) Other considerations as may be appropriate to comply with the act.

(d) Except as provided in subsection (f), experimental designs will be approved for use only when it has been determined that an individual or community sewage disposal system meeting the requirements of this chapter or another successful experimental design, or that sewage services meeting the requirements of the Clean Streams Law and Article II (relating to water resources), may be installed if the experiment is deemed a failure.

(e) Except as provided in subsection (f), monitoring, observation, testing or other requirements which are deemed necessary to verify the success of the experiment shall be required.

(f) A replacement area, as specified in subsection (d), and monitoring as specified in subsection (e), may not be required where the experimental design is an attempt to solve an existing pollution or public health problem.

(g) An application for an experimental system shall include the following:

(1) Detailed plans and specifications sufficient to comply with this section.

(2) A description of the system, device or process; its capabilities; and scheduled maintenance, if any, which are necessary for continued function.

(3) The identity of the person responsible for the design of the system; performance of scheduled maintenance, if required; and responsibility for repair or replacement in event of failure of the system.

(h) Each application for an experimental system shall be accompanied by a statement acknowledging the requirement that the sewage enforcement officer be notified of any malfunction or modification of the original system design.

(i) Prior to issuing a permit for an experimental sewage system, the sewage enforcement officer shall consider the comments of the Department.

**§ 73.72. Alternate sewage systems.**

(a) Alternate systems shall be considered for individual onlot or community onlot systems in any of the following cases:

(1) To solve an existing pollution or public health problem.

(2) To overcome specific site suitability deficiencies, or as a substitute for systems described in this chapter on suitable lots.

(3) To overcome specific engineering problems related to the site or its proposed use.

(4) To utilize under varying site conditions an experimental design, either in whole or in part, which has been deemed successful by the Department.

(b) A person desiring to install an alternate sewage system shall submit complete preliminary design plans and specifications to the sewage enforcement officer and the Department for review and comment prior to submitting an application for a permit. The Department will determine if classification as an alternate system is appropriate and provide review comments to the sewage enforcement officer.

(c) The following criteria shall be considered in the design of alternate systems:

(1) The volume and rate of sewage flow, including reductions attributed to water conservation devices and recycling devices.

(2) The chemical and bacteriological characteristics of the flow, including the varying nature, if any, of the contributing sources.

(3) The treatment of the sewage flow, including, if appropriate:

(i) The type of treatment—that is, aerobic, anaerobic, chemical or other.

(ii) The degree and extent of treatment afforded, including the chemical and biological characteristics of the effluent.

(iii) The hydraulic design, including flow rates, retention time, settling rates and sludge and scum storage.

(4) Materials of construction, including durability and chemical resistance of all system components.

(5) The characteristics and limitations of the disposal site, including, if appropriate:

(i) The depth, composition and projected effects of any limiting zone identified through extensive onsite evaluation of the soils present.

(ii) Determination of the soil permeability through percolation tests, hydraulic conductivity tests or other acceptable testing procedures conducted on the site.

(iii) The chemical and bacteriological characteristics of the subsurface or other waters.

(iv) The natural and modified slope of the disposal site and contiguous areas, with particular attention to downslope areas.

(v) The relationship of the disposal site to existing and proposed drainage patterns, including surface and subsurface flows.

(vi) The stability and renovative abilities of controlled fill areas.

(6) The design of the absorption area including:

(i) Dimensions.

(ii) Method of distribution and hydraulic design considerations of the distribution system.

(iii) Rate of application.

(iv) Relationship to other sewage disposal systems or features, water supply sources, surface waters, recharge areas, rock outcrops and other site improvements.

(v) Determination of hydraulic loading limitations—that is, interface acceptance rate or hydraulic conductivity of receiving soils in accordance with accepted principles of hydraulic flow.

(7) The effect upon the groundwater, including the following:

(i) Fecal coliform.

(ii) Chlorides.

(iii) Nitrates.

(iv) Nutrients.

(v) Other degrading material.

(8) Other considerations as may be appropriate to comply with the act.

(d) An application for an alternative system shall include the following:

(1) Detailed plans and specifications sufficient to comply with this section.

(2) A description of the system, device or process; its capabilities; and scheduled maintenance, if any, which is necessary for continued function.

