

# PENNSYLVANIA BULLETIN

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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  
Saturday, November 29, 1997 • Harrisburg, Pa.

Number 48

## **Part II**

This part contains the  
Environmental Quality Board's  
New Motor Vehicle Emissions  
Control Program

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## PENNSYLVANIA

## BULLETIN

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# PENNSYLVANIA BULLETIN

Volume 27 Number 47  
Saturday, November 22, 1997 • Harrisburg, Pa.

## **Part III**

This part contains the  
Department of Labor and Industry's  
Workers' Compensation  
Self-Insurance

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# THE GENERAL ASSEMBLY

## Cost-of-Living Factor Under the Public Official Compensation Law

Under section 4(d) of the Public Official Compensation Law (65 P. S. § 366.4(d)), for the 12-month period beginning December 1, 1997, through November 30, 1998, the salary of the members of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period of November 1, 1996, through October 31, 1997.

The percentage increase and the new salary amount have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

CPI-U for November 1, 1996, through October 31, 1997, cumulative percentage change—1.6980%.

New salary amount—\$58,341.23.

Under section 4(d.1) of the Public Official Compensation Law (65 P. S. § 366.4(d)), for the 12-month period beginning December 1, 1997, through November 30, 1998, the additional compensation of the officers and leaders of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period from November 1, 1996, through October 31, 1997.

The percentage increase and the new compensation amounts have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

<i>Leadership Position</i>	<i>Increase</i>	<i>New Compensation</i>
Speaker/President pro tempore	1.6980%	32,733.15
Majority Floor Leader	1.6980%	26,187.76
Minority Floor Leader	1.6980%	26,187.76
Majority Whip	1.6980%	19,874.50
Minority Whip	1.6980%	19,874.50
Majority Caucus Chairman	1.6980%	12,391.93
Minority Caucus Chairman	1.6980%	12,391.93
Appropriations Chairman	1.6980%	19,874.50
Minority Appropriations Chairman	1.6980%	19,874.50
Majority Caucus Secretary	1.6980%	8,183.91
Minority Caucus Secretary	1.6980%	8,183.91
Majority Caucus Policy Chairman	1.6980%	8,183.91
Minority Caucus Policy Chairman	1.6980%	8,183.91
Majority Caucus Administrator	1.6980%	8,183.91
Minority Caucus Administrator	1.6980%	8,183.91

W. RUSSELL FABER,  
*Chief Clerk*  
*Senate of Pennsylvania*  
TED MAZIA,  
*Chief Clerk*  
*House of Representatives*

[Pa.B. Doc. No. 97-1888. Filed for public inspection November 28, 1997, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### LEHIGH COUNTY

#### Administrative Order Establishing Fees for Domestic Relations Services

##### Order

*And Now*, this 18th day of September, 1977, the following fees shall be assessed for services rendered by the Lehigh County Domestic Relations Section:

Audit Fee—	\$25.00	(refundable if DRS is in error)
Costs—	\$21.00	
Duplication and Copying Fee—	\$ .25	per copy
Petition for Modification—	\$10.00	
Returned Check Fee—	\$25.00	
Subpoena—	\$ 2.00	
Superior Court Appeal Filing Fee—	\$30.00	

*By the Court*

EDWARD D. REIBMAN,  
*Administrative Judge*

[Pa.B. Doc. No. 97-1889. Filed for public inspection November 28, 1997, 9:00 a.m.]

### LEHIGH COUNTY

#### Administrative Order Establishing Fees for Domestic Relations Services

##### Order

*And Now*, this 22nd day of September, 1997, It Is Ordered that the following order for Establishing Fees for Domestic Relations Services in the 31st Judicial District composed of Lehigh County be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the rules in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of Common Pleas of Lehigh County.

*By the Court*

JAMES KNOLL GARDNER,  
*President Judge*

[Pa.B. Doc. No. 97-1890. Filed for public inspection November 28, 1997, 9:00 a.m.]

b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Civil Procedural Rules Committee.

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Keep continuously available for public inspection copies of this order.

*By the Court*

CLINTON W. SMITH,  
*President Judge*

**L1914. Mandatory Seminar For Separating Families.** In all divorce, custody and visitation proceedings filed after the effective date of this rule and in such other cases as the court shall direct, where the interests of children under the age of eighteen (18) years are involved, the parties shall attend the "Lycoming County Parent Education Program." The program will be conducted by a service provider designated by the court, which shall be charged with implementing the program in accordance with guidelines issued by the court. This course must be completed once only, even if subsequent custody matters are filed involving the same children.

*Note:* A great deal of valuable research has been conducted to determine the nature of psychological impacts of divorce/parental separation upon children and their parents. This research has yielded specific and consistent results in terms of common reactions, stages and problematic behaviors, as well as successful psychoeducational models and prevention techniques designed to minimize the short and long term negative impacts associated with the divorce. This parent education program utilizes such knowledge in a proactive-prevention approach in order to minimize the negative psychological impact of divorce upon children in particular, as well as parents. This model provides critical education to parents regarding what to anticipate in terms of their children's adjustment process as well as their own. The fact that the parent's behavior and adjustment is very critical to the child's

### LYCOMING COUNTY

#### Amendments to Rules of Civil Procedure; No. 97-00100

##### Order

*And Now*, this 9th day of October, 1997, it is hereby Ordered and Directed as follows:

1. Lycoming County Rule of Civil Procedure L1914 is hereby promulgated as indicated in the following.

2. The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

adjustment is emphasized. The model serves to help prevent severe long-term maladaptive reactions and to minimize more immediate negative emotional fallout which occurs in children as a result of the divorce/separation of parents. Another potential indirect benefit of the program would be the reduction in the use of the courts to resolve issues regarding children.

Court mandated parent education classes are becoming very common in the United States as the preventative value and effectiveness of such program are recognized. Throughout the divorce process parents usually become very self absorbed with diminishing abilities to parent effectively (or even adequately). This occurs at a time when children's needs are tremendous for both proper parenting in terms of guidance and emotional support. For many of these couples, a court mandated parenting education class will be the only modality in which they receive critical information or assistance in the divorce process. Most families will not receive or seek professional psychotherapy or community counseling-educational programs.

This parent education model utilizes a two part class (two hours each class), and a detailed (and understandable) handbook or "manual" is distributed for parents to utilize in class and keep. In addition to reviewing the handbook, the classes consist of a lecture, video and discussion period. Classes will be scheduled at various times to avoid conflicts with work schedules.

A. When a proceeding to which this rule applies is commenced, the moving party shall include in the complaint or petition:

1. in the case of a divorce, where the parties have minor children, in addition to the information required by Pa.R.C.P. no. 1920.12, the following averments:

a. Plaintiff avers that there are children of the parties under the age of eighteen (18), namely, to-wit: (list names and dates of birth); and,

b. Plaintiff has been advised of the requirement to attend the "Lycoming County Parent Education Program" [or the parties have previously attended the "Lycoming County Parent Education Program as evidenced by the certificates of attendance contained in court file, docket number \_\_\_\_\_]; and,

2. in the case of a custody or visitation matter the following averment:

Plaintiff has been advised of the requirement to attend the "Lycoming County Parent Education Program" [or, The parties have previously attended the "Lycoming County Parent Education Program as evidenced by the certificates of attendance contained in court file, docket number \_\_\_\_\_].

B. In all cases to which this rule applies, the moving party shall include in the order required by Pa.R.C.P. no. 1915.15(c) the following language:

Both parties are directed to attend the "Lycoming County Parent Education Program" conducted by (Name,

address and telephone number of service provider). You are required to register for the program in person or by mail within seven (7) days after you are served with this order. A registration form, program brochure and instruction sheet has been served herewith.

C. Service. The moving party shall serve the order containing the language required by sub-section "B", as well as a copy of the program brochure, registration form and instruction sheet, contemporaneously with service of the complaint or petition which first raises the custody or visitation issue. Proof of service shall be filed, with a copy of the proof of service served upon the service provider designated to conduct the seminar.

D. Within seven (7) days after service of the order containing the language required by sub-section "B", both parties are required to register for the seminar by mailing or personally presenting the pre-printed "Lycoming County Parent Education Program" registration form, along with a registration fee of fifty dollars (\$50) or, an order granting in forma pauperis status, to the service provider at the address set forth on the registration form. Any parent who obtains an order to proceed without payment of costs will automatically have the costs of the program waived. If the service provider determines that it cannot waive the fees, for any reason, it shall issue a notice excusing the parent from the program.

E. The parties shall complete the seminar within sixty (60) days of the service of the order containing the language required by sub-section "B". Court approval is required for an extension of time to complete the seminar.

F. Where attendance under this rule would cause undue hardship, a party may contact the service provider for possible alternative program attendance.

G. Upon completion of the seminar, each parent will receive a copy of a certificate verifying compliance with this rule. The original certificate shall be filed with the court. No custody pre-trial conference shall be held or final order in divorce entered until both parties have completed the program, and the certificate has been filed. The court may waive this requirement upon cause shown. Cause may include, but is not limited to, a finding by a preponderance of the evidence that one party is purposely delaying the process by not attending the seminar. Failure to register for and complete the program may result in a finding of contempt and the imposition of sanctions.

H. The seminar requirements of this rule do not apply to petitions filed pursuant to Lyc. Co. R.C.P. L1915.13-1 or L1915.13-2, where the moving party has alleged either a clear and present danger to the child(ren) or a belief of a clear and specific intent that the child will be moved by the other party outside the jurisdiction of the court and that such move is not in the best interests of the child(ren); nor does this rule apply to cases commenced under the Protection From Abuse Act, 23 Pa.C.S. § 6101 et seq., unless otherwise ordered by the court.

[Pa.B. Doc. No. 97-1891. Filed for public inspection November 28, 1997, 9:00 a.m.]

LYCOMING COUNTY

Amendments to Rules of Civil Procedure; No. 97-00100

Order

And Now, this 3rd day of November, 1997, it is hereby Ordered and Directed as follows:

- 1. Lycoming County Rule of Civil Procedure L218 is hereby rescinded.
2. Lycoming County Rule of Civil Procedure L1007 is hereby promulgated as indicated in the following.
3. The Prothonotary is directed to:
a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.
b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

c. File one (1) certified copy of this order with the Civil Procedural Rules Committee.

d. Forward one (1) copy of this order to the Lycoming Reporter for publication therein.

e. Keep continuously available for public inspection copies of this order.

By the Court

CLINTON W. SMITH,
President Judge

L1007. Commencement of Action. Case Scheduling.

A. This rule applies to all civil actions, except domestic relations cases and those types of actions excepted under subsection B of this rule, whether commenced by complaint or writ of summons.

1. When filed, every complaint, writ of summons or appeal from the decision of a local administrative agency, shall be accompanied by two copies of a civil action cover sheet which shall be substantially in the following form:

Plaintiff; : IN THE COURT OF COMMON PLEAS
: LYCOMING COUNTY, PENNSYLVANIA
vs. :
: NO.
Defendant; : CIVIL ACTION—LAW

CIVIL ACTION COVER SHEET

1. The above captioned civil action should be processed as follows for purposes of civil case management and the issuance of a case scheduling order;

(Check one of the following)

- \_\_\_\_\_ ARBITRATION (Damages of \$25,000 or less)
\_\_\_\_\_ NORMAL TRACK
\_\_\_\_\_ COMPLEX TRACK
\_\_\_\_\_ ADMINISTRATIVE TRACK—List for trial under rule L1007B.

2. This matter was commenced by \_\_\_\_\_ Complaint \_\_\_\_\_ Writ of Summons.

(Date)

(Filing party or attorney)

Order

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the case scheduling conference is scheduled for \_\_\_\_\_, at \_\_\_\_\_ AM/PM, in courtroom number \_\_\_\_\_. PLAINTIFF SHALL IMMEDIATELY SERVE A COPY OF THIS ORDER UPON ALL DEFENDANTS OR THEIR ATTORNEYS. PLAINTIFF SHALL INITIATE DISCUSSIONS ON A CASE SCHEDULING ORDER, IN COMPLIANCE WITH LYC. CO. R.C.P. L1007. A PROPOSED CASE SCHEDULING ORDER MUST BE FILED NO LATER THAN FOURTEEN DAYS BEFORE THE SCHEDULED CONFERENCE. [Or, where the case is governed by rule 1007B1 use the following language: AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the court administrator is directed to place this case on the next trial list occurring more than 90 days after the date of this order.]

By the Court,

J.

cc: Court Scheduling Technician

2. After the cover sheet is filed the prothonotary shall note the docket number thereon and immediately forward one copy to the court administrator who shall, within thirty (30) days,

a. assign a judge,

b. set a case scheduling conference for no sooner than ninety (90) days after the filing of the complaint or writ of summons and have a judge execute the order on the civil action cover sheet, and

c. return the executed scheduling order to the prothonotary for transmission of a copy of the order to plaintiff's

lawyer (or plaintiff if unrepresented). The order shall set forth the date of the conference and detail the party's obligations under this rule.

3. Upon receiving the executed order plaintiff's attorney (or plaintiff if unrepresented) shall immediately serve a copy of the order upon all counsel or unrepresented parties.

4. In a case where all parties are represented by counsel, counsel shall make every effort to agree to a case scheduling order prior to the date of the case scheduling conference. Any such agreed upon order shall be filed,

along with a Rule L206 Cover Sheet, no later than fourteen (14) days prior to the date scheduled for the case scheduling conference. The attorney for plaintiff shall be responsible to initiate the effort to secure agreement on an order.

5. If a case scheduling order is agreed upon, it shall establish a proposed trial date, as well as deadlines for discovery, dispositive motions and for the exchange of expert reports. The proposed order shall be substantially in the following form:

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff;	:	LYCOMING COUNTY, PENNSYLVANIA
	:	
vs.	:	
	:	NO.
	:	
Defendant;	:	CIVIL ACTION—LAW

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ upon agreement of the parties, it is hereby ordered and directed as follows:

1. This jury \_\_\_\_\_, non-jury \_\_\_\_\_ case will be processed as a normal \_\_\_\_\_ complex \_\_\_\_\_ track case. [or] This is an arbitration limits case \_\_\_\_\_.
2. The case will be placed on the \_\_\_\_\_ trial list [or] listed for arbitration on \_\_\_\_\_.
3. The cut off date for discovery is \_\_\_\_\_.
4. Expert reports to be exchanged by: plaintiff \_\_\_\_\_; defendant \_\_\_\_\_.
5. The last day to file dispositive motions is \_\_\_\_\_.
6. The parties agree \_\_\_\_\_, do not agree \_\_\_\_\_ to use alternative dispute resolution.
7. The case scheduling conference scheduled for \_\_\_\_\_ is canceled.

By the Court,

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

cc: Court Scheduling Technician

6. The agreed upon trial date shall ordinarily comply with the following guidelines:

a. Arbitration limits case—the arbitration to occur within six (6) to twelve (12) months after the first defendant is served.

b. Normal track—the trial to occur between twelve (12) and fifteen (15) months after the first defendant is served. Most cases will be considered normal.

c. Complex track—the trial to occur between eighteen (18) and twenty-four (24) months after the first defendant is served.

7. Case Scheduling Conference.

a. The case scheduling conference will occur as scheduled if:

- a. the parties can not agree to a case scheduling order;
- b. the court does not accept the parties' proposed case scheduling order; or
- c. the proposed order is not filed in a timely manner.

After the case scheduling conference, the court shall issue a case scheduling order.

b. Any party may, at any time, file a written request for a case scheduling conference if it appears that a revision of the case scheduling order is required.

B. Exceptions—Administrative Track. The procedures set forth in subsection A above shall not apply to mortgage foreclosure cases, landlord/tenant cases appealed from a decision of a district justice or appeals from administrative agencies. Actions of this type shall be governed by the procedures set forth in this subsection.

1. In all actions governed by this subsection, the parties shall comply with the requirements of subsection A.1. The "Civil Action Cover Sheet" shall include a request for the court to list the action for trial and shall include an order directing the court administrator to list the case in accordance with this subsection.

2. When directed to list an action for trial under this subsection, the court administrator shall place the action on the list for the first trial term occurring more than ninety (90) days after the order is executed.

[Pa.B. Doc. No. 97-1892. Filed for public inspection November 28, 1997, 9:00 a.m.]

## SCHUYLKILL COUNTY

**Amendment of Civil Rules of Procedure No. 206 and Rule 205.3**

*And Now*, this 12th day of November, at 1:08 p.m., the Court hereby amends Schuylkill County Civil Rules of Procedure No. 206 and Rule 205.3 and adopts amended Rules No. 206 and No. 205.3 for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

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

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

JOSEPH F. MCCLOSKEY,  
*President Judge*

**Rule 206. Petitions.**

Petition and answer practice shall comport with Pa.R.C.P. 206, and the rule provisions of Pa.R.C.P. 206.6 and Sch.R.C.P. 1019, setting forth the authority on which the Petition is based. Each petition shall be accompanied by a praecipe pursuant to Sch.R.C.P. 205.3 indicating that the movant seeks issuance of a Rule to Show Cause. Upon filing, an Order in the form set forth herein shall be issued as of course and the parties shall thereafter proceed pursuant to the provisions of Pa.R.C.P. 206.

**Rule 205.3. Praecipe to Transmit.**

All filings which require action by a judge, or an assignment by the Court Administrator (except certificates of readiness for arbitration or trial) shall be accompanied by a praecipe to transmit on Prothonotary Form 205.3, and shall indicate the nature of the filing and what

action is being sought to move the matter forward. The purpose of the praecipe is to advise the Court of what may be necessary for a disposition (i.e., when a hearing is required; when a matter is ripe for disposition on the record; matters that can be immediately addressed) and to expedite action on the filing. When a non-jury trial or a hearing involving witnesses is being requested, then the moving party shall list the witnesses to be presented and include an estimate as to the time required to present the case. In matters requiring a non-jury trial or hearing, opposing counsel is required to submit a report in WRITING to the Court Administrator within 10 days of the moving party's filing of the praecipe to transmit, (1) listing the names of the witnesses they will use at trial or hearing; and (2) an estimate of time required to present their case. Failure to file the praecipe to transmit or to indicate what action is required from the Court may result in denial of the relief sought. Failure to list witnesses may result in the preclusion of their testimony.

[Pa.B. Doc. No. 97-1893. Filed for public inspection November 28, 1997, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

**Notice of Disbarment**

Notice is hereby given that Walter V. Waltz, who resides outside the Commonwealth of Pennsylvania, having been disbarred from the practice of law in State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated November 13, 1997, disbaring Walter V. Waltz from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney has never practiced in Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 97-1894. Filed for public inspection November 28, 1997, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

#### Bonding, Civil Penalties and Areas Unsuitable for Mining

The Environmental Quality Board (Board) by this order amends Chapter 86 (relating to surface and underground coal mining; general). The amendments are the result of a comprehensive regulatory review required under Governor Ridge's Executive Order 1996-1 and the Department of Environmental Protection's (Department) Regulatory Basics Initiative (RBI). The amendments revise regulations consistent with the rulemaking principles set forth in Executive Order 1996-1 and the RBI. These amendments affect the process for designating areas unsuitable for mining, bonding and civil penalties.