(3) The identity of the person responsible for the design of the system and performance of scheduled maintenance, if required.

(e) Each application for an alternative system shall be accompanied by a statement acknowledging the requirement that the sewage enforcement officer be notified of any malfunction or modification of the original system design.

(f) Prior to issuing a permit for an alternative sewage system, the sewage enforcement officer shall consider the comments of the Department.

**INDIVIDUAL RESIDENTIAL SPRAY IRRIGATION SYSTEM STANDARDS**

**§ 73.161. General.**

(a) Copies of the plans and specifications along with the designer's report shall be attached to the applicant's copy, local agency's copy and the Department's copy of the application for sewage permit.

(b) Standards for individual residential spray irrigation systems described in the following sections shall also be

met: §§ 73.1, 73.12—73.14, 73.16, 73.17, 73.21, 73.31, 73.32, 73.41 and 73.43.

**§ 73.162. Intermittent sand filters.**

(a) There are two types of intermittent sand filters available for use with individual residential spray irrigation systems. The standards for free access sand filters and buried sand filters are included in this section.

(b) Free access sand filters shall meet the following standards:

(1) *Filter.* The filter shall be constructed in a tank meeting the following specifications:

(i) The surface area of a filter tank shall be a minimum of 40 square feet for systems using an aerobic treatment tank and serving a single family residence of three bedrooms or less. The filter area shall be increased by 10 square feet for each additional bedroom over three.

(ii) Systems proposing the use of a septic tank to serve a single family dwelling of three bedrooms or less shall be designed using two filter tanks or a single tank with two chambers. Each tank or chamber shall have a surface area of 40 square feet. The filter area of each filter shall be increased by 10 square feet for each additional bedroom over three.

(iii) Tanks shall be watertight and made of a sound, durable material which is not subject to excessive corrosion or decay.

(iv) Concrete tanks shall have a minimum wall thickness of 2 1/2 inches and be adequately reinforced.

(v) If precast slabs are used as tank tops to support the access covers, the slabs shall have a thickness of at least 3 inches and be adequately reinforced.

(vi) Tanks shall be designed and constructed so that the depth from the cover to the top of the sand layer provides sufficient freeboard to allow for maintenance of the sand surface.

(vii) Access shall be provided by a minimum of two access openings. These access openings shall be a minimum of 36 inches by 36 inches and provide access to the entire surface of the filter.

(viii) The tank wall shall be extended a minimum of 6 inches above final grade.

(ix) Access covers shall be insulated against severe weather, secured by bolts or locking mechanisms, prevent water infiltration and the entrance of debris, and be lightweight to facilitate routine maintenance.

(2) *Media.* Sand suppliers shall provide certification, in writing to the sewage enforcement officer and permittee, with the first delivery to the job site, that the sand to be supplied meets the following specifications:

(i) The fine aggregate shall have an effective size of between 0.3 to 0.6 mm, a uniformity coefficient of less than 3.5 and less than 4% of the coarse aggregate passing the #100 sieve. The sieve analysis shall be conducted in accordance with Department of Transportation PTM #616 and the uniformity coefficient shall be determined by using Department of Transportation PTM #149.

(ii) The sand may not contain more than 15% by weight deleterious material as determined by Department of Transportation PTM #510.

(3) *Contents of certification.* The written certification shall include the name of the supplier, the testing results, the testing date, the amount of material purchased under this certification and the delivery date.

(4) *Construction.* The sand filter shall be constructed according to the following standards:

(i) A 4-inch diameter perforated underdrain pipe with a minimum 2,500 pound crush test specification shall be placed on the bottom of the tank.

(ii) Two rows of perforations between 1/2 to 3/4 inch in diameter shall be drilled in the underdrain pipe at 6 inch intervals and the pipe shall be placed so the perforations face downward and the rows are approximately 45° from each other.

(iii) Aggregate shall be placed around the underdrain to a total depth of 5 inches from the bottom of the tank. Coarse aggregate used in the underdrains and distribution system shall meet the Type B requirements posted in the Department of Transportation specifications Publication #408, section 703, Table B and uniform size and grading of the aggregate shall meet AASHTO No. 57 requirements, as described in Form 408, section 703.2, Table C from a Department of Transportation certified stockpile.