This order was adopted by the Board at its meeting of September 16, 1997.

##### A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

##### B. Contact Persons

For further information contact Roderick A. Fletcher, P.E., Director, Bureau of Mining and Reclamation, P. O. Box 8461, Room 209 Executive House, Harrisburg, PA 17105-8461, (717) 787-5103, or Joseph Pizarchik, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT & T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department's web site (<http://www.dep.state.pa.us>).

##### C. Statutory Authority

These amendments are adopted under the rulemaking authority of the following acts: sections 4(d) and 4.2(a) of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. §§ 1396.4(d) and 1396.4b(a)); sections 5(b) and 315(b) of The Clean Streams Law (35 P. S. §§ 691.5(b) and 691.315(b)); sections 3.2(a) and 6(a) of the Coal Refuse Disposal Control Act (52 P. S. §§ 30.53b(a) and 30.56(a)); section 7(b) of The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. § 1406.7(b)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) which authorize the Board to adopt regulations necessary for the Department to perform its work.

##### D. Background and Summary

In August of 1995, the Department began its RBI review of existing regulations. The RBI review includes an identification of regulations which are more stringent than Federal law and regulation. Under Executive Order 1996-1 and the RBI, regulations which are more stringent than Federal requirements are being revised, unless the Department determined that more stringent State requirements are justified by a compelling and articulable Pennsylvania interest or required by state statute. As part of its regulatory review, the Department solicited

public input through a notice in the *Pennsylvania Bulletin* and the Department's web site. These amendments are the result of suggestions from the public and the Department's own review of its regulations.

The amendments revise the definitions of "related party" and "owned or controlled and owns or controls," and create a definition for "willful violation." The procedures for petitioning an area to be designated unsuitable for mining are revised to allow the Department discretion on whether to process a petition received after the first public notice of a permit application on the same area. This change narrows the time period in which submission of a petition will block issuance of a permit involving the same area.

Changes in the sections on bonding include notice to the operator and surety of a proposed bond adjustment, the use of self-bonds in combination with other types of bonds, limiting the reasons that the Department may delay bond release inspections to weather conditions, and notifying the permittee and surety of an intent to forfeit bonds.

The proposed amendment included a new § 86.182(a)(2) which required the Department to advise the permittee and, if applicable, the surety, of the conditions under which forfeiture may be avoided. This language was based on the Federal regulations. Upon closer examination it has been determined that proposed § 86.182(a)(2) is contrary to Pennsylvania mining statutes and it has been deleted.

Section 4(h) of SMCRA (52 P. S. § 1396.4(h)) provides "If the operator fails or refuses to comply with the requirements of the act in any respect for which liability has been charged on the bond, the Department shall declare such bond forfeited. . . ." Similar language is found in section 6(b) of the Coal Refuse Disposal Control Act and section 315(b) of The Clean Streams Law. Section 4(h) of SMCRA provides a surety, upon the consent and approval of the Department, the option of reclaiming the forfeited site in lieu of paying the bond amount to the Department. It does not give the surety the option to avoid the forfeiture action. Regulations addressing this point are included in another rulemaking.

Sections of the regulations concerning the calculation of civil penalties are revised by increasing the dollar amount at which a civil penalty becomes mandatory, and by eliminating certain mandatory civil penalties. These amendments also allow the Department to revise civil penalties for exceptional factors. Civil penalties against corporate officers are revised to provide for a stay and withdrawal of individual civil penalties under certain conditions.

In an attempt to reflect the Federal Office of Surface Mining Reclamation and Enforcement (OSM) system for determining the amount of a civil penalty, the proposed amendments reduced the maximum civil penalties assessed for seriousness of the violation and negligence of the operator. Upon closer examination the Department finds that the proposed changes are not consistent with dollar amounts which could be assessed under the OSM system. The OSM uses a point system for determining civil penalties. For each violation, points are accumulated based on history of previous violations, seriousness of the violation and negligence on the part of the operator. Negative points may be added for exceptional speed of compliance. The dollar amount of the civil penalty under

the OSM system is \$20 per point up to, and including, 25 cumulative points. Above 25 points, each additional point is assessed at \$100. The proposed amendments to the Commonwealth's regulations were based solely on \$20 per point. Since these amendments set the maximum amount which may be assessed for seriousness and negligence, those dollar amounts are revised to be equivalent to \$100 per point, the maximum amount possible under the OSM system. Even these newly revised maximums for seriousness and negligence are below the amounts currently set by § 86.194 (relating to system for assessment of penalties).

The Department also found and has corrected a \$10 error in the minimum amount which may be assessed for willful violations.

Amendments to the regulations which establish procedures for assessing civil penalties allow operators to submit additional information concerning a violation, and restrict the use of certain evidence in formal appeals. Another change revises the title of one section of the regulations to clearly identify that section as relating to a final action of the Department.

The regulations being revised in this rulemaking deal with administrative and procedural matters. Impacts will be limited to coal mining operators and any person who may submit a petition to have an area designated as unsuitable for mining.

These amendments were discussed with the Mining and Reclamation Advisory Board (MRAB). The MRAB recommended approval of these amendments at its meeting on July 10, 1997.

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

The proposed rulemaking was published in the *Pennsylvania Bulletin* on February 8, 1997. The public comment period expired on March 10, 1997. There were no public hearings. The only comments received were from the Independent Regulatory Review Commission (IRRC). However, the Harrisburg Field Office of the OSM provided comments after the close of the public comment period.

The OSM comments were informal in nature and simply stated that the proposed regulations appeared to be consistent with, and no less effective than, the corresponding Federal rules. As mentioned in Section D of this Preamble, a detailed evaluation of the civil penalty provisions in proposed § 86.194 disclosed that the proposed changes were less effective than the OSM civil penalty system. Those provisions have been corrected.

IRRC had two comments relating to procedures. They noted that proposed § 86.124(a)(6) (relating to procedures: initial processing, recordkeeping and notification requirements), which deals with the determination not to process a petition, paralleled the Federal regulation at 30 CFR 764.15(a)(6) with one exception. The proposal did not require the Department to tell the petitioner why the Department would not consider the petition.

Although the Department routinely notifies petitioners and intervenors of its activities concerning the petition, the Board agrees that the Department should tell the petitioner why the Department will not consider the petition. Language has been incorporated in § 86.124(a)(6) which requires the Department to notify the petitioner of its findings.

IRRC also suggested that language be added to § 86.124(a)(6) which outlines the criteria that the Depart-

ment will use to determine if a petition will be considered. The criteria for designation of lands as unsuitable for mining are found in § 86.122 (relating to criteria for designating lands as unsuitable). The Department had previously considered amending the discretionary criteria contained in § 86.122(b) to define more clearly how the Department would use its discretion in determining the merits of a petition. However, an informal review by OSM Reclamation and Enforcement indicated that doing so would result in criteria which would be more restrictive than Federal regulations. Accordingly, no change to the discretionary criteria in § 86.122(b) is proposed.

#### *F. Benefits, Costs and Compliance*

Executive Order 1996-1 requires an analysis of the costs and benefits of the final rulemaking.

##### *Benefits*

These amendments are intended to improve the Commonwealth's coal mining regulations under the principles set forth in Executive Order 1996-1 and the Department's RBI when there is no compelling State interest to be more stringent than the Federal counterpart. This Commonwealth's coal mining industry will benefit from these amendments by receiving prior notice of Department actions on bond adjustments and bond forfeiture and from having an opportunity to provide additional information concerning circumstances related to civil penalty assessments.

##### *Compliance Costs*

The proposed changes are primarily procedural and administrative in nature. They will impose no additional compliance costs on the regulated community.

##### *Compliance Assistance Plan*

Since coal mining regulations are an established program in this Commonwealth, compliance assistance will be limited to a simple effort to inform the industry of the specific changes in the program. This will be accomplished by mailing fact sheets directly to coal mine operators.

The Department also conducts informal public information workshops for organizations and persons who may be interested in petitioning to have an area declared unsuitable for mining. The workshops are available upon request and will be modified to describe the change to the petition process made by these amendments.

##### *Paperwork Requirements*

These amendments impose no additional paperwork on the regulated community. It will be necessary for the Department to revise several existing forms and technical guidance documents.

#### *G. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### *H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 29, 1997, the Board submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments as well as other documentation.



In preparing these final-form regulations, the Board has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble. The Committees did not provide comments on the proposed rulemaking.

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on October 14, 1997. IRRC met on October 23, 1997, and approved the final-form regulations in accordance with section 5(c) 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 all comments were considered.

(3) These amendments do not enlarge the purpose of the proposal published at 27 Pa.B. 730 (February 8, 1997).

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

*K. Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 86, are amended by amending §§ 86.1, 86.152, 86.156, 86.160, 86.171, 86.193, 86.195, 86.201 and 86.202 to read as set forth at 27 Pa.B. 730 and by amending §§ 86.124, 86.182 and 86.194 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Chairperson of the Board shall submit this order, 27 Pa.B. 730 and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Chairperson shall submit this order, 27 Pa.B. 730 and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 27 Pa.B. 730 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately upon publication.

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. 5840 (November 8, 1997).)*

**Fiscal Note:** 7-302. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

**CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL**

**Subchapter D. AREAS UNSUITABLE FOR MINING CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING**

**§ 86.124. Procedures: initial processing, record-keeping and notification requirements.**

(a) Within 30 days of receipt of a petition, the Department will notify the petitioner by certified mail whether or not the petition is complete as required by § 86.123 (relating to procedures: petitions). If the 30-day requirement of this subsection cannot be met due to the staff limitations of the Department, the Department may process the petition in accordance with the priority system authorized by subsection (b)(2). Within the 30-day period, the Department will also notify an applicant with pending surface mining permit applications in the area covered by the petition.

\* \* \* \* \*

(6) The Department may determine not to process any petition for a designation under § 86.122 (relating to criteria for designating lands as unsuitable) insofar as it pertains to an area for which an administratively complete surface mining operation permit application has been filed and the first newspaper notice has been published. The Department will provide written notice to the petitioner with a statement of its findings. Once a petition has been returned to the petitioner under this section, the Department may proceed to issue a decision on a permit application received for mining in the area included within the petition.

\* \* \* \* \*

**BOND FORFEITURE**

**§ 86.182. Procedures.**

(a) The Department will send written notification by mail to the permittee, and the surety on the bond of the Department's intent to forfeit the bond and the reasons for the forfeiture.

(b) If forfeiture of the bond is required, the Department will:

(1) Send written notification by mail to the permittee, and the surety on the bond of the Department's determination to forfeit the bond and the reasons for the forfeiture.

(2) Advise the permittee and surety of their right to appeal to the EHB under section 4 of the Environmental Hearing Board Act of 1988 (35 P. S. § 7514).

(3) Notify the surety of the requirement to pay the amount of the forfeited bond over to the Department within 30 days after notice by certified mail from the Department. The money shall be held in escrow with any interest accruing to the Department pending the resolution of any appeals. If it is determined, by a court of competent jurisdiction, after exhaustion of appeals, that the Commonwealth was not entitled to all or a portion of

the amount forfeited, the interest shall accrue proportionately to the surety in the amount determined to be improperly forfeited by the Department.

(4) Proceed to collect on the bond as provided by applicable laws for the collection of defaulted bonds or other debts, consistent with this section, if timely appeal is not filed or if an appeal is filed and the appeal is unsuccessful.

(c) The written determination to forfeit the bond, including the reasons for forfeiture, will be a final decision by the Department.

(d) The Department will forfeit bonds deposited for a permit area, including designated phases of a permit area and amended permit areas, except for that portion of the bond which has been released as provided in §§ 86.170—86.172 (relating to scope; procedures for seeking release of bond; and criteria for release of bond). Liability on every bond posted for a permit area, designated phase of a permit area, or an amendment thereof, shall cover violations within the permit area or resulting from mining of the permit area.

(e) In lieu of paying the amount of the forfeited bond within 30 days after notice, a surety may reclaim the forfeited site upon the consent and approval of the Department. The surety shall notify the Department of its intent to reclaim the site within 30 days after the notice of forfeiture. The notification shall include a time frame within which the surety will submit a proposal which describes both the reclamation work to be done and a schedule for completion of the reclamation. Subject to the Department's approval of the time frame and the subsequent reclamation proposal, the Department and the surety will enter into a consent order and agreement specifying the terms of the reclamation work to be done.

(f) If the Department declares a collateral bond forfeited, it will pay, or direct the State Treasurer to pay, the collateral funds into the Surface Mining Conservation and Reclamation Fund. If upon proper demand and presentation, the banking institution or other person or municipality which issued the collateral refuses to pay the Department the proceeds of a collateral undertaking, such as a certificate of deposit, letter of credit or government negotiable security, the Department will take appropriate steps to collect the proceeds.

(g) The Department will use funds collected from bond forfeiture to complete the reclamation plan, or remaining portion thereof, on the permit area or increment to which bond coverage applies.

(h) If the amount forfeited is:

(1) Insufficient to pay for the full cost of reclamation, the operator shall be liable for remaining costs. The Department may complete, or authorize completion of, the reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited.

(2) More than the amount necessary to complete the reclamation, the excess funds will be used by the Department, as approved by the Secretary, for any of the purposes provided in section 18(a) of the act (52 P. S. § 1397.18(a)).

**§ 86.194. System for assessment of penalties.**

(a) The Department and, in event of appeal, the EHB, will use the system described in this section to determine the amount of the penalty and whether a mandatory penalty will be assessed as provided in § 86.193 (relating

to assessment of penalty). Unless otherwise indicated in this section, the penalty may be set at any amount from zero through the maximum amount specified in this section.

(b) Civil penalties will be assessed as follows:

(1) Seriousness. Up to \$3,000 will be assessed based on the seriousness of the violation, including:

\* \* \* \* \*

(vi) An additional amount up to the statutory maximum may be assessed in extraordinary circumstances.

(2) Culpability. If the violation was caused, contributed to or allowed to continue due to negligence on the part of persons working on the exploration or surface mining site, a penalty of up to \$1,200 will be assessed depending on the degree of negligence of the persons. If the violation was willful or the result of reckless conduct on the part of the person working on the exploration or surface mining site, a penalty of up to the statutory maximum but at least \$260, will be assessed.

(3) Speed of compliance. A credit will be given of up to \$1,000 based on the person's attempt to achieve rapid compliance after the person knew or should have known of the violation. If the violation is abated within the time period in an abatement order, a credit will not be given under this paragraph unless the violation is abated in the shortest possible time, in which case a credit of up to \$1,000 will be given. The credit will be available to offset only civil penalties assessed for the specific violation at issue.

(4) Cost to the Commonwealth. A penalty of up to the statutory maximum may be assessed based on the costs expended by the Commonwealth as a result of the violation. The costs may include:

(i) Administrative costs.

\* \* \* \* \*

(6) History of previous violations. In determining a penalty for a violation, the Department will consider previous violations of the applicable laws for which the same person or municipality has been found to have been responsible in a prior adjudicated proceeding, agreement, consent order or decree which become final within the previous 1-year period on the permit where the violation has occurred. The penalty otherwise assessable for each violation shall be increased by a factor of 5% for each previous violation. The total increase in assessment based on history of previous violation will not exceed \$1,000.

\* \* \* \* \*

(f) Revision of civil penalty.

(1) The Department, upon its own initiative or upon written request received within 15 days of issuance of an order or cessation order, may revise a civil penalty calculated in accordance with the dollar limits in subsection (b), if the Department determines that, taking into account exceptional factors present in the particular case, the civil penalty is demonstrably unjust, the Department will not reduce the civil penalty on the basis of an argument that a reduction in civil penalty could be used to abate violations of the acts. This chapter, Chapter 87, 88, 89 or 90, or a condition of a permit or exploration approval. The basis for every revision of a civil penalty shall be fully explained and documented in the records of the case.

(2) If the Department revises the civil penalty, the Department will use the general criteria in subsection (b)

to determine the appropriate civil penalty. When the Department has elected to revise a civil penalty, the Department will give a written explanation of the basis for the revised civil penalty to the person to whom the order was issued.

[Pa.B. Doc. No. 97-1895. Filed for public inspection November 28, 1997, 9:00 a.m.]

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 271—273, 277, 279, 281, 283, 285, 287—289, 291, 293, 295, 297 and 299]

#### Municipal, Residual and Infectious and Chemotherapeutic Waste Recordkeeping and Reporting; Substantial Plan Revisions

The Environmental Quality Board (Board) by this order amends Chapters 271—273, 277, 279, 281, 283, 285, 287—289, 291, 293, 295, 297 and 299. The amendments streamline recordkeeping and reporting requirements of the regulated community by eliminating duplicate data submission requirements and reducing unnecessary or duplicative recordkeeping requirements, while maintaining environmental protection and public access to information. In addition, the amendments implement a recommendation of the Municipal Waste Stakeholders Group regarding county municipal waste plan revisions.

This order was adopted by the Board at its meeting of September 16, 1997.

#### A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. Contact Persons

For further information contact Keith Kerns, Chief, Division of Waste Minimization and Planning, P. O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717)877-7382, or electronically at Kerns.Keith@A1.dep.state.pa.us or Kristen Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717)787-7060 or electronically at Campfield.Kristen@A1.dep.state.pa.us. 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 amendments are available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

The final rulemaking is being made under the authority of the following:

- The Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101—6018.1003), which in section 105(a) grants the Board the power and duty to adopt the rules and regulations of the Department to carry out the provisions of the SWMA.

- The Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904), which in section 302 gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and to carry out the provisions of that act.

- The Clean Streams Law (35 P. S. §§ 691.1—691.1001), which in section 5(b) grants the Department

the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of that act.

- The Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6), which in sections 2(b) and 4(b) grants the Department the authority to propose regulations as may be necessary or appropriate to accomplish the purposes of the act and grants the Board the authority to adopt rules and regulations of the Department to accomplish the purposes and to carry out the provisions of that act.

#### D. Background and Summary

##### *Recordkeeping and Reporting Requirements*

These final-form regulations are designed to reduce recordkeeping requirements for the regulated community and to eliminate duplicative data submissions to the Department while continuing to provide adequate access to information to the public and the Department and continuing to protect the environment. They are the result of an in-depth study by a committee of Department management and technical staff, with significant opportunity for input from the general public and the regulated community. The study began in 1995.

The Department has consulted on a number of occasions with its Solid Waste Advisory Committee (SWAC). Before the proposed amendments were published, SWAC recommended that the Department develop a table showing an alternate source of data for each reporting requirement the Department proposed to eliminate. The table appeared in the Preamble to the proposed amendments and appears again in this Order.

The package also includes the addition of a section to the municipal waste regulations (§ 271.4) authorizing the submission of data electronically. Electronic submissions are allowed under the existing residual waste regulations.