(iv) A minimum depth of 4 inches of aggregate shall be placed over the aggregate underdrain material. Coarse aggregate used in the transition layer shall meet the Type B requirements posted in the Department of Transportation specifications Publication #408, section 703, Table B. The size and grading shall meet AASHTO No. 8 requirements, as described in Form 408, section 703.2, Table C from a Department of Transportation certified stockpile.

(v) Sand shall be placed over the aggregate to a depth of at least 24 inches.

(vi) The sand in the filter may not be greater than 36 inches deep.

(vii) The central distribution system shall be designed and installed to convey a minimum 2 inch flood dose of effluent to the surface of the sand filter. A high water alarm shall be installed in the filter tank which produces an audible and visual alarm when effluent backs up on the filter surface to 12 inches above the surface of the sand.

(viii) When two filters or chambers are required to treat septic tank effluent, the duplicate units shall, at the discretion of the designer, be flooded alternately, periodically by using valves, or simultaneously.

(ix) The central distribution piping may not be more than 2 inches in diameter.

(x) The height of the central distribution system's effluent outlet above the sand surface shall allow for the installation of a splash plate and the maximum flooding depth of the sand filter.

(xi) A concrete splash plate or other suitable material shall be located under each effluent outlet to prevent scouring of the sand surface. Movement of the splash plate during the flooding operation shall be prevented.

(c) Buried sand filters shall meet the following standards:

(1) *Location.*

(i) When buried sand filters are proposed to be installed in areas where bedrock is encountered above the proposed depth of the sand filter, or where the seasonal high groundwater table rises above the proposed depth of the sand filter, the designer should consider measures to prevent filter and liner damage and groundwater infiltration.

(ii) A buried sand filter may not be constructed in unstabilized fill.

(2) *Size.*

(i) The size of the sand filter shall be determined on the basis of the appropriate application rate and the estimated daily sewage flow in accordance with § 73.16(a) (relating to absorption area requirements) but the sand filter area shall be at least 300 square feet for use with either an aerobic treatment tank or septic tank with solids retainers units.

(ii) For a single family residence, the minimum sand filter area shall be based on a maximum hydraulic loading of 1.15 square feet per gallon per day.

(iii) Where aerobic treatment precedes the sand filter, a 1/3 reduction to the filter area may be used to size the filter.

(3) *Media.*

(i) At least 2 inches of clean aggregate meeting subsection (b)(4)(iii) shall surround underdrains and distribution pipes. A minimum of 4 inches of aggregate meeting subsection (b)(4)(iv) shall be placed over the underdrain. A layer of porous geotextile material may be placed on top of both layers of aggregate to prevent migration of soil or sand into the aggregate.

(ii) At least 24 inches of clean sand shall be placed over the underdrain aggregate. The sand shall meet the specifications in § 73.55(c) (relating to elevated sand mounds).

(iii) The minimum depth of earth cover over the coarse aggregate in all installations shall be 12 inches. When the top of the aggregate is less than 12 inches from the undisturbed soil surface, the soil cover shall extend beyond the filter area by at least 3 feet on all sides. The soil over the sand filter shall be so graded that surface water will run off, consist of soil suitable for the growth of vegetation and be seeded to control erosion.

(4) *Underdrain piping.*

(i) Underdrain piping shall be laid on a grade of 3 to 6 inches per 100 feet sloped to the outfall pipe.

(ii) Underdrain piping shall be positioned between the distribution laterals to maximize effluent travel through the filter sand.

(iii) Underdrain piping holes shall be equal or greater in number and size to the distribution piping holes.

(iv) Underdrain piping shall have two rows of holes placed at approximately 45° angle from each other along the bottom half of the pipe.

(v) The outfall pipe from the underdrain header shall have an antiseep collar and bentonite clay plug or a leak proof boot sealed as per manufacturer's instructions to the subsurface sand filter liner.

(5) *Filter base and liner.* The base of the filter shall be sloped to the underdrain pipe a maximum of 1%. An impervious liner of hypalon, polyvinyl chloride or polyethylene sheeting of 20 millimeter thickness or equal shall be installed on a tamped earth base to prevent seepage to the groundwater. A concrete bottom and sides may also be used at the discretion of the designer. A 2-inch layer of sand or a layer of 10 ounce porous geotextile material shall be provided on each side of the liner to prevent punctures and tears. Seams shall be made according to manufacturer's specifications.

(6) *Distribution of effluent.* Distribution of effluent to the buried sand filter shall meet the requirements of §§ 73.44—73.46 (relating to pressurized distribution design; dosing tanks; and dosing pumps).

**§ 73.163. Spray fields.**

(a) The maximum slope of the undisturbed soil where a spray field may be permitted is 25%.

(b) Individual residential spray irrigation system spray fields are not permitted on:

(1) Soils with evidence of a seasonal high water table at less than 10 inches from the surface.

(2) Soils with rock formations at less than 16 inches from the surface.

(3) Floodplain soils or floodprone areas unless any required encroachment permits have been obtained from the Department and the encroachment is in compliance with local ordinances pertaining to flood areas.

(4) Agricultural areas in active production of food for human consumption.

(c) Slopes shall be as follows:

(1) Open, grassed areas—limited to 12%.

(2) Forested areas—limited to 25%.

(3) Nonfood producing agricultural areas—limited to 4%

(d) Spray field sizing based upon soils characteristics shall be in accordance with Table B in § 73.16(e) (relating to absorption area and spray field requirements).

(e) Construction shall be as follows:

(1) The area upslope of the spray field shall be graded or bermed to divert upland drainage from the spray field site.

(2) The downslope portion of the permitted spray field shall be graded or bermed to retain effluent on the permitted spray site.

(3) The permitted spray field shall be covered with vegetation.

(4) Construction activity within the spray field site shall be conducted in a manner which will minimize earth disturbance and compaction.

**§ 73.164. Chlorine contact/storage tanks.**

(a) The minimum liquid capacity of an individual residential spray irrigation system storage tank serving a three bedroom dwelling, excluding chlorine contact volume, is 2,000 gallons. The tank size shall be increased an additional 500 gallons for each additional bedroom over three. Additional increases in size may be required where more than 5 days storage is needed due to climatic conditions or when spray fields are located in floodplain or floodprone areas.

(b) Storage tanks used in individual residential spray irrigation systems shall meet the construction standards in § 73.45(1) and (4)—(6) (relating to dose tank). When more than one tank is used, the tanks shall be connected together at the bottom to equalize the liquid level in the tanks.

**§ 73.165. Disinfection.**

(a) Disinfection of effluent is required prior to spraying. The disinfection shall be by chlorination and shall produce an effluent which will contain a concentration not greater than 200 fecal coliform organisms per 100 milliliters in a single sample. Disinfection units shall be



installed in accordance with the manufacturer's specifications. Disinfection units shall be reliable, able to disinfect sewage effluent and be easily maintained by the property owner.

(b) A chlorinator shall be designed to maintain a chlorine residual of 0.2 PPM to 2 PPM and provide for a 30 minute contact time.

(1) When an erosion chlorinator is proposed, the base of the unit may be placed no deeper than 36 inches below finished grade.

(2) When a lift pump is used to keep the unit no deeper than 36 inches below finished grade, the pump shall have a discharge rate that does not exceed the manufacturer's specifications for the erosion chlorinator and shall meet the appropriate specification of § 73.46 (relating to dosing pumps, siphons and lift pumps).

(3) Chlorine contact time may be obtained using a separate chlorine contact tank or in-line chlorination followed by the storage tank.

(4) Chlorinators shall be housed separately from chlorine contact tanks or storage tanks unless the tanks are specifically designed to house chlorinators.

**§ 73.166. Design of pressure distribution for individual residential spray irrigation systems.**

(a) Design of pressure distribution in an individual residential spray irrigation system shall comply with the following:

(1) Conveyance of effluent from the storage tank to the spray field shall be through a delivery pipe sized to minimize friction loss.

(2) Check valves shall be prohibited on delivery lines. Air relief valves may be placed at high points in the delivery lines to prevent air locks.

(3) The delivery line and laterals shall be designed so that the effluent will drain back to the storage tank or otherwise designed to prevent freezing of the lines and sprinkler heads.