Revised reporting forms for use with these final-form regulations are available through the contact persons listed in Section B and may also be viewed on the Department's World Wide Web site (<http://www.dep.state.pa.us>).

##### *Plan Revisions*

This final rulemaking implements a recommendation of the Municipal Waste Stakeholders Group regarding county municipal waste management plan revisions. The regulations now authorize a county to add or delete a facility to or from a plan without having to follow the substantial plan revision process. In addition, the final-form regulations indicate that any notice of revision submitted to the Department must explain how disposal and processing capacity will be assured, and any revision submitted to the Department for approval will be reviewed fully to the extent it revises the original plan.

##### *Entire Package*

The final-form regulations were approved by SWAC at its June 12, 1997, meeting.

None of these revisions exceeds Federal requirements. Related municipal waste Federal regulations can be found in the United States Environmental Protection Agency's (EPA) "Criteria for Municipal Landfills," 40 CFR 258, at 258.29. The EPA requires submission of records upon request, to the State Director (that is, the Secretary of the Department). The Department has obtained EPA

approval of its landfill permitting program (including recordkeeping and reporting under Part 258). These regulatory amendments do not jeopardize EPA approval.

There are no companion Federal residual waste regulations. Because the Department is responsible for program administration, including compliance monitoring, detailed periodic reporting is necessary.

*Deletion*

Chapter 273. Municipal waste landfills

§ 273.313. Annual operation report.

- (b)(1) Weight or volume of solid waste received.
- (b)(2) Type and weight or volume of solid waste received by county or state.
- (b)(3) Type and weight or volume of solid waste received by transporter.
- (b)(4)(ii, iv, v, vi) Location of groundwater monitoring wells, access roads, erosion and sedimentation control structures and devices, leachate storage or treatment facilities, property lines, boundaries of permitted fill areas and boundaries of lined areas.
- (b)(10) A description of emergency disposal areas or methods approved by the Department and used by the operator, which are not described in the permit.
- (b)(11) Notification of critical stages of facility construction requiring professional engineer certification in the next year.
- (b)(12) An analysis of special handling or residual waste received at the facility in the previous year.
- (b)(15) Counties that have used the facility during the past year.

Chapter 277. Construction/demolition waste landfills

§ 277.312. Annual operation report.

- (b)(1) Weight or volume of the types of solid waste received.
- (b)(2) The type and weight or volume of solid waste received by county or state.
- (b)(3) Type and weight or volume of solid waste received from each transporter that delivered waste to the facility.
- (b)(4)(ii, iv, v, vi) Groundwater monitoring wells, access roads, facility office, erosion and sedimentation control structures, leachate storage or treatment facilities, property lines, boundaries of permitted fill areas and boundaries of lined areas.
- (b)(10) A description of emergency disposal areas or methods approved by the Department and used by the operator, which are not described in the permit.
- (b)(11) Notification of critical stages of facility construction or operation that require professional engineer certification.

*Alternate Source Table*

This Table is provided upon SWAC's recommendation. It lists the reporting items deleted (a section (§) reference is given along with a summary of the requirement) and at least one alternate location where the information can be found. The Table indicates regulatory changes made in the proposed rulemaking which have been retained in this final rulemaking as well as changes made in the final rulemaking itself.

*Alternate Information Source*

- Daily record. § 273.311(b)(1).
- Quarterly fee report. § 273.312(b)(1).
- Daily record. § 273.311(b)(2).
- Quarterly fee report. § 273.312(b)(2).
- Daily record. § 273.311(b) (1) and (3) require recording of the amount and type of waste and the transporters but not the amount or type of waste received from each transporter.
- Maps and related information. § 273.113.
- Map and grid requirements. § 273.133.
- Water quality monitoring plan. § 273.152.
- Recordkeeping. § 273.288.
- Permit modification. § 271.222.
- Daily record. § 273.311(b)(5).
- Operation plan. § 273.132(1).
- Permit modification. § 271.222.
- Facility is required to receive these analyses and keep them as part of their approval to receive these wastes. § 271.621.
- Daily operational record. § 273.311(b)(2).
- Daily record. § 277.311(b)(1).
- Daily record. § 277.311(b)(2).
- Daily records. § 277.311(b)(1) and (3) require recording the amount and type of waste and the transporters but not the amount and type of waste received from each transporter
- Map and grid requirements. § 277.133.
- Map and related information. § 277.113.
- Leachate treatment plan. § 277.162.
- Permit modification. § 271.222.
- Daily operational record. § 277.311(b)(5).
- Operation plan. § 277.132(1).
- Map and grid requirements. § 277.133(a)(1).

*Deletion**Alternate Information Source*

## Chapter 279. Transfer facilities

## § 279.252. Annual Operation Report

(b)(1) The weight or volume of each waste received.

Daily record. § 279.251(b)(1).

(b)(2) The county or state in which the solid waste originated.

Daily record. § 279.251(b)(2).

(b)(3) The transporters of the solid waste.

Daily record. § 279.251(b)(3).

(b)(4) The weight or volume of each material recycled or marketed.

Daily record. § 279.251(b)(5) requires information on materials recycled but not materials marketed.

(b)(5) The destination of the solid waste.

Daily record. § 279.251(b)(4).

(b)(9) A description of emergency disposal areas.

Daily record. § 279.251(b)(6).

(b)(10) An analysis of special handling waste received at the facility in the previous year.

Facility is required to receive these analyses and keep them as part of their approval to receive these wastes. § 271.621.

## Chapter 281. Composting facilities

## § 281.272. Annual operation report.

(b)(2) The transporters of the waste.

Daily record. § 281.271(b)(3).

(b)(4) The type and weight or volume of waste received by transporter.

Daily records. § 281.271(b) (1) and (3) require recording of the amount and type of waste and the transporters but not the amount or type of waste received from each transporter.

(b)(10) Certification that the operator has received the chemical analysis of waste for each type of residual waste or special handling waste received at the facility.

Facility is required to receive these analyses and keep them on file as part of its permit to receive residual and/or special handling municipal waste. § 271.621.

## Chapter 283. Resource recovery and other processing facilities

## § 283.262. Annual operation report.

(b)(2) The county or state in which the solid waste originated.

Daily record. § 283.261(b)(2).

(b)(3) The transporters of the solid waste.

Daily record. § 283.261(b)(3).

(b)(4) The weight or volume of each material recycled or marketed as a result of the process.

Daily record. § 283.261(b)(4).

(b)(5) For bypassed wastes and waste products, the name and county or state of the facility where the solid waste is ultimately disposed.

Daily record. § 283.261(b)(5).

(b)(6) A description of handling problems or emergency disposal activities.

Daily record. § 283.261(b)(6).

(b)(7) The type and weight or volume of solid waste received from each transporter.

Daily record. § 283.261(b) (1) and (3) require recording of the amount and type of waste and the transporters but not the amount or type of waste received from each transporter.

(b)(11) A description of emergency disposal areas or methods.

Daily record. § 283.261(b)(6).

(b)(12) An analysis of special handling waste received at the facility in the previous year.

Facility is required to receive these analyses and keep them as part of their approval to receive these wastes. § 271.621.

## Chapter 285. Storage, collection and transportation of municipal waste

## Subchapter C. Transporter licensing for infectious and chemotherapeutic waste

## § 285.334. Annual report.

(b)(1) The name, mailing address and telephone number for each generator from whom the transporter accepted infectious or chemotherapeutic waste.

Manifest. § 285.412(a)(1).

(b)(2) Telephone number of the processing or disposal facility.

Manifest. § 285.412(a)(10).

(b)(3) The State manifest document number for each shipment of infectious or chemotherapeutic waste transported.

Document number is not needed. The Department does not receive a copy of the manifest.

*Deletion*

(b)(5) When more than one transporter is used to transport a single shipment of infectious or chemotherapeutic waste from the generator to the processing or disposal facility, the name, mailing address, telephone number and infectious or chemotherapeutic waste license number for each transporter.

Chapter 287. Residual waste management—general provisions.

§ 287.51. Scope

(Threshold for submitting biennial report and source reduction strategy now based on average generation rate over 1 year, rather than generation rate per month.

Chapter 288. Residual waste landfills

§ 288.282. Quarterly operation report. Deleted.

(b)(1) The type and weight or volume of solid waste received.

(b)(2) For noncaptive facilities, the name, mailing address, county and state of each generator of residual waste.

(b)(3) An analysis of the quality and quantity of leachate flowing from the landfill into the leachate storage and treatment system.

§ 288.283. Annual Operation Report.

(b)(2)(ii) The location of groundwater monitoring wells, access roads and the facility office.

(b)(2)(iv) Erosion and sedimentation control structures and devices.

(b)(2)(v) Leachate storage or treatment facilities, or both.

(b)(2)(vi) Property lines, boundaries of permitted fill areas and boundaries of lined areas.

(b)(11)(ii) For noncaptive facilities the type and weight or volume of solid waste received from each transporter.

Chapter 289. Residual waste disposal impoundments

§ 289. 303. Annual Operation Report

(b)(2)(i) The contours at the beginning and the end of the year.

(b)(2)(ii) The location of groundwater monitoring wells, access roads and the facility office.

(b)(2)(iii) The completed area of the site as well as areas partially filled but not active during the previous years.

(b)(2)(iv) Erosion and sedimentation control structures and devices.

(b)(2)(v) The location of treatment facilities.

(b)(2)(vi) Property lines, boundaries of permitted disposal areas and boundaries of lined areas.

(b)(8) Notification of critical stages of facility construction or operation that require certification by a registered professional engineer which will occur the next year.

*Alternate Information Source*

Manifest. § 285.412(a)(3) and § 285.411(c)(2) and (3).

Insignificant change: exempts reporting data on only 0.01% of residual waste.

Daily record. § 288.281(b)(1).

Daily record. § 288.281(b)(8)(ii).

Added to daily record. § 288.281(b)(8)(iii).

Permit modification. § 287.222.

Application map and grid requirements. § 288.133(a).

Permit modification. § 287.222.

Application map and grid requirements. § 288.133(a)(6).

Permit modification. § 287.222.

Leachate treatment plan. § 288.413.

Leachate treatment plan. § 288.513.

Permit modification. § 287.222.

Application map and grid requirements. § 288.133.

Daily record. § 288.281(b)(1) and (b)(8)(i) require recording of the amount and type of waste and the transporters but not the amount or type of waste received from each transporter.

Not appropriate for an impoundment.

Map and grid requirements. § 289.133.

Operation plan. § 289.132.

Permit Modification. § 287.222.

Not appropriate for an impoundment.

Operation plan. § 289.132.

Map and grid requirements. § 289.133(a)(6).

Permit Modification. § 287.222.

Map and grid requirements. § 289.133(a)(6).

Postclosure land use plan. § 289.172.

Permit modification. § 287.222.

Permit application. § 289.133.

Permit modification. § 287.222.

Certification. § 289.202.

*Deletion*

(b)(10) Certification that the operator has received the waste analysis or certification required by § 287.54 (relating to chemical analysis of waste) for special handling waste received at the facility, and that the special handling waste that is received at the facility meets the conditions in the facility's permit.

(b)(11)(ii) For noncaptive facilities, the type and weight or volume of solid waste received from each transporter.

## Chapter 293. Transfer facilities for residual waste

## § 293.252. Annual operational record.

(b)(2) The type and weight or volume of solid waste received from each generator, including the name, mailing address, county and the state of each generator.

(b)(3) The transporters of the solid waste.

## Chapter 295. Composting facilities for residual waste

## § 295.271. Daily operational records.

(b)(5) A record of deviation from the approved design or operational plans.

(b)(6) A record of activities for which entries are needed to comply with the annual operation report required in § 295.272 (relating to annual operation report).

## § 295.272. Annual operation report.

(b)(2) The transporters of the waste.

(b)(4) The type and weight or volume of waste received from each transporter.

## Chapter 297. Incinerators and other processing facilities

## § 297.262. Annual operation report.

(b)(3) The transporters of the solid waste.

(b)(5). The name, county and state of the facility where bypass wastes and waste products are ultimately disposed.

(b)(6) The type and weight or volume of solid waste received from each transporter.

## Chapter 299. Storage and transportation of residual waste

## § 299.219(b) Annual report. Deleted.

(b)(1) A summary of the types or classifications of residual wastes transported each month of the year by weight or volume and annual totals.

(b)(2) The name, mailing address, county and state of each generator of the transported waste, including the type or classification of the waste, and weight or volume of the waste.

(b)(3) The destination or facility to which the wastes were delivered by the name, mailing address, county, state, type or classification of the waste and the weight or volume of the waste.

*Alternate Information Source*

Special handling wastes are not permitted to be disposed at a residual waste impoundment. § 289.423 and § 289.523.

Daily records. § 289.301(b) (1) and (b)(7)(i) require recording of the amount and type of waste and the transporters but not the amount or type of waste received from each transporter.

Daily record. § 293.251(1) and (2) requires this information be recorded by type and amount but not by each generator.

Daily record. § 293.251(b)(3).

Any deviation from the permit must be reported to the Department immediately. § 287.222.

The information remaining in § 295.271 after this revision will meet the requirements of § 295.272.

Daily operational record. § 295.271(b)(3).

Daily operational record. § 295.271(b)(1) and (b)(3) require recording of waste received by amount and recording of transporters, but not waste received by each transporter.

Daily operational record. § 297.261(b)(3).

Daily operational record. § 297.261(b)(5).

Daily operational record. § 297.261(b)(1) and (3) require recording of waste received by amount and recording of transporters, but not waste received by each transporter.

Daily record. § 299.219(a)(2). Annual totals would not appear on the daily record.

Daily record. § 299.219(a)(1), (2) and (3) requires this information, but without classification.

Daily record. § 299.219(a)(4). Identification of the quantity of waste delivered to a specific destination will no longer be required.

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

Notice of proposed rulemaking was published at 27 Pa.B. 893 (February 15, 1997). The proposal set forth a 60-day public comment period. The Board held one public hearing in Harrisburg on April 1, 1997.

During the public comment period, the Board received written comments from eight individuals or organizations and one organization presented testimony at the public hearing.

The Board and the Department considered the comments received at the public hearing and the written comments in formulating the final regulations. The Department has completed a review of the comments and has prepared a comment and response document that addresses each comment on the proposed amendments.

The following is a summary of major comments received and changes which have been made to the proposed rulemaking. The summary is listed in the same order as the final regulations.

*Article VIII. Municipal Waste*

*Chapter 271 (relating to municipal waste management—general provisions)*

Electronic data submission—§ 271.4 (relating to alternate data submission)

Section 271.4 authorizes data required under the municipal waste regulations to be submitted electronically or on magnetic or optic storage media. The Board received one comment requesting more specificity as to how this amendment will be implemented and when its use will be authorized. The Board declined to revise the proposed amendment as requested because the rapidly changing nature of technology could quickly render it moot. The Department intends to encourage the electronic submission of data under this amendment. The Department is developing a policy which identifies standard industry and government rules and protocols for use in electronic reporting that will apply across all programs to enable persons to submit electronic data in a standard format. The policy will be more readily revised to keep up with industry changes than would a regulation.

*Chapter 272 (relating to municipal waste planning, recycling and waste reduction).*

County plan revisions—§§ 272.251 and 272.252 (relating to submission of revisions; and development of plan revisions)

The Municipal Waste Stakeholders Group recommended that counties be authorized to add or delete disposal or processing facilities, or both, to or from their municipal waste management plans without having to perform a substantial plan revision. Several revisions in this final-form rulemaking implement this recommendation, as follows.

Section 272.251 has been amended in subsection (c) to clarify that the Department will subject a substantial as well as a nonsubstantial plan revision to a full review under § 272.244 (relating to Departmental review of plans) to the extent that the plan is affected by the revision. The review will focus on the portions of the plan which are affected by the plan revision.

The Board amended § 272.252 in order to strengthen the plan revision process by requiring that when a county submits to the Department a notice that it intends to

revise its plan, the county must describe in the notice the way in which capacity will be assured for the remainder of the planning period.

Section 272.252 was amended in the proposed rulemaking to eliminate from the list of items that require a substantial plan revision the addition or deletion of a facility to or from a county municipal waste management plan. No comments were received on this revision, and it remains in the final-form regulation. Now a facility may be added to or deleted from a plan without a substantial revision.

*Chapter 273 (relating to municipal waste landfills)*

Enlargement of purpose—§ 273.202 (relating to areas where municipal waste landfills are prohibited)

One commentator requested that the regulation concerning siting landfills in the vicinity of airports (§ 273.202) should be changed. The Board believes that the change would enlarge the purpose of this rulemaking because § 273.202 and landfill siting criteria were not included in the proposed rulemaking. The Board, therefore, has not included it in this rulemaking although it will consider it in a later rulemaking.

Daily records—§ 273.311 (relating to daily operational records)

The proposed rule stated that daily records were to be retained for the life of the facility bond, or longer if directed by the Department. The Board received one comment questioning the need to keep daily records longer than the life of the facility bond or the 5 years required by section 704 of the Municipal Waste Planning, Recycling and Waste Reduction Act. The comment applied to all daily records sections addressed in this rulemaking. The commentator recommended that if a longer retention period were justified, then the final regulation should describe circumstances when it will be invoked. The Board revised § 273.311 to indicate that the longer retention period will be required for municipal waste landfills if the Department determines it to be necessary to meet the standards of the environmental protection acts. This standard will be particularly useful when an environmental problem or other incursion is suspected or discovered near the end of the regular records retention period. The language is drawn from section 505(a) of the SWMA.

One commentator stated that the regulations should require that all daily operational records be retained by the operator for a minimum of 5 years, in light of section 704 of the Municipal Waste Planning, Recycling and Waste Reduction Act, which requires this of municipal waste landfills and resource recovery facilities. The Board amended § 273.311 accordingly.

One commentator suggested that the sections of the proposed amendments concerning retention of daily operational records for the life of the facility bond or longer cross-reference the particular bond being referred to. The Board declined to make this change for municipal waste landfills and for all other facilities in this rulemaking because it is unnecessary. Under the SWMA, the affected facilities only operate under one bond.

Annual reports—§ 273.313 (relating to annual operation report)

One commentator requested that the requirement to record the “type and weight or volume of solid waste received from each transporter that delivered waste to the facility” be reinserted in the annual operation reports sections. The Board declined to make this change for



municipal waste landfills and for all other facilities in this rulemaking because the information is generally available in the daily records and is available to the Department and host municipalities (of which the commentator is one). In addition, there has been no expression of interest in obtaining this information from annual operation reports in the past.

*Chapter 277 (relating to construction/demolition waste landfills)*

Daily records—§ 277.311 (relating to daily operational records)

The Board received one comment questioning the need to keep daily records longer than the life of the facility bond or the 5 years required by section 704 of the Municipal Waste Planning, Recycling and Waste Reduction Act. Section 704 is not relevant, however, because it only applies to municipal waste landfills and resource recovery facilities. The comment applied to all daily records sections addressed in this rulemaking. The commentator recommended that if a longer retention period were justified, then the final regulation should describe circumstances when it will be invoked. The Board revised § 277.311 to indicate that the longer retention period will be required for construction/demolition waste landfills if the Department determines it to be necessary to meet the standards of the environmental protection acts. This standard will be particularly useful when an environmental problem or other incursion is suspected or discovered near the end of the regular records retention period. The language is drawn from section 505(a) of the SWMA.