(4) Individual laterals shall be sized to minimize friction loss. The hydraulic loss (friction and elevation changes) within a lateral shall be less than 20 % of the operating head of the sprinklers.

(5) Design of laterals should include consideration of measures to prevent freezing of lines.

(6) Spacing of laterals and sprinklers shall provide for distribution of the effluent over the spray field using a design nozzle pattern that does not overlap adjacent spray nozzle wetted perimeters.

(7) Design of the spray field shall be based on the manufacturer's sprinkler specifications listing operating head, wetted diameter, nozzle size and discharge rate which shall be attached to the system design.

(8) Sprinklers shall be installed on risers 18 inches to 5 feet above grade level.

(9) Sprinklers shall be kept clear of obstructing vegetation for a radius of 5 feet.

(10) The design head of the sprinkler may not exceed the manufacturer's specifications for each system component.

(11) The minimum pump capacity shall equal the total discharge from all sprinklers when operating at design head.

(12) Total pump head shall be calculated by addition of all losses incurred due to elevation changes, pipe and fitting friction losses and the design head of the sprinkler.

(13) The effluent shall be discharged to the spray field once per day. A manual override shall be installed in the system to allow interruption of this spray cycle when weather conditions are not conducive to spraying.

(14) The permittee shall conduct a test pressurization of the completed spray field in the presence of the sewage enforcement officer prior to covering the piping system from view. During the test, the sewage enforcement officer shall confirm that all joints are water tight, the design head is achieved and the manual override is functional.

**§ 73.167. Operation and maintenance.**

Individual residential spray irrigation systems require periodic maintenance by the property owner and entity established under § 72.25(h) (relating to permit requirements for operation and maintenance of individual residential spray irrigation systems). Without proper maintenance, system components will fail and pollution or a public health hazard will occur. This may result in costly repairs and civil penalties. The system designer shall provide an operation and maintenance manual, which may be supplemented with manufacturer's manuals and instructions, to the permittee that includes, as a minimum, the following required standards for operation and maintenance to be met by the permittee:

(1) Septic tanks, dosing tanks, lift pump tanks and chlorine contact/storage tanks shall be inspected every 6 months for structural integrity of the tank, inlet and outlet baffles, solids retainer, pumps, siphons and electrical connections.

(2) Aerobic tanks shall be inspected every 6 months for structural integrity of the tank, inlets and outlet baffles, buoyed solids retainer, pumps, siphons and electrical connections. The inspection and concurrent pumping of excess solids shall be conducted in accordance with manufacturer's and NSF requirements.

(3) Free access sand filters, buried sand filters, chlorinators, the pressurized spray irrigation plumbing and spray nozzles and the spray fields shall be inspected periodically by the property owner and every 6 months by the maintenance entity established under § 72.25(h). Each component shall be inspected for compliance with the following standards:

(i) Chlorine residual samples after the contact/retention tank shall be maintained at a concentration of at least 0.2 PPM.

(ii) The chlorinator shall be functioning within the specifications of the manufacturer. Bridging of chlorine tablets may not be occurring.

(iii) Solids may not be accumulated on the surface of the sand in the free access sand filter nor may 12 inches to effluent be ponded over the sand. The high water alarm shall be functional.

(iv) The surface of the free access sand shall be raked and porous and any sand removed shall be replaced with sufficient clean sand to maintain the depth at a minimum of 24 inches.

(v) The plumbing in the free access sand filter tank shall be functional and free of leaks and splash plates shall be in place.

(vi) The free access sand filter tank and cover shall be structurally sound and unauthorized access equipment

shall be in place. Insulation shall be in place.

(vii) The areas of the buried sand filter shall be free of ponded effluent and downgradient seepage.

(viii) The plumbing to the spray field shall be functional and free of leaks.

(ix) The spray nozzles shall be functioning within the design specifications and the extent of the designed wetted perimeter and each nozzle.

(4) A laboratory shall test the discharge to the system for fecal coliforms, carbonaceous biological oxygen de-

mand (CBOD), suspended solids and chlorine residual to determine compliance with Chapter 72 (relating to the administration of sewage facilities permitting program). At least annually, a copy of the tests results along with the most recent inspection of the system by the maintenance entity established under § 72.25(h) shall be sent to the local agency.

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