*Chapter 279 (relating to transfer facilities)*

Daily Records—§ 279.251 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 279.251 to indicate that the longer retention period will be required for transfer facilities if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 281 (relating to composting facilities)*

Daily records—§ 281.271 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 281.271 to indicate that the longer retention period will be required for composting facilities if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 283 (relating to resource recovery and other processing facilities)*

Daily records—§ 283.261 (relating to daily operational records)

One commentator stated that the regulations should require that all daily operational records be retained by the operator for a minimum of 5 years, in light of section 704 of the Municipal Waste Planning, Recycling and Waste Reduction Act. The Board amended § 283.261 accordingly.

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 273.311), the Board revised § 283.261 to indicate that the longer retention period will be required for resource

recovery facilities if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 285 (relating to storage, collection and transportation of municipal waste)*

Municipal waste transporter records and reports—§ 285.217 (relating to recordkeeping and reporting)

The Board revised § 285.217 so that a person or municipality that collects or transports municipal waste, other than infectious and chemotherapeutic waste, is only required to make and maintain one record instead of two. The operator must keep this record in the cab of the vehicle on the date of collection or transportation. The record must be retained for 5 years. The Board revised the contents of the record slightly to provide consistency with the residual waste collection or transportation record required by § 299.219 (relating to recordkeeping and reporting). To do this, the Board added the requirement that the record describe any handling problems or emergency activities. The Board also changed the title of this section from "Recordkeeping" to "Recordkeeping and reporting."

*Article IX—Residual Waste*

*Chapter 287 (relating to residual waste management—general provisions)*

Generator recordkeeping requirements—§ 287.51 (relating to scope)

The Board received one comment suggesting that the "waive or modify" language in § 287.51 be deleted. In response to this comment, the Board made several changes to this Section. Under the final regulation, a person or municipality that generates more than an average of 2,200 pounds of residual waste per generating location per month based on generation in the previous year shall submit a biennial report and source reduction strategy. In subsection (b), any person or municipality that generates more than 2,200 pounds of residual waste per generating location in any single month in the previous year (not an average) shall continue to submit a chemical analysis in accordance with § 287.54 (relating to chemical analysis of waste). This requirement was inadvertently altered in the proposed rulemaking. The authority of the Department to "waive or modify" the requirements of § 287.51 for individual types of waste generated in quantities of less than 2,200 pounds per month per generating location is eliminated to the extent that it pertains to the biennial report and the source reduction strategy. This is a change from the proposed amendment which inadvertently altered the threshold determination for a chemical analysis.

Biennial report—§ 287.52 (relating to biennial report)

The Board received one comment asking the Department to eliminate its practice of requiring generators to report the volume of water discharged through a National Pollutant Discharge Elimination System (NPDES) outfall as residual waste in the biennial report under § 287.52. The Board declined to make this change because the information is helpful to the Department. After evaluation by the Department of the 1997 biennial report data, the Board will be in a better position to consider whether there is a need to revise the requirement to report wastewater as residual waste.

Chemical analysis—§ 287.54 (relating to chemical analysis of waste)

Two commentators requested that the requirement to prepare and submit an annual Chemical Analysis of

Residual Waste Report by the Generator under § 287.54 be eliminated. The Board made no change to this section because the section already provides the generator with an opportunity to certify that the physical and chemical properties of its waste stream have not changed over the previous year in lieu of performing an annual analysis. The requirement for a basic chemical analysis report or the certification that there has been no change is necessary for the generator, the solid waste facility accepting the generator's waste and the Department to determine the appropriate options for waste disposal, reuse and source reduction.

One commentator noted that § 287.54(b)(2) requires that a generator submit the volume of each waste stream sent to each facility annually, and that during the Biennial Report year this results in two reports that supply the same information. The Board declined to make a change because the two reports have different uses. The Biennial Report provides statistical data which is compiled by the Department and is available for use by industry and the Department to make management decisions, while the annual report is used by the Department's regional staff for compliance purposes. Information relating to the volume required under the chemical analysis report can be easily inserted into the Biennial Report, but both reports must be submitted.

Small quantity generators—§ 287.55 (relating to small quantity generator recordkeeping requirements)

The Board received two comments suggesting that the "an average of" language in § 287.51 be repeated in § 287.55. The Board made this amendment to § 287.55 to parallel § 287.51.

*Chapter 288 (relating to residual waste landfills)*

Daily records—§ 288.281 (relating to daily operational records)

The Board received one comment suggesting that keeping a daily record is onerous for a captive landfill that receives waste generated only by the owner's operations. The Board has revised § 288.281 to provide the option of preparing a monthly operations log for captive facilities for each month in which residual waste is received, processed or disposed, and each month that construction, monitoring or postclosure activity occurs.

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 288.281 to indicate that the longer retention period will be required for daily records or monthly logs for residual waste landfills if the Department determines it to be necessary to meet the standards of the environmental protection acts.

Annual operation report—§ 288.283 (relating to annual operation report)

One commentator requested that § 288.283 be revised to allow an exemption from reporting for residual waste captive landfills that did not accept waste for a calendar year. The Board declined to revise the regulation because under the existing regulations an operator may indicate which information, such as weight or volume, does not apply for a given year. The reporting requirements include information beyond waste volumes that make the reports important even when a landfill has not accepted waste.

*Chapter 289 (relating to residual waste disposal impoundments)*

Daily records—§ 289.301 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 289.301 to indicate that the longer retention period will be required for residual waste disposal impoundments if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 291 (relating to land application of residual waste)*

Daily records—§ 291.221 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 291.221 to indicate that the longer retention period will be required for the land application of residual waste if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 293 (relating to transfer facilities for residual waste)*

Daily records—§ 293.251 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 293.251 to indicate that the longer retention period will be required for residual waste transfer facilities if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 295 (relating to composting facilities for residual waste)*

Daily records—§ 295.271 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 295.271 to indicate that the longer retention period will be required for residual waste composting facilities if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 297 (relating to incinerators and other processing facilities)*

Daily records—§ 297.261 (relating to daily operational records)

In response to the comment questioning the need for a longer daily record retention period (see discussion under § 277.311), the Board revised § 297.261 to indicate that the longer retention period will be required for residual waste incinerators and other processing facilities covered by the subchapter if the Department determines it to be necessary to meet the standards of the environmental protection acts.

*Chapter 299 (relating to storage and transportation of residual waste)*

Residual waste transporter records and reports—§ 299.219 (relating to recordkeeping and reporting)

One commentator stated that § 299.219 should require that daily records of residual waste transporters be retained for a minimum of 5 years, in light of section 704

of the Municipal Waste Planning, Recycling and Waste Reduction Act. While section 704 is not applicable to waste transporters, the Board amended the section to include the 5 year minimum in order to be consistent with the requirements for municipal waste transporters in § 285.217. Under the final regulations, a person or municipality that collects or transports residual waste must keep a record in the cab of the vehicle on the date of collection or transportation. The record must be retained for 5 years. To achieve consistency with the municipal waste requirements, the residual waste record now requires identification of the solid waste processing or disposal facility where the waste will ultimately be disposed or processed, and identification of the person or municipality collecting or transporting the waste. As in the proposed amendments, the annual report is eliminated.

#### F. *Benefits, Costs and Compliance*

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

##### *Benefits*

*Reporting Requirements*—The regulated community will benefit since the amount of information reported and the frequency will lessen—approximately 2,500 facilities completing 185,508 fewer pages of reports per year. The Department will benefit since only information maintained and submitted will be what is needed to administer the waste programs.

*Plan Revisions*—The counties, municipalities, waste facilities and the general public will benefit since the shorter plan revision process will allow counties to take advantage of competitive pricing in the waste management industry.

##### *Compliance Costs*

*Reporting Requirements*—The number of persons, groups or entities required to comply will not change from those currently regulated. There will be a significant reduction in the efforts required to comply. Cost savings to the regulated community are estimated to be nearly \$400,000 per year. The amendments eliminate 15 forms formerly required of approximately 2,326 facilities.

*Plan Revisions*—All 67 Pennsylvania counties are required to prepare a county municipal waste management plan. Only those who will be revising their plan to add or delete a waste management facility will need to comply with the final regulations. Since plan revisions are initiated by the county, it is not possible to estimate how many will be affected at any given time. Counties will realize a time saving in revising their plans which should translate into a cost savings because of fewer meetings and notices.

##### *Compliance Assistance Plan*

*Reporting Requirements*—Because these revisions do not require any new reports, no specific hearings or meetings were scheduled. To assist the public in its review of this proposal, the Department prepared “mock-ups” of what the various report forms would look like. The draft forms were available through the contact persons listed in the Preamble, Section B or could be viewed on the Department’s World Wide Web site (<http://www.dep.state.pa.us>). The final forms are likewise available. No financial assistance was needed or offered.

*Plan Revisions*—The Department will conduct State-wide training on county municipal waste planning. Plan revision is an eligible expense under the Act 101, section

901 planning grant program. Counties are encouraged to consider submission of a grant application to cover plan revision expenses.

*Entire Package*—The Department intends to provide educational, technical and compliance assistance directly to interested parties through the regional offices, articles in its weekly *Update* newsletter, distribution of information through trade associations, and electronically by having all the report forms available on the Department’s World Wide Web site.

##### *Paperwork Requirements*

*Reporting Requirements*—These amendments eliminate duplicate data submission and reduce unnecessary or duplicative recordkeeping requirements for the regulated community while maintaining environmental protection and public access to information. No additional forms or paperwork will be needed.

*Plan Revisions*—These amendments will allow counties to add or delete a waste management facility to or from their county municipal waste management plan as a nonsubstantial plan revision. No additional forms or paperwork will be needed.

#### G. *Sunset Review*

These amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. 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 as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble.

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on October 14, 1997. IRRC met on October 23, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

#### I. *Findings*

The Board finds that:

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

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

(3) These amendments do not enlarge the purpose of the proposal published at 27 Pa.B. 893 (February 15, 1997).

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

*J. Order*

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

(a) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapters 271—273, 277, 279, 281, 283, 285, 287—289, 291, 293, 295, 297 and 299, are amended by (i) amending §§ 273.313, 277.312, 279.252, 283.262, 285.334, 288.283, 289.303, 293.252, 295.272 and 297.262; deleting § 288.282 and adding § 271.4 to read as set forth at 27 Pa.B. 893 (February 15, 1997); and by (ii) Amending §§ 272.251, 272.252, 273.311, 277.311, 279.251, 281.271, 283.261, 285.217, 287.51, 287.55, 288.281, 289.301, 291.221, 293.251, 295.271, 297.261 and 299.219 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order, 27 Pa.B. 893 and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order, 27 Pa.B. 893 and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 27 Pa.B. 893 and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately.

*(Editor's Note:* The amendments to §§ 272.251 and 287.55, amended in this document, were not included in the proposal at 27 Pa.B. 893.)

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. 5840 (November 8, 1997).)

**Fiscal Note:** Fiscal Note 7-304 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**

**ARTICLE VIII. MUNICIPAL WASTE**

**CHAPTER 272. MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION**

**Subchapter C. MUNICIPAL WASTE PLANNING PLAN REVISIONS**

**§ 272.251. Submission of revisions.**

(a) A county with an approved municipal waste management plan shall submit a revised plan to the Department in accordance with this subchapter as follows:

(1) At least 3 years prior to the time that the remaining available permitted capacity for the county will be exhausted.

(2) By September 26, 1990, for plans approved under § 272.211(b) (relating to general requirement). The plan revisions shall be consistent with the requirements of this subchapter except to the extent that the county demonstrates to the Department's satisfaction that irrevocable

contracts made by or under the approved plan preclude compliance with this subchapter.

(3) When otherwise required by the Department.

(b) A county with an approved municipal waste management plan may submit a revised plan to the Department in accordance with this subchapter at any other time.

(c) A proposed plan revision will be reviewed by the Department under the criteria in § 272.244 (relating to Departmental review of plans) to the extent that the plan is affected by the proposed revision.

**§ 272.252. Development of plan revisions.**

(a) A county shall provide written notice to the Department when plan revision development begins. The notice shall describe the proposed plan revisions the county intends to undertake, including a description of how capacity will be assured for the remainder of the planning period.

(b) Within 30 days after receipt of written notice submitted under subsection (a), the Department will notify the county if it determines the proposed revision is substantial.

(c) A county submitting a plan revision shall comply with:

(1) Sections 272.221—272.233 (relating to plan content), to the extent changes from the approved plan are proposed.

(2) Sections 272.201 and 272.204 (relating to purposes; and format of plans).

(3) Section 272.203 (relating to notice to municipalities). At least 30 days before submitting a proposed, nonsubstantial plan revision to the Department, the county shall submit a copy of the proposed revision to the advisory committee and each municipality within the county. Nonsubstantial plan revisions will be deemed approved within 30 days of receipt by the Department unless the Department responds in writing.

(d) If the Department determines that the plan revision is substantial, the county shall also:

(1) Comply with §§ 272.202, 272.241—272.243 and 272.245.

(2) Identify and describe the facilities where municipal waste is currently being disposed or processed, and the remaining available permitted capacity of the facilities. The plan revision shall also consider the capacity which could be made available through the reasonable expansion of the facilities.

(e) For purposes of this section, substantial plan revisions shall include, but not be limited to:

(1) The elimination of a recycling program, contained in a county plan and operating in a county resulting in reduced volume of recycling.

(2) The addition of municipal waste streams not originally included in the plan.

**CHAPTER 273. MUNICIPAL WASTE LANDFILLS**

**Subchapter C. OPERATING REQUIREMENTS RECORDKEEPING AND REPORTING**

**§ 273.311. Daily operational records.**

(a) The operator of a facility shall make and maintain an operational record for each day that municipal waste is received, processed or disposed, and each day that construction, monitoring or postclosure activity occurs.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The county in which the solid waste originated, or if the waste originated outside this Commonwealth, the state.

(3) The transporters of the solid waste.

(4) The particular grid location of the area currently being used for disposal of solid waste.

(5) A description of waste handling problems or emergency disposal activities.

(6) A record of deviations from the approved design or operational plans.

(7) A record of activities for which entries are needed in order to comply with the annual operation report required in § 273.313 (relating to annual operation report).

(8) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether municipal waste is being stored under Chapter 285, Subchapter A (relating to storage of municipal waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts, but in no case less than 5 years. These records shall be made available to the Department upon request.

#### **CHAPTER 277. CONSTRUCTION/DEMOLITION WASTE LANDFILLS**

##### **Subchapter C. OPERATING REQUIREMENTS RECORDKEEPING AND REPORTING**

###### **§ 277.311. Daily operational records.**

(a) The operator of a facility shall make and maintain an operational record for each day that construction/demolition waste is received, processed or disposed, and for each day that construction, monitoring or postclosure activity occurs.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The county in which the solid waste originated, or if the waste originated outside of this Commonwealth, the state.

(3) The transporters of the solid waste.

(4) The particular grid location of the area currently being used for disposal of solid waste.

(5) A description of waste handling problems or emergency disposal activities.

(6) A record of deviations from the approved design or operational plans.

(7) A record of activities for which entries are needed in order to comply with the annual operation report required in § 277.312 (relating to annual operation report).

(8) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether construction/demolition waste is being stored under Chapter 285, Subchapter A (relating to storage of municipal waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

#### **CHAPTER 279. TRANSFER FACILITIES**

##### **Subchapter C. OPERATING REQUIREMENTS FOR TRANSFER FACILITIES**

##### **RECORDKEEPING AND REPORTING**

###### **§ 279.251. Daily operational records.**

(a) A person or municipality that operates a transfer facility shall make and maintain an operational record for each day that municipal waste is received, processed or transported offsite.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The county in which the solid waste originated, or if the waste originated outside of this Commonwealth, the state.

(3) The transporters of the solid waste.

(4) The destination of the solid waste, including the facility name, the county and state in which it is located, and the type and weight or volume of waste transported.

(5) The type and weight or volume of materials which are recycled.

(6) A description of waste handling problems or emergency disposal activities.

(7) A record of deviations from the approved design or operational plans.

(8) A record of activities for which entries are needed in order to comply with the annual operation report required in § 279.252 (relating to annual operation report).

(9) A report of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether municipal waste is being stored in accordance with Chapter 285, Subchapter A (relating to storage of municipal waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

#### **CHAPTER 281. COMPOSTING FACILITIES**

##### **Subchapter C. OPERATING REQUIREMENTS FOR GENERAL COMPOSTING FACILITIES**

##### **RECORDKEEPING AND REPORTING**

###### **§ 281.271. Daily operational records.**

(a) A person or municipality that operates a general composting facility shall make and maintain an operational record for each day that municipal waste is received, processed or transported offsite.

(b) The daily operational record shall include the following:

- (1) The type and weight or volume of the solid waste received.
- (2) The county in which the solid waste originated, or if the waste originated outside of this Commonwealth, the state.
- (3) The transporters of the solid waste.
- (4) The weight or volume of each material recycled, marketed or disposed of as a result of the process.
- (5) A record of deviations from the approved design or operational plans.
- (6) A record of activities for which entries are needed to comply with the annual operation report required in § 281.272 (relating to annual operation report).

(7) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether municipal waste is being stored in compliance with Chapter 285, Subchapter A (relating to storage of municipal waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 283. RESOURCE RECOVERY AND OTHER PROCESSING FACILITIES**

**Subchapter C. OPERATING REQUIREMENTS RECORDKEEPING AND REPORTING**

**§ 283.261. Daily operational records.**

(a) The operator of a facility subject to this chapter shall make and maintain an operational record for each day that municipal waste is received, processed or transported offsite.

(b) The daily operation record shall include the following:

- (1) The type and weight or volume of the solid waste received.
- (2) The county in which the solid waste originated, or if the waste originated outside of this Commonwealth, the state.
- (3) The transporters of the solid waste.
- (4) The weight or volume of each material recycled or marketed as a result of the process.
- (5) For bypassed wastes and waste products, the name and county or state of the facility where the solid waste is ultimately disposed and the weight or volume of waste disposed.
- (6) A description of waste handling problems or emergency disposal activities.

(7) A record of deviations from the approved design or operational plans.

(8) A record of activities for which entries are needed in order to comply with the annual operation report required in § 283.262 (relating to annual operation report).

(9) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operation records sufficient to determine whether municipal waste is being stored under Chapter 285, Subchapter A (relating to storage of municipal waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts, but in no case less than 5 years. These records shall be made available to the Department upon request.

**CHAPTER 285. STORAGE, COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE**

**Subchapter B. COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE**

**GENERAL PROVISIONS**

**§ 285.217. Recordkeeping and reporting.**

(a) *General.* A person or municipality that collects or transports municipal waste other than infectious and chemotherapeutic waste shall make and maintain an operational record each day that municipal waste is collected or transported, or both. The daily operational record shall be kept in the cab of each transportation vehicle on the date of collection or transportation. The record shall include the following:

- (1) The county and state where the waste was originally collected.
- (2) The name and address of the person or municipality collecting or transporting the waste.
- (3) The name and location of a transfer facility that has received, or will receive, the waste.
- (4) The name and location of the solid waste processing or disposal facility where the waste will be ultimately disposed or processed.

(5) The weight or volume of the types of municipal waste transported.

(6) A description of handling problems or emergency disposal activities.

(b) The records required in subsection (a) shall be made available to the Department upon request and shall be retained for at least 5 years.

**ARTICLE IX. RESIDUAL WASTE MANAGEMENT**

**CHAPTER 287. RESIDUAL WASTE MANAGEMENT—GENERAL PROVISIONS**

**Subchapter B. DUTIES OF GENERATORS**

**§ 287.51. Scope.**

(a) A person or municipality that generates more than an average of 2,200 pounds of residual waste per generating location per month based on generation in the previous year shall submit a biennial report and source reduction strategy under §§ 287.52 and 287.53 (relating to biennial report; and source reduction strategy).

(b) A person or municipality that generates more than 2,200 pounds of residual waste per generating location in any single month in the previous year shall comply with § 287.54 (relating to chemical analysis of waste). The Department may waive or modify this requirement for individual types of waste that are generated in quantities of less than 2,200 pounds per month per generating location.

(c) This subchapter does not apply to the following:

(1) Persons or municipalities that generate residual waste as a result of collecting the waste, including the collection of parts, machinery, vehicles, appliances and used oil from the repair or replacement of the parts, machinery, vehicles, appliances and used oil.

(2) Persons or municipalities that create waste from a spill, release, fire, accident or other unplanned event.

(d) Generators and collectors of used oil who are also waste oil marketers are subject to § 266.43 (relating to standards applicable to marketers of waste oil burned for energy recovery).

**§ 287.55. Small quantity generator recordkeeping requirements.**

(a) A person or municipality that generates an average of 2,200 pounds or less of residual waste per generating location per month based on generation in the previous year, or which is otherwise exempted from this subchapter, shall:

(1) Maintain records that include the types and amounts of waste generated, the date on which the waste was generated, the date on which the waste was disposed of or processed onsite, the name, address and telephone number of a person or municipality that transported the waste and the name, address and phone number of the processing or disposal facility or other destination to which the waste was transported.

(2) Retain the records on the premises where the residual waste was generated for 5 years after the waste was generated.

(3) Make the records available for inspection upon request to a representative of the Department.

(b) This section does not apply to residual waste generated in a house or residence.

**CHAPTER 288. RESIDUAL WASTE LANDFILLS**

**Subchapter C. OPERATING REQUIREMENTS**

**RECORDKEEPING AND REPORTING**

**§ 288.281. Daily operational records.**

(a) The operator of a facility shall make and maintain an operational record for each day that residual waste is received, processed or disposed, and each day that construction, monitoring or postclosure activity occurs. The operator of a captive residual waste facility may maintain a monthly operational record instead of a daily operational record for each month in which residual waste is received, processed or disposed, and each month that construction, monitoring or postclosure activity occurs. The monthly operational record shall contain the information required in subsection (b)(1)—(7).

(b) The operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The particular grid location of the area currently being used for disposal of solid waste.

(3) A description of waste handling problems or emergency disposal activities.

(4) A record of deviations from the approved design or operational plans.

(5) A record of activities for which entries are needed to comply with the annual operation report required in § 288.283 (relating to annual operation report).

(6) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(7) A record of rejected waste loads, and the reason for rejecting the loads. For noncaptive facilities, the name of the transporter and the name, mailing address and county of the generator shall also be included.

(8) For noncaptive facilities, the following:

(i) The transporters of the waste.

(ii) The name, mailing address, county and state of each generator of residual waste.

(iii) An analysis of the quality and quantity of leachate flowing from the landfill into the leachate storage and treatment system.

(c) The operator shall maintain accurate operational records sufficient to determine whether residual waste is being stored under Chapter 299, Subchapter A (relating to standards for storage of residual waste).

(d) Daily and monthly operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 289. RESIDUAL WASTE DISPOSAL IMPOUNDMENTS**

**Subchapter C. OPERATING REQUIREMENTS**

**RECORDKEEPING AND REPORTING**

**§ 289.301. Daily operational records.**

(a) The operator of a facility shall make and maintain an operational record for each day that residual waste is received, processed or disposed, and each day that construction, monitoring or postclosure activity occurs.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) A description of waste handling problems or emergency disposal activities.

(3) A record of deviations from the approved design or operational plans.

(4) A record of activities for which entries are needed to comply with the annual operation report required in § 289.303 (relating to annual operation report).

(5) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(6) A record of rejected waste loads, the reason for rejecting the loads, and for noncaptive facilities, the name of the transporter and the name, mailing address, county and state of the generator shall also be included.

(7) For noncaptive facilities, the following:

(i) The transporters of the waste.

(ii) The name, mailing address, county and state of each generator of residual waste.

(c) The operator shall maintain accurate operational records sufficient to determine whether residual waste is being stored under Chapter 299, Subchapter A (relating to standards for storage of residual waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the

environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 291. LAND APPLICATION OF RESIDUAL WASTE**

**Subchapter C. GENERAL OPERATING REQUIREMENTS FOR THE LAND APPLICATION OF RESIDUAL WASTE**

**RECORDKEEPING AND REPORTING**

**§ 291.221. Daily operational records.**

(a) A person or municipality that disposes of residual waste by land application shall make and maintain an operational record for each day that the residual waste is applied.

(b) The daily operational record shall include the following:

(1) The type, percent solids and weight or volume of the residual waste that was applied.

(2) The name, mailing address, county and state of each generator of residual waste.

(3) The transporters of the residual waste.

(4) The particular map location of the area being used for land application of residual waste, and the weight or volume of residual waste this area received in the previous calendar year.

(5) A record of deviations from the permit.

(6) General weather conditions during disposal.

(7) The application rate for residual waste.

(8) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) If residual waste is being stored at the site, the operator shall maintain, on forms provided by the Department, accurate operational records sufficient to determine whether the waste is being stored in accordance with § 291.204 (relating to storage of residual waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 293. TRANSFER FACILITIES FOR RESIDUAL WASTE**

**Subchapter C. OPERATING REQUIREMENTS FOR TRANSFER FACILITIES**

**RECORDKEEPING AND REPORTING**

**§ 293.251. Daily operational records.**

(a) A person or municipality that operates a transfer facility shall make and maintain an operational record for each day that residual waste is received, processed or transported offsite.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The name, mailing address, county and state of each generator of residual waste.

(3) The transporters of the solid waste.

(4) The destination of the solid waste, including the facility name, the county and state in which it is located and the type and weight or volume of waste transported.

(5) The type and weight or volume of materials which are used or reclaimed.

(6) A description of waste handling problems or emergency activities.

(7) A record of deviations from the approved design or operational plans.

(8) A record of activities for which entries are needed in order to comply with the annual operation report required in § 293.252 (relating to annual operation report).

(9) A report of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether residual waste is being stored in accordance with Chapter 299, Subchapter A (relating to standards for storage of residual waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer is determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 295. COMPOSTING FACILITIES FOR RESIDUAL WASTE**

**Subchapter C. OPERATING REQUIREMENTS FOR COMPOSTING FACILITIES**

**RECORDKEEPING AND REPORTING**

**§ 295.271. Daily operational records.**

(a) A person or municipality that operates a composting facility shall make and maintain an operational record for each day that residual waste is received, processed or transported offsite. Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The name, mailing address, county and state of each generator of residual waste.

(3) The transporters of the solid waste.

(4) A record of activities for which entries are needed to comply with the annual operation report required in § 295.272 (relating to annual operation report).

(5) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether residual waste is being stored under Chapter 299, Subchapter A (relating to standards for storage of residual waste).



**CHAPTER 297. INCINERATORS AND OTHER  
PROCESSING FACILITIES**

**Subchapter C. OPERATING REQUIREMENTS FOR  
PROCESSING FACILITIES**

**RECORDKEEPING AND REPORTING**

**§ 297.261. Daily operational records.**

(a) The operator of a residual waste processing facility shall make and maintain an operational record for each day that residual waste is received, processed or transported offsite.

(b) The daily operational record shall include the following:

(1) The type and weight or volume of the solid waste received.

(2) The name, mailing address, county and state of each generator of residual waste.

(3) The transporters of the solid waste.

(4) The weight or volume of each material used, reclaimed or marketed as a result of the process.

(5) The name and county or state of the facility where the solid waste is ultimately disposed and the weight or volume of waste disposed for bypass wastes and waste products.

(6) A description of waste handling problems or emergency disposal activities.

(7) A record of deviations from the approved design or operational plans.

(8) A record of activities for which entries are needed in order to comply with the annual operation report required in § 297.262 (relating to annual operation report).

(9) A record of actions taken to correct violations of the act, the environmental protection acts and this title.

(c) The operator shall maintain accurate operational records sufficient to determine whether residual waste is being stored under Chapter 299, Subchapter A (relating to standards for storage of residual waste).

(d) Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

**CHAPTER 299. STORAGE AND TRANSPORTATION  
OF RESIDUAL WASTE**

**Subchapter B. STANDARDS FOR COLLECTING  
AND TRANSPORTING OF RESIDUAL WASTE**

**GENERAL PROVISIONS**

**§ 299.219. Recordkeeping and reporting.**

(a) A person or municipality that transports residual waste shall make and maintain an operational record each day that residual waste is collected or transported, or both. The daily operational record shall be kept in the cab of each transportation vehicle on the date of collection or transportation. The record shall include the following:

(1) The types or classifications of residual waste transported.

(2) The weight or volume of the types of wastes transported.

(3) The name, mailing address, telephone number, county and state of each generator of transported waste.

(4) The name and location of a transfer facility that has received, or will receive, the waste.

(5) The name and location of the solid waste processing or disposal facility where the waste will be ultimately disposed or processed.

(6) A description of handling problems or emergency disposal activities.

(7) The name and address of the person or municipality collecting or transporting the waste.

(b) The records required in subsection (a) shall be made available to the Department upon request and shall be retained for at least 5 years.

[Pa.B. Doc. No. 97-1896. Filed for public inspection November 28, 1997, 9:00 a.m.]

**Title 49—PROFESSIONAL  
AND VOCATIONAL  
STANDARDS**

**STATE BOARD OF CHIROPRACTIC**

**[49 PA. CODE CH. 5]**

**Volunteer License**

The State Board of Chiropractic (Board) amends § 5.11a (relating to licensure and certification offered by the Board) and adding § 5.20 (relating to volunteer license).

*A. Effective Date*

The amendments are effective upon publication in the *Pennsylvania Bulletin*.

*B. Statutory Authority*

Section 5 of the Volunteer Health Services Act (VHSA) (35 P. S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is authorized to adopt regulations necessary to the administration of its enabling statute under sections 302 and 1104 of the Chiropractic Practice Act (63 P. S. §§ 625.302 and 625.1104).

*C. Background and Purpose*

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for chiropractors and other health care practitioners who have retired from active practice to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for volunteer status. A volunteer license will be issued to a retired individual who documents to the

satisfaction of the Board that the individual will practice without remuneration in approved clinics.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 27 Pa. B. 3232 (July 5, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, one public commentator, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 5.20(b) (relating to volunteer license), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 5.20(b)(3) would be applicable to both paragraphs (1) and (2) and suggested paragraph (3) be incorporated into the text of subsection (b). The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 5.20(a) and restructuring § 5.20(b). The Board also accepted the suggestion of IRRC to move subsection (c)(1)(ii) to subsection (a)(2).

The Pennsylvania Academy of Family Physicians commented that the VHSA may be interpreted as permitting nonphysicians to perform acts which require a medical license and, accordingly, requested that the issue be clarified and resolved through regulation. The Board does not concur in the view that the VHSA creates an ambiguity regarding the scope of practice for any licensee. The Board has found no language in the VHSA which creates a different scope of practice for a volunteer license in any of the enumerated categories for which a volunteer license may be granted. Therefore, the Board has determined that additional rulemaking on this subject is not needed.

*E. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the amendments, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

*F. Fiscal Impact and Paperwork Requirements*

1. *Commonwealth*—The amendments create a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to complete and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The amendments will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and the biennial renewal fee for licensure. The amendments should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 24, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa. B. 3232, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

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

These final-form regulations were approved by the House Committee on October 22, 1997 and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997 and approved the final-form regulations in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the amendments by writing to Deborah Smith, Board Administrator, State Board of Chiropractic, P.O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 3232.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 5, are amended by amending § 5.11a to read as set forth at 27 Pa.B. 3232 and by adding 5.20 to read as set forth in Annex A.

(b) The Board shall submit this order, 27 Pa.B. 3232 and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order, 27 Pa.B. 3232 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*.

MARY ANNE CRAWFORD, D.C.,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** Fiscal Note 16A-439 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 5. STATE BOARD OF CHIROPRACTIC

#### Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS

#### § 5.20. Volunteer license.

##### (a) Purpose and definitions.

(1) The following subsections implement the Volunteer Health Services Act (35 P.S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic and without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License.* A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from active practice in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from § 5.6 (relating to fees) pertaining to the biennial renewal fee and shall be exempt from section 508 of the Chiropractic Practice Act (63 P.S. § 625.508) with regard to the maintenance of liability insurance coverage under section 701 of the Health Care Services Malpractice Act (40 P.S. § 1301-701).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board in accordance with § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record).

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P.S. §§ 449.41—449.50) or this section may also constitute grounds for disciplinary action.

[Pa.B. Doc. No. 97-1897. Filed for public inspection November 28, 1997, 9:00 a.m.]

## STATE BOARD OF FUNERAL DIRECTORS

### [49 PA. CODE CH. 13]

#### Examination

The State Board of Funeral Directors (Board) amends §§ 13.71 and 13.72 (relating to examinations requirements; and examination before internship is completed) to read as set forth in Annex A. The object of these amendments is to codify the Board's determination that application procedures and deadlines in the existing regulations are unnecessary and overly burdensome.

Sections 5 and 16 of the Funeral Director Law (63 P.S. §§ 479.5 and 479.16), authorize the Board to promulgate

regulations pertaining to when an applicant for licensure may sit for the examinations of the Board. The Board has determined to permit applicants to sit for the examination prior to completion of the post-education 1 year internship.

Currently, § 13.71 requires applicants to complete the internship before the examination date. Section 13.72 authorizes applicants to take the examination before completing their 1-year internship, if the internship will be completed within 21 days from the date of the examination, if the applicant shows, at least 60 days prior to the examination date, that he has participated in providing all aspects of funeral directing services for at least 30 funerals. The Board has noted that each year several applicants are unable to sit for the examination because the beginning of their internship was delayed, often because of factors out of the applicants' control. Accordingly, the Board routinely waived the requirements of the regulation and granted applicants permission to take the examination prior to completion of the post-education 1-year internship.

It is the Board's opinion that applicants who believe they are sufficiently prepared to take the examination should have the option to do so. Allowing applicants to sit for the examination prior to the completion of the internship will help reduce the loss of employment and income opportunities for individuals who would otherwise have to wait several months for the next available examination. Because the applicant must still complete the internship prior to licensure, the Board does not believe these amendments will negatively affect the competency of the funeral directors who are licensed.

Public notice of intention to amend the Board's regulations under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary and impracticable. At its Board meeting held on December 7, 1994, the Board adopted as a policy the position set forth in the final-form regulations. Accordingly, since that time the Board has provided actual notice of this policy to interns and has granted interns permission to sit for examination consistent with the final-form regulations. Therefore, because actual notice has been provided to applicants, it is unnecessary and impractical to issue a public notice of intention to amend the Board's regulations.

The two deadlines imposed on applicants created confusion and, at times, financial hardship. The deadlines set forth in § 13.72 were more responsive to the management and administrative needs of the Board than to the needs of the regulated community. The Board believes that applicants for licensure are capable of deciding when they are prepared to sit for the licensure examination on the basis of their educational preparation and resident internship experience. The Board has therefore determined that continuing to require resident interns to meet specific application deadlines before taking the examination is contrary to the public interest.

#### *Compliance with Executive Order 1996-1*

The Board reviewed this rulemaking and considered the purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### *Statutory Authority*

These amendments are authorized under sections 5 and 16 of the Funeral Director Law (63 P. S. §§ 479.5 and 479.16).

#### *Fiscal Impact and Paperwork Requirements*

The amendments will have no fiscal impact on the Commonwealth or its political subdivisions. Although it cannot be quantified, individual applicants for licensure and the regulated community should experience greater flexibility in planning which the Board anticipates will result in savings.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 8, 1997, a copy of the amendments was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition, at the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) and (e) of the Regulatory Review Act, the amendments were deemed approved by the House and Senate Committees on October 28, 1997, and were approved by IRRC on November 6, 1997.

#### *Additional Information*

Individuals who desire information are invited to submit inquiries to Linda Dinger, Board Administrator, State Board of Funeral Directors, Post Office Box 2649, Harrisburg, PA 17105-2649, (717) 783-3397.

#### *Findings*

The Board finds that:

(1) Public notice of intention to amend its regulations as adopted by this order, under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL. The Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are, in this circumstance, unnecessary, impracticable and contrary to the public interest.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

#### *Order*

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 13, are hereby amended by amending §§ 13.71 and 13.72, to read as set forth in Annex A.

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

(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 become effective immediately upon publication in the *Pennsylvania Bulletin*.

LEANDRO N. ANGELONE,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)*

**Fiscal Note:** 16A-381. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

#### EXAMINATION

#### § 13.71. Examination requirements.

To qualify for licensure, an applicant shall successfully complete the following examinations:

(1) The National Board Examination prepared and administered by the Conference of Funeral Service Examining Boards.

(2) Written and oral examinations on the clinical practice of funeral directing, the act and this chapter, prepared and administered by a qualified and approved professional testing organization authorized by the Bureau. These examinations will be offered twice yearly.

#### § 13.72. Examination before internship is completed.

An applicant may take the examination prior to the completion of the internship. An applicant who is examined under this section and who passes the examination will not be issued a funeral director license until documentation evidencing completion by the applicant of the resident intern training requirement is received by the Board or its designee.

[Pa.B. Doc. No. 97-1898. Filed for public inspection November 28, 1997, 9:00 a.m.]

### STATE BOARD OF MEDICINE

#### [49 PA. CODE CH. 16]

#### Volunteer License

The State Board of Medicine (Board) amends § 16.11 (relating to licenses and certification) and adds § 16.18 (relating to volunteer license).

#### A. Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

#### B. Statutory Authority

Section 5 of the Volunteer Health Services Act (VHSA) (35 P.S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is

authorized to adopt regulations necessary to the administration of its enabling statute under section 8 of the Medical Practice Act (63 P.S. § 422.8).

#### C. Background and Purpose

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for physicians and other health care practitioners who have retired from active practice to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing, and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for a volunteer license. A volunteer license will be issued to a retired individual who documents to the satisfaction of the Board that the individual will practice without remuneration in approved clinics.

#### D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 27 Pa.B. 2947 (June 21, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, three public commentators, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 16.18(b), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 16.18(b)(3) would be applicable to both paragraphs (1) and (2), and suggested paragraph (3) be incorporated into the text of subsection (b). The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 16.18(a) and restructuring § 16.18(b). The Board also accepted the suggestion of IRRC to move subsection (c)(1)(ii) to subsection (a)(2).

As proposed, § 16.18(b)(2) required retired licensees to meet continuing education requirements. Currently, continuing education for medical doctors is not provided for under the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.45). Accordingly, the Board has deleted references to continuing education to avoid confusion or conflict with the Medical Practice Act.

The Pennsylvania Academy of Family Physicians commented that the VHSA may be interpreted as permitting nonphysicians to perform acts which require a medical license and, accordingly, requested that the issue be clarified and resolved through regulation. The Board does not concur in the view that the VHSA creates an ambiguity regarding the scope of practice for any licensee. The Board has found no language in the VHSA which creates a different scope of practice for a volunteer license in any of the enumerated categories for which a volunteer

license may be granted. Therefore, the Board has determined that additional rulemaking on this subject is not needed.

Finally, the Pennsylvania Medical Society and the Hospital and HealthSystem Association of Pennsylvania supported the amendments, but did not comment on the need for change in final rulemaking.

*E. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the amendments, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

*F. Fiscal Impact and Paperwork Requirements*

1. *Commonwealth*—The amendments create a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to generate and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The amendments will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1306.1006) and the biennial renewal fee for licensure. The amendments should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 6, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 2947, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

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

These final-form regulations were approved by the House Committee on October 22, 1997, and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997, and approved the final-form regulations in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the amendments by writing to Cindy Warner, Board Administrator, State Board of Medicine, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 2947.

(4) This amendment is necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending § 16.11 to read as set forth at 27 Pa.B. 2947 and by adding § 16.18 to read as set forth in Annex A.

(b) The Board shall submit this order, 27 Pa.B. 2947 and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order, 27 Pa.B. 2947 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*.

DANIEL B. KIMBALL, Jr., M.D.,  
*Chairperson*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** Fiscal Note 16A-494 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS**

**Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS**

**§ 16.18. Volunteer license.**

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified Board-regulated practitioner as defined in section 2 of the act (63 P. S. § 422.2), who retires from active practice and seeks to provide professional services as a

volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License*. A volunteer license may be issued to a Board-regulated practitioner of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following:

(1) Holds a currently renewed, active, unrestricted license, registration or certificate in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from active practice in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it.

(c) *Applications*. An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively as follows:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license*. A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(e) *Renewal of license*. A volunteer license shall be renewed biennially on forms provided by the Board. The applicant shall be exempt from payment of the biennial renewal fee of § 16.13 (relating to licensure, certification, examination and registration fees), and shall be exempt from the requirements with regard to the maintenance of liability insurance coverage under section 701 of the Health Care Services Malpractice Act (40 P. S. § 1301.701) and § 16.31 (relating to notification).

(f) *Return to active practice*. A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions*. A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) or this section may also constitute grounds for disciplinary action.

[Pa.B. Doc. No. 97-1899. Filed for public inspection November 28, 1997, 9:00 a.m.]

## STATE BOARD OF NURSING

### [49 PA. CODE CH. 21]

#### Endorsement of Foreign Trained Nurses

The State Board of Nursing (Board) amends §§ 21.28 and 21.155 (relating to licensure by endorsement) to read as set forth in Annex A.

##### A. *Effective Date*

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

##### B. *Statutory Authority*

These amendments are adopted under the authority of section 2.1(k) of the Professional Nursing Law (63 P. S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P. S. § 667.6).

##### C. *Background*

These amendments were proposed to remove obsolete language in § 21.28(c) and to authorize a nurse to receive a license by endorsement if: (1) the nurse has been educated in a foreign nursing program; (2) the nurse has a license in another state or Canada obtained by passing the National Council Licensure Examination (NCLEX); and (3) the nurse's program of study is deemed equivalent to the program required in this Commonwealth. The amendment will obviate the need for a foreign educated nurse to retake the NCLEX if the nurse already obtained a license in another jurisdiction by passing the NCLEX. The Board's program of licensure by endorsement was set forth in the notice of proposed rulemaking at 26 Pa.B. 4652 (September 28, 1996).

##### D. *Public Comment*

Following publication of proposed rulemaking the Board did not receive comments either from members of the public or the House Committee on Professional Licensure or the Senate Committee on Consumer Protection and Professional Licensure. The Independent Regulatory Review Commission (IRRC) reported by letter of November 27, 1996, that it had neither objections, comments nor suggestions to offer on these amendments.

##### E. *Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. This rulemaking will expedite the process under which a qualified nurse who was educated in a foreign country and already obtained licensure by examination in another jurisdiction may obtain licensure in this Commonwealth.

##### F. *Fiscal Impact and Paperwork Requirements*

1. *The Commonwealth and political subdivisions*—This rulemaking will not cause an adverse fiscal impact or

additional paperwork requirements on either the Commonwealth or its political subdivisions.

2. *Private sector*—This rulemaking will result in savings of time and money to foreign educated nurses who have already obtained licensure in another jurisdiction by passing the NCLEX and wish to practice in this Commonwealth. These applicants will not have to retake the NCLEX.

*G. Sunset Date*

The Board continually monitors the effectiveness of its regulations through communications with the regulated population; accordingly, no sunset date has been set.

*H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 26 Pa.B. 4652, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations the Board has considered the comments received from IRRC, the Committees, individual legislators and the public.

These final-form regulations were deemed approved by the House and Senate Committee on October 22, 1997. IRRC met on November 7, 1997, and deemed approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

*I. Contact Person*

Further information may be obtained by contacting Ann Steffanic, Administrative Assistant, State Board of Nursing, at P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7142.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 26 Pa.B. 4652.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.28 and 21.155 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) 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 on publication in the *Pennsylvania Bulletin*.

CHRISTINE ALICHNIE, Ph.D, R.N.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)*

**Fiscal Note:** Fiscal Note 16A-512 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 21. STATE BOARD OF NURSING**

**Subchapter A. REGISTERED NURSES LICENSES**

**§ 21.28. Licensure by endorsement.**

(a) A registered nurse who has graduated from an approved nursing program in another state or territory of the United States or Canada and who is licensed by writing the National Council Licensure Examination in another jurisdiction of the United States or Canada may be granted licensure in this Commonwealth by endorsement of the original licensing board.

(b) An applicant for licensure in this Commonwealth by endorsement shall meet the requirements as stated in the act.

(c) A registered nurse who has graduated from a nursing program in a country or territory outside of the United States or Canada and who is licensed by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada may be granted licensure in this Commonwealth without examination if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed. The Board will base equivalency upon an evaluation performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program.

(d) An applicant for endorsement whose license in the other jurisdiction is not current for 5 years or longer shall, prior to receiving a license in this Commonwealth, satisfy the requirements of § 21.30a(1) or (2) (relating to continued competency).

**Subchapter B. PRACTICAL NURSES LICENSES**

**§ 21.155. Licensure by endorsement.**

(a) Licensure as a practical nurse in this Commonwealth by endorsement of the original licensing board is granted to a graduate of an approved practical nursing program who is licensed in another jurisdiction by an examination considered by the Board to be equivalent to the examination required for licensure in this Commonwealth.

(b) Applicants for licensure in this Commonwealth by endorsement shall meet the requirements regarding age, good moral character, preliminary education and practical nursing education as outlined in the act.



(c) An applicant for licensure by endorsement whose license in the other jurisdiction is not current for 5 years or longer shall, prior to receiving a license in this Commonwealth, satisfy the requirements of § 21.156a(1) or (2) (relating to continued competency).

(d) A practical nurse who has graduated from a practical nursing program in a country or territory outside of the United States or Canada and who is licensed by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada may be granted licensure in this Commonwealth without examination if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed. The Board will base equivalency upon an evaluation performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program.

[Pa.B. Doc. No. 97-1900. Filed for public inspection November 28, 1997, 9:00 a.m.]

**STATE BOARD OF NURSING**  
**[49 PA. CODE CH. 21]**  
**Volunteer License**

The State Board of Nursing (Board) adopts Subchapter F (relating to volunteer licenses).

*A. Effective Date*

The regulations are effective upon publication in the *Pennsylvania Bulletin*.

*B. Statutory Authority*

Section 5 of the Volunteer Health Services Act (VHSA) (35 P. S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is authorized to adopt regulations necessary to the administration of its enabling statute under section 2.1(k) of the Professional Nursing Law (63 P. S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P. S. § 667.6).

*C. Background and Purpose*

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for retired nurses and other health care practitioners to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing, and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for volunteer status. A volunteer license will be issued to a retired individual who documents to the satisfaction of the Board that the individual will practice without remuneration in approved clinics.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 27 Pa. B. 2953 (June 21, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, two public commentators, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 21.602 (relating to volunteer license), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 21.602(3) would be applicable to both paragraphs (1) and (2), and suggested paragraph (3) be incorporated into the text of § 21.602. The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 21.601 (relating to purpose and definitions) and restructuring § 21.602. The Board also accepted the suggestion of IRRC to move § 21.603(1)(ii) (relating to applications) to § 21.601.

The Pennsylvania Academy of Family Physicians commented that the VHSA may be interpreted as permitting nonphysicians to perform acts which require a medical license and, accordingly, requested that the issue be clarified and resolved through regulation. The Board does not concur in the view that the VHSA creates an ambiguity regarding the scope of practice for any licensee. The Board has found no language in the VHSA which creates a different scope of practice for a volunteer license in any of the enumerated categories for which a volunteer license may be granted. Therefore, the Board has determined that additional rulemaking on this subject is not needed.

Finally, the Hospital and HealthSystem Association of Pennsylvania supported the regulations, but did not comment on the need for change in final rulemaking.

*E. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulations, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

*F. Fiscal Impact and Paperwork Requirements*

1. *Commonwealth*—The regulations create a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to generate and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The regulations will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and the biennial renewal fee for licensure. The regulations should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. §745.5a(a)), on June 6, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa. B. 2953, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

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

These final-form regulations were approved by the House Committee on October 22, 1997, and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997, and approved the final-form regulations in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the regulations by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, 124 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 2953.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by adding §§ 21.604—21.607 to read as set forth at 27 Pa.B. 2953 and by adding §§ 21.601—21.603 to read as set forth in Annex A.

(b) The Board shall submit this order, 27 Pa.B. 2953 and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order, 27 Pa.B. 2953 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

CHRISTINE ALICHNIE, Ph.D., R.N.,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** Fiscal Note 16A-517 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 21. STATE BOARD OF NURSING**

**Subchapter F. VOLUNTEER LICENSES**

**§ 21.601. Purpose and definitions.**

(a) This subchapter implements the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provides for the issuance of a volunteer license to a qualified registered nurse, a certified registered nurse practitioner and a licensed practical nurse who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

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

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

**§ 21.602. Volunteer license.**

A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license as a registered nurse, a certified registered nurse practitioner or a licensed practical nurse in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from the active practice of nursing in this Commonwealth in possession of an unrestricted license

which was allowed to lapse by not renewing it. A registered nurse whose license had lapsed or had been placed on inactive status shall comply with § 21.30a or § 21.156a (relating to continued competency).

### § 21.603. Applications.

An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice nursing exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

[Pa.B. Doc. No. 97-1901. Filed for public inspection November 28, 1997, 9:00 a.m.]

## STATE BOARD OF OPTOMETRY [49 PA. CODE CH. 23] Volunteer License

The State Board of Optometry (Board) adopts § 23.26 (relating to volunteer license) to read as set forth in Annex A.

### A. Effective Date

The regulation is effective upon publication in the *Pennsylvania Bulletin*.

### B. Statutory Authority

Section 5 of the Volunteer Health Services Act (VHSA) (35 P. S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is authorized to adopt regulations necessary to the administration of its enabling statute under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

### C. Background and Purpose

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for retired optometrists and other health care practitioners to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing, and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for volunteer status. A volunteer license will be issued to a retired individual who documents to the

satisfaction of the Board that the individual will practice without remuneration in approved clinics.

### D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 27 Pa.B. 2955 (June 21, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, two public commentators, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 23.26(b), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 23.26(b)(3) would be applicable to both paragraphs (1) and (2), and suggested paragraph (3) be incorporated into the text of subsection (b). The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 23.26(a) and restructuring § 23.26(b). The Board also accepted the suggestion of IRRC to move subsection (c)(1)(ii) to subsection (a)(2).

The Pennsylvania Academy of Family Physicians commented that the VHSA may be interpreted as permitting nonphysicians to perform acts which require a medical license and, accordingly, requested that the issue be clarified and resolved through regulation. The Board does not concur in the view that the VHSA creates an ambiguity regarding the scope of practice for any licensee. The Board has found no language in the VHSA which creates a different scope of practice for a volunteer license in any of the enumerated categories for which a volunteer license may be granted. Therefore, the Board has determined that additional rulemaking on this subject is not needed.

Finally, the Hospital and HealthSystem Association of Pennsylvania supported the regulation, but did not comment on the need for change in final rulemaking.

### E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

### F. Fiscal Impact and Paperwork Requirements

1. *Commonwealth*—The regulation creates a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of

active licensees. Additional paperwork will be incurred by the Board and the private sector to generate and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The regulation will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and the biennial renewal fee for licensure. The regulation should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 6, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 2955, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing this final-form regulation the Board has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was approved by the House Committee on October 22, 1997, and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997, and approved the regulation in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the regulation by writing to Deborah Smith, Board Administrator, State Board of Optometry, P.O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 2955.

(4) This amendment is necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 23, are amended by adding § 23.26 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) 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 on publication in the *Pennsylvania Bulletin*.

ROBERT A. GINSBURG, O.D.,  
*Chairperson*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** Fiscal Note 16A-526 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 23. STATE BOARD OF OPTOMETRY**

**§ 23.26. Volunteer license.**

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License.* A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license as an optometrist in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from the active practice of optometry in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet the requirements of the act or the

regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice optometry exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the licensee shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee of § 23.91 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) or this section may also constitute grounds for disciplinary action.

[Pa.B. Doc. No. 97-1902. Filed for public inspection November 28, 1997, 9:00 a.m.]

**STATE BOARD OF OSTEOPATHIC MEDICINE**  
**[49 PA. CODE CH. 25]**  
**Volunteer License**

The State Board of Osteopathic Medicine (Board) adopts Subchapter L (relating to volunteer license).

*A. Effective Date*

The regulations are effective upon publication in the *Pennsylvania Bulletin*.

*B. Statutory Authority*

Section 5 of the Volunteer Health Services Act (VHSA) (35 P. S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is

authorized to adopt regulations necessary to the administration of its enabling statute under section 16 of the Osteopathic Medical Practice Act (63 P. S. § 271.16).

*C. Background and Purpose*

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for physicians and other health care practitioners who have retired from active practice to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for a volunteer license. A volunteer license will be issued to a retired individual who documents to the satisfaction of the Board that the individual will practice without remuneration in approved clinics.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 27 Pa. B. 2957 (June 21, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, two public commentators, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 25.602 (relating to volunteer license), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 25.602(3) would be applicable to both paragraphs (1) and (2) and suggested paragraph (3) be incorporated into the text of § 25.602. The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 25.601 (relating to purpose and definitions) and restructuring § 25.602. The Board also accepted the suggestion of IRRC to move § 25.603(1)(ii) to § 25.601.

The Pennsylvania Academy of Family Physicians commented that the VHSA may be interpreted as permitting nonphysicians to perform acts which require a medical license and, accordingly, requested that the issue be clarified and resolved through regulation. The Board does not concur in the view that the VHSA creates an ambiguity regarding the scope of practice for any licensee. The Board has found no language in the VHSA which creates a different scope of practice for a volunteer license in any of the enumerated categories for which a volunteer license may be granted. Therefore, the Board has determined that additional rulemaking on this subject is not needed.

Finally, the Hospital and HealthSystem Association of Pennsylvania supported the regulations, but did not comment on the need for change in final rulemaking.

*E. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

*F. Fiscal Impact and Paperwork Requirements*

1. *Commonwealth*—The regulations create a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to generate and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The regulations will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and the biennial renewal fee for licensure. The regulations should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 6, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 2957, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

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

These final-form regulations were approved by the House Committee on October 22, 1997 and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997 and approved the final-form regulations in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the regulations by writing to Gina Bittner, Board Administrator, State Board of Osteopathic Medicine, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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. 204) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 2957.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by adding §§ 25.604—25.607 to read as set forth at 27 Pa.B. 2957 and by adding §§ 25.601—25.603 to read as set forth in Annex A.

(b) The Board shall submit this order, 27 Pa.B. 2957 and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order, 27 Pa.B. 2957 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*.

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

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)*

**Fiscal Note:** Fiscal Note 16A-537 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE**

**Subchapter L. VOLUNTEER LICENSE**

**§ 25.601. Purpose and definitions.**

(a) This subchapter implements the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provides for the issuance of a volunteer license to a qualified Board-regulated practitioner as defined in section 2 of the act (63 P. S. § 271.2), who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

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

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and

families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term may include a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

#### § 25.602. Volunteer license.

A volunteer license may be issued to a Board-regulated practitioner who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

- (1) Holds a currently renewed, active, unrestricted license, registration or certificate in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.
- (2) Retires from the active practice in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee, registrant or certificateholder shall meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

#### § 25.603. Applications.

An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

- (1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:
  - (i) Without personal remuneration for professional services.
  - (ii) In an approved clinic.
- (2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

[Pa.B. Doc. No. 97-1903. Filed for public inspection November 28, 1997, 9:00 a.m.]

## STATE BOARD OF PHARMACY

### [49 PA. CODE CH. 27]

#### Approval of Plans: Pharmacy Alterations

The State Board of Pharmacy (Board) amends § 27.16 (relating to construction requirements) to read as set forth in Annex A. The object of this amendment is to codify the Board's determination that two standards in the existing regulations are unnecessary and overly burdensome.

The first standard concerns the required Board approval to operate a pharmacy during alterations to the layout or fixtures of a pharmacy in § 27.16(a)(2).

The Board has entertained commentary from spokespersons for the regulated community about its standards relating to the deadline to submit plans for changes in existing pharmacies to the Board. Currently, pharmacies must give 90 days advance notice to the Board before alterations or renovations in layout or fixtures can be undertaken. Representatives of pharmacies provided the Board with an explanation of the difficulties posed by the 90 days' advance notice. A reduced time frame is more responsive to current demands on businesses' financing and construction planning.

The Board granted commentators' request to reduce the advance time frame notice to 30 days, and has directed its agents appropriately with regard to the issuance of citations for violations of the Pharmacy Act (63 P. S. §§ 390-1—390-13) and regulations. Accordingly, in this amendment, the Board revises the 90-day notice requirement in § 27.16(a)(2)(ii) to require pharmacies to submit plans for alterations only 30 days in advance of the beginning of renovation construction.

The second standard concerns the suggested ratio of prescription area to store size in the building standards of § 27.16(b)(2). The ratio was developed in 1973, and was established solely as a guideline and not a regulatory requirement. In the proposed rulemaking published at 26 Pa.B. 1032 (March 9, 1996), the Board in a notice of proposed rulemaking containing general revisions proposed deleting the ratio in its entirety. No comments were received pertaining to the deletion.

The Board has not concluded its preparation of the general revisions rulemaking, but has determined to proceed expeditiously with the deletion of the size guidelines. By this amendment, the Board is deleting the current version of § 27.16(b)(2). The Board will then omit that section from the general revisions rulemaking. As stated in the voluntary guidelines, this subsection was intended to reflect the Board's experience at that time that a direct relationship existed between the overall retail floor space of a pharmacy and the amount of prescriptions compounded and dispensed from the pharmacy itself. The Board no longer believes that there is a significant relationship between the size of a retail store and the level of activity in a pharmacy. Pharmacists and pharmacy owners are competent to make decisions determining the appropriate size of a prescription area on the basis of their professional and business experience. Moreover, the Board finds placing voluntary guidelines in a regulatory format unnecessarily confusing to pharmacy owners.

Public notice of intention to amend the Board's regulations under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary and impracticable. The guidelines in § 27.16(b)(2) were not enforced and provided pharmacies with no meaningful regulatory standards. The 90-day deadline in § 27.16(a)(2)(ii) was more responsive to management and administrative needs of the Board and its agents than to the needs of the regulated community. The Board has therefore determined that its continued enforcement is contrary to the public interest.

#### *Compliance with Executive Order 1996-1*

The Board reviewed this rulemaking and considered the purpose and likely impact upon the public and the

regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

*Statutory Authority*

This amendment is authorized under sections 4(j) and 6(k)(9) of the Pharmacy Act (63 P. S. §§ 390-4(j) and 390-6(k)(9)).

*Fiscal Impact and Paperwork Requirements*

The amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Although it cannot be quantified, individual pharmacies and the regulated community should experience greater flexibility in planning which the Board anticipates will result in savings.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 8, 1997, a copy of the amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732.506).

Under section 5.1(d) and (e) of the Regulatory Review Act, the amendment was deemed approved by the House and Senate Committees on October 28, 1997, and by IRRC on November 6, 1997.

*Additional Information*

Individuals who desire information are invited to submit inquiries to W. Richard Marshman, Executive Secretary, State Board of Pharmacy, Post Office Box 2649, Harrisburg, PA 17105-2649, (717) 783-7157.

*Findings*

The Board finds that:

(1) Public notice of intention to amend its regulations as adopted by this order, under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL (45 P. S. § 1204(3)). The Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are, in this circumstance, unnecessary, impracticable and contrary to the public interest.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

*Order*

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending § 21.16 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

(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 become effective immediately upon publication in the *Pennsylvania Bulletin*.

PAULA L. CASTOR, R.Ph.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)*

**Fiscal Note:** 16A-546. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 27. STATE BOARD OF PHARMACY STANDARDS**

**§ 27.16. Construction requirements.**

(a) *Approval of plans.* The following requirements shall be applicable to approval of plans:

\* \* \* \* \*

(2) *Alterations.* The practice of pharmacy shall cease while substantial alterations in the layout of fixtures of an approved pharmacy are being made unless:

(i) The pharmacy makes the alterations and takes adequate precautions in such a manner that the health and safety of professionals, employes and the public shall be protected during the continuing operation of the pharmacy.

(ii) The plans for the alterations and a description of the precautions are submitted to the Board at least 30 days before the beginning of alteration work. If the Board raises no objection during that time, the pharmacy is authorized to proceed with the alterations as planned.

(b) *Building standards.* The following apply to building standards:

(1) *Minimum size.* The minimum size of the prescription area shall be not less than 250 square feet, but shall be large enough, considering the level of activity, to carry on the practice of pharmacy in a manner that protects the health and safety of professionals, employes and the public. Within the prescription area, there shall be a prescription working counter of not less than 10 linear feet in length and 2 linear feet in width. If more than two pharmacists are on duty simultaneously, the minimum counter length shall be increased by 5 linear feet for an additional pharmacist. Institutions with special considerations may apply to the Board for a waiver.

(2) *Adjoining store.* A permit may be issued for a self-contained pharmacy having an entrance into an adjoining store which owns the pharmacy or is otherwise affiliated with it. The pharmacy shall have an area of at least 350 square feet. Its separating walls and doors shall afford a degree of security against illegal entry equal to that normally afforded by walls and doors fronting on a public way, and the doors shall be securely locked whenever a licensed pharmacist is not present and on duty.



The terms "pharmacy," "drugs" or words of comparable meaning may only be used in reference to the self-contained pharmacy.

(3) *Locked compartment.* Space shall be provided in the prescription area for a substantially constructed cabinet or safe to contain controlled substances required to be kept locked in accordance with Federal BNDD regulations.

(4) *Telephone.* At least one telephone—or more, if necessary—shall be immediately accessible in the prescription area, and the telephone number shall coincide with the mandatory telephone number required to be printed on the label of a prescription.

(5) *Sanitary facilities.* Pharmacies shall be equipped with a sink within the prescription area to be used solely for pharmaceutical purposes. The sink shall measure at least 200 square inches exclusive of drainboard area. The sink shall be connected properly to supply hot and cold water. The sink shall be wholly located within the area designated as the prescription area. Adequate restroom facilities for employes of the pharmacy shall be provided reasonably close to, but outside of the prescription area, or with an entrance for the public located outside of the prescription area.

(6) *Lighting and ventilation.* The pharmacy shall be well lighted and ventilated.

(7) *No television set.* No television set may be placed within the prescription area or so situated in the pharmacy that its viewing screen may be seen when looking at it from within the prescription area.

(8) *Physical arrangement.* The prescription area shall be arranged in such a manner that prescription drugs and devices are inaccessible to an unlicensed or unauthorized person. The prescription area may not be used for storage of merchandise or other items other than those used in the preparation, dispensing or delivery of drugs. No animals may be allowed in a prescription area except for security reasons.

(9) *Existing pharmacies.* Existing pharmacies licensed by the Board prior to the effective date of this chapter may continue if they reasonably conform, or are made to reasonably conform, to the intent of this chapter. The Board will determine what constitutes reasonable conformity consonant with the public interest, health, safety and welfare.

[Pa.B. Doc. No. 97-1904. Filed for public inspection November 28, 1997, 9:00 a.m.]

## STATE BOARD OF DENTISTRY

### [49 PA. CODE CH. 33]

#### Volunteer License

The State Board of Dentistry (Board) adopts § 33.110 (relating to volunteer license) to read as set forth in Annex A.

#### A. Effective Date

The regulation is effective upon publication in the *Pennsylvania Bulletin*.

#### B. Statutory Authority

Section 5 of the Volunteer Health Services Act (VHSA) (35 P. S. § 449.45) mandates regulations governing: (1) qualifications for placing an active license on volunteer

status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is authorized to adopt regulations necessary to the administration of its enabling statute under section 3(o) of The Dental Law (63 P. S. § 122(o)).

#### C. Background and Purpose

The purpose of the VHSA is to increase the availability of primary health services by establishing a procedure for retired dentists and dental hygienists and other health care practitioners to provide professional services as volunteers in approved clinics. Primary health services are defined in the VHSA as including services such as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing, and health education.

The VHSA permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for volunteer status. A volunteer license will be issued to a retired individual who documents to the satisfaction of the Board that the individual will practice without remuneration in approved clinics.

#### D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 27 Pa.B. 3525 (July 19, 1997). The Board received comments from Representative Patricia H. Vance, the prime sponsor of the VHSA, the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC).

Both Representative Vance and IRRC noticed that proposed § 33.110(b) (relating to volunteer license), as published, was incongruent with the VHSA which makes retired persons, or persons intending to retire, eligible for a volunteer license. Editorial changes to the proposed rulemaking filed with the Legislative Reference Bureau erroneously created, on publication, three, rather than two, pathways by which a Board-regulated practitioner could qualify for a volunteer license. Representative Vance correctly noted that proposed § 33.110(b)(3) would be applicable to both paragraphs (1) and (2), and suggested paragraph (3) be incorporated into the text of subsection (b). The House Committee supported Representative Vance's suggestion. IRRC recommended that paragraph (3) be deleted in its entirety and suggested that parts of it be incorporated into a new definitional section. In final rulemaking, the Board has accepted both suggestions, adding a definitional subsection in § 33.110(a) and restructuring § 33.110(b). The Board also accepted the suggestion of IRRC to move subsection (c)(1)(ii) to subsection (a)(2).

#### E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

#### F. Fiscal Impact and Paperwork Requirements

1. *Commonwealth*—The regulation creates a new license for which no fee will be charged. The expenses of the program will be borne as a part of the Board's overall

operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal, owing to the relatively small number of the licensee population who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to generate and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The regulation will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and the biennial renewal fee for licensure. The regulation should impose no additional fiscal or paperwork requirements.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. §§ 745.5a(a)), on July 8, 1997, the Board submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 3525, to IRRC and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing this final-form regulation the Board has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was approved by the House Committee on October 22, 1997, and by the Senate Committee on October 28, 1997. IRRC met on November 6, 1997, and approved the regulation in accordance with section 5(e) of the Regulatory Review Act.

*I. Public Information*

Interested persons may obtain information regarding the regulation by writing to June Barner, Board Administrator, State Board of Dentistry, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. Findings*

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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 27 Pa.B. 3525.

(4) This amendment is necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by adding § 33.110 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) 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 upon publication in the *Pennsylvania Bulletin*.

EDWIN F. WEAVER, III, D.D.S.,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** Fiscal Note 16A-468 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 33. STATE BOARD OF DENTISTRY**

**Subchapter B. LICENSURE OF DENTISTS, DENTAL HYGIENISTS AND EXPANDED FUNCTION DENTAL ASSISTANTS**

**§ 33.110. Volunteer license.**

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Approved clinic*—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license*—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License.* A volunteer license may be issued to a licensee or certificateholder of the Board who documents to the satisfaction of the Board that the licensee will

practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license, registration or certificate in this Commonwealth and retires from active practice at the time the licensee applies for a volunteer license.

(2) Retires from the active practice of dentistry, or as a dental hygienist or as an expanded function dental assistant in this Commonwealth in possession of an unrestricted license, registration or certificate which was allowed to lapse by not renewing it. A retired licensee, registrant or certificateholder shall meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee in § 33.3 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act or this section may also constitute grounds for disciplinary action.

(h) *Permits to administer general anesthesia, conscious sedation or nitrous oxide/oxygen analgesia.*

(1) A dentist who applies for a volunteer license under subsection (b) who holds a current permit to administer anesthetic modalities may also apply for reissuance of an unrestricted or restricted permit of the type issued to the dentist as an active licensee under § 33.333 (relating to types of permits).

(2) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 2 years

of the date of application, held an unrestricted permit or a restricted permit I, may apply for reissuance of the permit, but shall be required to complete a refresher course in advanced training in anesthesiology and related subjects, or in conscious sedation (whichever is applicable) as approved by the Board, that conforms to the American Dental Association guidelines of either § 33.335(a)(1) (relating to requirements for unrestricted permit) or § 33.336(a)(1) (relating to requirements for restricted permit I).

(3) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 5 years of the date of application, held a restricted permit II may also apply for reissuance of the permit, but shall be required to complete a refresher course in nitrous oxide/oxygen analgesia approved by the Board that conforms to § 33.337(a)(1) (relating to requirements for restricted permit II).

(4) A dentist who applies for a volunteer license who does not qualify for a permit under paragraphs (1)—(3) and who wishes to administer general anesthesia, conscious sedation or nitrous oxide/oxygen analgesia under § 33.332(a) (relating to requirement of permit to administer general anesthesia, conscious sedation or nitrous oxide/oxygen analgesia) shall satisfy the education requirements of § 33.335(a)(1), § 33.336(a)(1) or § 33.337(a)(1).

(5) Volunteer license holders will not be subject to any fee for the issuance, reissuance or renewal of a permit under this subsection.

(i) *Supervision.* Volunteer dental hygienists shall meet the supervision requirements of § 33.205(c)(1) (relating to practice as a dental hygienist). Volunteer expanded function dental assistants shall meet the supervision requirements of section 2 of the act (63 P. S. § 121).

[Pa.B. Doc. No. 97-1905. Filed for public inspection November 28, 1997, 9:00 a.m.]

**STATE REGISTRATION BOARD FOR  
PROFESSIONAL ENGINEERS, LAND  
SURVEYORS AND GEOLOGISTS**

**[49 PA. CODE CH. 37]**

**Corrective Amendment to 49 Pa. Code § 37.61**

The State Registration Board for Professional Engineers, Land Surveyors and Geologists has discovered a discrepancy between the agency text of 49 Pa. Code § 37.61 (relating to temporary practice), as deposited with the Legislative Reference Bureau and as published at 25 Pa.B. 1775 (May 6, 1995) and the official text as codified in the September 1995 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 250), and as currently appearing in the *Pennsylvania Code*. The amendment adopted at 25 Pa.B. 1775 was never codified.

Therefore, under 45 Pa.C.S. § 901: The State Registration Board for Professional Engineers, Land Surveyors and Geologists has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 37.61. The corrective amendment to 49 Pa. Code

§ 37.61 is effective as of September 2, 1995, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 37.61 appears in Annex A.

JOHN M. BRINJAC, PE, PLS,  
*President*

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS**

**TEMPORARY PERMIT TO PRACTICE ENGINEERING OR SURVEYING**

**§ 37.61. Temporary practice.**

(a) A professional engineer, professional land surveyor or professional geologist who holds a valid license to practice engineering, land surveying or geology from a licensing board of the state or territory of the person's residence may practice engineering, land surveying or geology in this Commonwealth for a period not to exceed 30 days in the aggregate in a calendar year if the person neither resides nor has a place of business in this Commonwealth and the standards for licensing engineers, land surveyors and geologists in the other state or territory are at least equal to the standards of the Commonwealth.

(b) Applications for temporary permits shall be made on forms provided by the Board.

(c) Applications shall be accompanied by a nonrefundable fee in the amount prescribed by § 37.17(b) (relating to schedule of fees). Incomplete applications and applications not accompanied by the proper fee will be returned to applicants with a statement of the reason for return.

(d) When the Board, after consideration of an application, is satisfied that the applicant is eligible for a temporary permit to practice engineering, land surveying or geology, the Board will issue to the applicant a temporary permit to practice in this Commonwealth. If an application is rejected, the Board will advise the applicant of the reason for rejection.

[Pa.B. Doc. No. 97-1906. Filed for public inspection November 28, 1997, 9:00 a.m.]

**STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS**

**[49 PA. CODE CH. 37]**

**Examination Fees**

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) amends § 37.17 (relating to schedule of fees) to read as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a), examinations for licensure must be

prepared and administered by a professional testing organization under contract to the appropriate board. The Board contracts with the National Council of Examiners for Engineering and Surveying to provide the professional engineer and land surveyor examination to Pennsylvania applicants. Contract costs for examination services will increase beginning with the October 1998 examinations. This amendment will change fees for examinations to candidates for licensure as professional engineers or land surveyors in accordance with the new contract costs.

The following chart summarizes the change in fees for the engineer and land surveyor categories.

**Engineer—Land Surveyor Examination Fee Increases**

	<i>Current</i>	<i>New</i>
Professional Engineer Examination -As of October 1998	\$105.00	\$120.00
Professional Land Surveyor Complete Examination As of October 1998	\$187.00	\$227.00
As of October 1999		\$252.00
NCEES Fundamentals	\$ 40.00	\$ 65.00
NCEES Principles of Practice As of October 1998	\$ 60.00	\$ 75.00
As of October 1999		\$100.00

Public notice of intention to amend the regulations under procedures in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by this amendment, however, have been given actual notice of the Board's intention to adopt this amendment in advance of final rulemaking under section 204(2) of the CDL.

*Compliance with Executive Order 1996-1*

The Board reviewed this amendment and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1 (relating to regulatory review and promulgation). This amendment addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

*Statutory Authority*

This amendment is adopted under section 812.1 of The Administrative Code and section 9(a) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 156(a)).

*Fiscal Impact and Paperwork Requirements*

This amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for the licensure examinations will be required to pay an increased fee to cover contract costs for the examinations.

This amendment will not create new paperwork requirements for the Commonwealth, its political subdivisions or the private sector.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on October 8, 1997, a copy of this amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. At the same time, a copy of this amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(d) and (e) of the Regulatory Review Act, this amendment was approved by the House Professional Licensure Committee on October 22, 1997, approved by the Senate Consumer Protection and Professional Committee on October 28, 1997, and approved by IRRC on November 6, 1997.

Additional Information

Individuals who desire information may submit inquiries to Shirley Klinger, Board Administrator, State Registration Board for Professional Engineers, Land Surveyors and Geologists, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7049.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulations as adopted by this order under the procedures in sections 201 and 202 of the CDL has been omitted under section 204(3) of the CDL because the Board has, for good cause, found that the procedures in sections 201 and 202 of the CDL are, in this circumstance, unnecessary, inasmuch as section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination.

(2) Persons affected by the amendment have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 37, are amended by amending § 37.17 to read as set forth in Annex A.

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

(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 become effective upon publication in the *Pennsylvania Bulletin*.

JOHN M. BRINJAC, P.E., P.L.S.,  
President

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document see 27 Pa.B. 6128 (November 22, 1997).)

**Fiscal Note:** 16A-475. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

QUALIFICATIONS FOR LICENSURE

§ 37.17. Schedule of fees.

(a) *Professional engineers and professional land surveyors.* The Board will charge the following fees:

Examination for licensure as a professional engineer .....	\$105
October 1998 examination and thereafter.....	\$120
Professional Engineer Exam Review (Optional) ....	\$75
Examination for licensure as a professional land surveyor.....	\$187
October 1998-April 1999 examination .....	\$227
October 1999 examination and thereafter.....	\$252
Pennsylvania Fundamentals of Land Surveying Portion.....	\$42
N.C.E.E.S. Fundamentals of Land Surveying Portion.....	\$40
October 1998 examination and thereafter.....	\$65
N.C.E.E.S. Principles and Practice of Land Surveying .....	\$60
October 1998-April 1999 examination .....	\$75
October 1999 examination and thereafter.....	\$100
Administration (to be added to total parts taken at one sitting) .....	\$45
Examination for certification as engineer -in-training.....	\$75

(b) *Professional geologists.* The Board will charge the following fees:

Application for registration.....	\$50
Biennial renewal fee .....	\$25
Temporary permit fee .....	\$25
Fundamentals of Geology Examination.....	\$150
Principles/Practice of Geology Examination .....	\$150
Examination access fee (to be added to each examination taken) .....	\$25

Administration (to be added total parts taken at one sitting).....	\$45
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[Pa.B. Doc. No. 97-1907. Filed for public inspection November 28, 1997, 9:00 a.m.]

# Title 58—RECREATION

## FISH AND BOAT COMMISSION

### [58 PA. CODE CH. 61]

#### Fishing

The Fish and Boat Commission (Commission) by this order amends § 61.7 (relating to Susquehanna River and tributaries). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendment relates to fishing.

#### A. *Effective Date*

This amendment will go into effect upon publication of this order.

#### B. *Contact Person*

For further information on the amendment, 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 amendment is designed to update, modify and improve Commission regulations relating to fishing. The specific purpose of the amendment is described in more detail under the summary of changes.

#### E. *Summary of Changes*

The Commission recently designated the Susquehanna River from Holtwood Dam upstream to the Fibradam in Sunbury and the Juniata River from its Mouth upstream to Route 11/15 Bridge near Amity Hall as Big Bass Waters subject to § 65.9 (relating to big bass special regulations). This designation supersedes the general fishing regulations applicable to these waters found in § 61.7. The Commission therefore has amended § 61.7 to make it clear that the Big Bass regulations apply to the waters described in this section of the Preamble. This amendment has no substantive impact; it merely ensures that the wording of the general regulation (§ 61.7) is consistent with the special regulations already applicable to these waters. On final rulemaking, the Commission has slightly changed the wording of the amendment in the interest of clarity. The intent of the amendment remains the same.

#### F. *Fiscal Impact*

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

#### G. *Paperwork*

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

#### H. *Public Involvement*

A notice of proposed rulemaking containing the proposed changes was published at 27 Pa.B. 1653 (April 5, 1997). The Commission did not receive comments on the changes.

#### *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendment 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 the comments received were considered.

(3) The adoption of the regulations 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 Chapter 61, are amended by amending § 61.7 to read as set forth at Annex A.

(b) The Executive Director will submit this order 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 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: A proposal to amend § 61.7, amended in this document, remains outstanding at 27 Pa.B. 4450 (August 30, 1997). Amendments to § 61.7 were adopted at 27 Pa.B. 5605 (November 1, 1997) and will appear in the January 1998 (MTS 278) Pennsylvania Code Reporter.)*

**Fiscal Note:** Fiscal Note 48A-67 remains valid for the final adoption of the subject regulation.

#### Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart B. FISHING

#### CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

##### § 61.7. Susquehanna River and tributaries.

(a) It is unlawful to take, catch, kill or possess fish except during the seasons specified in this section. However, it is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.

(b) It is unlawful to take, catch, kill or possess a fish of less than the minimum size specified in this section. However, it is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1 calendar day. It is unlawful to

possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

(1) A person may possess any number of lawfully caught fish at the person's residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all of the fish during 1 calendar day.

(3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in

§ 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

(5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) The following seasons, sizes and creel limits apply to the Susquehanna River and its tributaries, including the Juniata River, the West Branch, "North Branch" and other tributaries with the Susquehanna River Basin except the Conowingo Reservoir—see § 61.4 (relating to Conowingo Reservoir) and except for waters subject to special regulations (see Chapter 65 (relating to special fishing regulations)):

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
AMERICAN and HICKORY SHAD and ALEWIFE and BLUEBACK HERRING (collectively known as river herring)*	Closed year-round	Closed	0
BASS Largemouth Smallmouth Spotted	January 1 to first Saturday after April 11 and first Saturday after June 11 to December 31.	Susquehanna River—Holtwood Dam to Fibradam in Sunbury 15 INCHES**	4 (Combined species)**
BASS Largemouth Smallmouth Spotted	January 1 to first Saturday after April 11 and first Saturday after June 11 to December 31.	Susquehanna River—Upstream of Fibradam in Sunbury 12 inches	6 (Combined species)
BASS Largemouth Smallmouth Spotted	January 1 to first Saturday after April 11 and first Saturday after June 11 to December 31.	Juniata River—Mouth upstream to Route 11/15 bridge near Amity Hall; and 18.5 mile section from the S.R. 0075 bridge at Port Royal downstream to Newport S.R. 0034 Bridge 15 inches**	4 (Combined species)**
BASS Largemouth Smallmouth Spotted	January 1 to first Saturday after April 11 and first Saturday after June 11 to December 31.	Juniata River—All areas except as described in this subsection: 12 inches	6 (Combined species)
OTHER SPECIES	Inland seasons, sizes and creel limits apply except for waters under special regulations (See Chapter 65). See § 61.1 (relating to Commonwealth inland waters). For Conowingo Reservoir see § 61.4 (relating to Conowingo Reservoir).		

\*Note: Landlocked alewife taken from inland ponds, lakes or reservoirs that are collected by legal means and measure less than 8 inches in length may be harvested for use as baitfish.

\*\*Note: Big Bass regulations—minimum size and creel limits—apply (see § 65.9)

[Pa.B. Doc. No. 97-1908. Filed for public inspection November 28, 1997, 9:00 a.m.]

# PROPOSED RULEMAKING

## INSURANCE DEPARTMENT

[31 PA. CODE CH. 67]

### Evidence of Financial Responsibility

The Insurance Department (Department) proposes to amend Chapter 67, Subchapter B (relating to evidence of financial responsibility) to read as set forth in Annex A. The Department is publishing the amendments as proposed rulemaking. The Department proposes the amendments under the authority of 75 Pa.C.S. § 1782(d) (relating to manner of providing proof of financial responsibility). Subchapter B sets forth the requirements of providing proof of financial responsibility for all owners and operators of motor vehicles in this Commonwealth. Additionally, the form and content of identification cards that insurers are required to issue and motorists are required to possess is also contained within this subchapter.

#### *Purpose*

The purpose of this rulemaking is to amend Subchapter B to provide additional detail for clarity, delete unenforceable and outdated provisions, and bring the regulation into conformance with 75 Pa.C.S. §§ 1701—1798 (relating to Motor Vehicle Financial Responsibility Law).

In the definitions section, the reference to Department is proposed to be deleted as it is contained in another regulation and the definition of "NAIC company code number" is proposed to be modified slightly for clarity.

Under § 67.23(a) and (b) (relating to I. D. cards), references to the original dates of these requirements in 1984 are proposed to be deleted, as they are outdated and no longer necessary.

Section 67.24(a) (relating to form and content of I. D. cards) is proposed to be amended to delete reference to no-fault insurance and pre-1985 requirement dates. Section 67.24(b)(8) is proposed to be modified to conform with 75 Pa.C.S. § 1782(d) by requiring that the I. D. cards disclose the period for which coverage has been paid by the insured. Additionally, in § 67.24(c), the warning language is proposed to be amended because it was confusing as written.

Instructions accompanying I. D. cards, § 67.25 (relating to instructions accompanying I. D. cards), is proposed to be amended to allow insurers flexibility, without mandating specific language.

Section 67.26 relating to multiple vehicle situations is proposed to be renamed to "I. D. cards issued by an insurer to fleets or dealers," as it is more concise and accurate. Language requiring the insurance company to advise a dealer that an I. D. card cannot be used to register a specific vehicle has been amended. The language that an I. D. card be placed in each vehicle while it is being driven under the dealer's policy with the dealer's plate is proposed to be deleted, as the Department cannot enforce this requirement.

Section 67.27 entitled "Binder" is proposed to be renamed, "Temporary Identification Cards," for clarity. Subsection (a) is proposed to be modified to require the issuance of a temporary I. D. card rather than a copy of the binder, as the Department feels the use of temporary I. D. cards may become more widespread as insurance companies change over to electronic application transmis-

sions. Also, a requirement of what specific information a temporary I. D. card must contain is listed, such as the statement that the I. D. card is temporary, and that it is not valid for more than 60 days from the date of issuance. Subsection (b) is proposed to be modified to indicate exactly what information must be contained on the assigned risk application for it to be used as a temporary I. D. card. A copy of a valid application is still acceptable, and must state that a certified producer is not permitted to issue a temporary I. D. card for assigned risk applications.

Section 67.28 regarding other evidence of financial responsibility is proposed to be deleted in its entirety as the Department of Transportation will have to determine what is acceptable evidence of financial responsibility.

#### *External Comments*

The Insurance Federation of Pennsylvania, Inc., and the Department of Transportation, Bureau of Motor Vehicles, were contacted regarding these proposed amendments. The Department has incorporated their comments into these proposed amendments. Specifically, the Department has retained the warning language required on the I. D. cards by § 67.24 because it informs the insureds that there are penalties for failing to maintain liability insurance. The Department's proposed change that "I. D. cards shall contain a statement similar to the following" was made because the warning is confusing as presently written, implying that if insureds allow their insurance to lapse, there would not be a problem so long as they do not drive the vehicle.

#### *Fiscal Impact*

The proposed amendments should not have any substantial impact on costs associated with the Department, insurance companies, political subdivisions or the general public.

#### *Paperwork*

The proposed amendments should not impose additional paperwork requirements on the Department, insurers or the general public.

#### *Persons Regulated*

The proposed amendments apply to insurance companies who transact insurance business and owners and operators of motor vehicles in this Commonwealth.

#### *Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 13, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order



1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

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

M. DIANE KOKEN,  
Acting Insurance Commissioner

**Fiscal Note:** 11-165. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART II. AUTOMOBILE INSURANCE**

**CHAPTER 67. MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW**

**SUBCHAPTER B. EVIDENCE OF FINANCIAL RESPONSIBILITY.**

**§ 67.22. Definitions.**

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

\* \* \* \* \*

[ **Department**—The Insurance Department of the Commonwealth. ]

\* \* \* \* \*

*NAIC company code number*—The unique number which is assigned by the National Association of Insurance Commissioners [ **Central Office to identify that insurer** ].

\* \* \* \* \*

**§ 67.23. I. D. cards.**

(a) *Insurers.* [ **On or after October 1, 1984, at the inception or renewal of a policy, the** ] The insurer shall issue to each named insured one I. D. card as specified in this subchapter for each vehicle which it insures. Upon the addition or substitution of a vehicle covered in the policy, the insurer shall issue an I. D. card for that vehicle. Replacement of I. D. cards for the purpose of change of address shall be optional at the discretion of the insurer.

(b) *Self-insurers.* [ **On or after October 1, 1984, the** ] The self-insurer shall issue an I. D. card as specified in this subchapter for each vehicle for which satisfaction of the requirements of the act is accomplished through self-insurance. Upon the addition or substitution of a vehicle, the self-insurer shall issue an I. D. card for that vehicle. Replacement of I. D. cards for the purpose of change of address shall be optional at the discretion of the self-insurer.

\* \* \* \* \*

**§ 67.24. Form and content of I. D. cards.**

(a) *Form of financial responsibility cards.* [ **The insurer and self-insurer may in their discretion choose to satisfy the requirements of this subchapter by continuing to use the existing no-fault identification card until January 1, 1985. After January 1, 1985, the** ] The insurer and self-insurer shall [ **use a new** ] issue an I. D. card containing information required in this section or another card as may be approved by the Department.

(b) *Contents.* Each I. D. card shall contain the following information on the front of the card:

\* \* \* \* \*

(6) Policy number [ **where applicable** ].

(7) Effective date: month, day[ , ] and year [ **of the policy must be shown** ].

(8) [ **The following inscription below the effective date: NOT VALID MORE THAN 1 YEAR FROM EFFECTIVE DATE.** ] Expiration date: month, day, and year.

(c) *Statement.* Each I. D. card shall contain [ **the following** ] a statement [ **on the back of the card** ] similar to the following:

This card must be carried for production upon demand. It is suggested that you carry this card in the insured vehicle.

**WARNING:** Any owner or registrant of a motor vehicle who drives or permits a motor vehicle to be driven in this State without the required financial responsibility may have [ **his** ] the registration suspended or revoked.

**NOTE:** THIS CARD IS REQUIRED WHEN:

(1) You are involved in an auto accident.

(2) [ **Your** ] **You** are convicted of a traffic offense other than a parking offense that requires a court appearance.

(3) You are stopped for violating any provision of 75 Pa.C.S. (relating to the Vehicle Code) and requested to produce it by a police officer.

You must provide a copy of this card to the Department of Transportation when you request restoration of your operating privilege [ **and/or** ] or registration privilege, or both, which has been previously suspended or revoked.

**§ 67.25. Instructions accompanying I. D. cards.**

[ **At the time the insurer issues an I. D. card to a policyholder, it shall also issue a statement explaining I. D. card requirements, including display to law enforcement officers, use for registering vehicles, and action that must be taken in the event a card is lost or a card is in error. The following language will be acceptable to the Department in satisfaction of this requirement:** ] The insurance company shall advise the policyholder of I. D. card requirements as outlined in § 67.24(c) (relating to form and content of I. D. cards), including display to law enforcement officers, action that shall be

taken in the event a card is lost or contains incorrect information and use for registering vehicles. The following language is provided as an example of language which meets these requirements:

IMPORTANT NOTICE Regarding your Financial Responsibility Insurance Identification Card.

The \_\_\_\_\_ Insurance Company is required by Pennsylvania law to send you an I. D. card. The card shows that an insurance policy has been issued for the vehicle(s) described in satisfying the financial responsibility requirements of the law.

If you lose the card, or if the card contains incorrect information, contact your insurance company or agent for a replacement.

The I. D. card information may be used for vehicle registration and replacing license plates. If your liability insurance policy is not in effect, the I. D. card is no longer valid.

You are required to maintain financial responsibility on your vehicle. It is against Pennsylvania law to use the I. D. card fraudulently such as using the card as proof of financial responsibility after the insurance policy is terminated.

§ 67.26. I. D. cards issued [ to fleets, dealers, transporters; and temporary registrations ] by an insurer to fleets or dealers.

\* \* \* \* \*

(b) An I. D. card issued to a dealer may show either "garage liability hazard number 1 policy" or "all owned and nonowned vehicles—comprehensive auto liability policy" instead of a specific vehicle description. One I. D. card must be issued for each set of dealer plates assigned to the dealer and insured under such a policy. [ An I. D. card issued to a dealer ] The insurance company shall advise that an I. D. card issued to a dealer cannot be used to register a specific vehicle. [ An I. D. card must be placed in each vehicle while it is being driven under the dealer's policy with the dealer's plate. ]

§ 67.27. [ Binder ] Temporary identification cards.

(a) [ Prior to receiving an I. D. card from an insurer, a copy of a valid binder which contains the information required in § 67.24(b)(1)-(7) (relating to form and content of I. D. cards) excluding the policy number can be used as evidence of financial responsibility. ] An agent may issue a temporary I. D. card, which can be used as evidence of financial responsibility until the permanent I. D. card is issued by the insurance company. The temporary I. D. card shall contain the following information:

TITLE OF CARD—TEMPORARY FINANCIAL RESPONSIBILITY IDENTIFICATION CARD

NOTE: THIS CARD IS NOT VALID FOR MORE THAN 60 DAYS FROM THE DATE OF ISSUANCE

NAME OF INSURANCE GROUP

NAME, ADDRESS, AND SIGNATURE OF ISSUING AGENT

DESCRIPTION OF VEHICLE—YEAR, MAKE AND VEHICLE IDENTIFICATION NUMBER

EFFECTIVE DATE OF COVERAGE—MONTH, DAY AND YEAR

(b) [ Prior to receiving an I. D. card from an assigned company of the Pennsylvania Automobile Insurance Plan (Plan), a copy of an application to the Plan can be used in place of an I. D. card, if the application contains the information required in § 67.24(b)(1)–(7) excluding the policy number and is signed by a licensed insurance agent or broker. ] A Pennsylvania Assigned Risk Plan application may be used as evidence of financial responsibility prior to receipt of an I. D. card from the assigned insurance company. The application shall contain the following information:

NAME, ADDRESS AND SIGNATURE OF CERTIFIED PRODUCER

DESCRIPTION OF VEHICLE—YEAR, MAKE AND VEHICLE IDENTIFICATION NUMBER

ELECTRONIC MAIL REFERENCE NUMBER, IF APPLICABLE

NOTE: A CERTIFIED PRODUCER IS NOT PERMITTED TO ISSUE A TEMPORARY ID CARD FOR ASSIGNED RISK APPLICATIONS

§ 67.28. [ Other evidence of financial responsibility ] (Reserved).

[ Where the I. D. card is not held sufficient by the court, the Department of Transportation or other law enforcement agency to demonstrate financial responsibility, an insurer shall provide in writing other evidence that the policyholder is financially responsible. ]

[Pa.B. Doc. No. 97-1909. Filed for public inspection November 28, 1997, 9:00 a.m.]

[31 PA. CODE CH. 67]

Motor Vehicle Financial Responsibility Law; Catastrophic Loss Benefits Continuation Fund

The Insurance Department (Department), Bureau of Special Funds, proposes to amend Chapter 67, Subchapter A (relating to Catastrophic Loss Trust Fund) to read as set forth in Annex A. The proposed amendments are published as proposed rulemaking under the authority of sections 506 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 186 and 412). The proposed rulemaking is necessary due to the repeal of the Catastrophic Loss Trust Fund and the subsequent implementation of the Catastrophic Loss Benefits Continuation Fund (Fund).

Purpose

Sections 67.1—67.15 were originally promulgated to provide guidance for the handling of claims under the Catastrophic Loss Trust Fund created in 1984 by Subchapter F of 75 Pa. C.S. §§ 1761—1769, which was deleted effective December 12, 1988, by the act of December 12, 1988 (P. L. 1120, No. 144) (Act 144). Subsequently, the act of April 26, 1989 (P. L. 13, No. 4) (Act 4) added

Subchapter I to Title 75. Section 1798.4 of Act 4 established the Fund to provide funds necessary to pay catastrophic loss benefits to individuals who suffered a catastrophic loss after October 1, 1984, and prior to June 1, 1989, or during the December 1988-89 registration year for which payment for Catastrophic Loss Trust Fund coverage was made under former 75 Pa.C.S. § 1762.

Section 1798.2 of Subchapter I contains a savings provision providing that despite the repeal of Subchapter F by Act 144, persons experiencing catastrophic losses during the time between the Catastrophic Loss Trust Fund's effective date (October 1, 1984, and June 1, 1989) or during the December 1988-89 vehicle registration year for which a fee was paid, shall continue to receive, or will be eligible to receive, catastrophic loss benefits as if Subchapter F had not been deleted. Because of the deletion of Subchapter F and the addition of Subchapter I allowing claimants to continue to receive Fund benefits, it is necessary to modify various sections of Chapter 67 as well as add a new section to reflect the statutory changes and provide a more accurate reflection of current Fund needs.

#### *Explanation of Regulatory Requirements*

Section 67.1 (relating to purpose) is proposed to be revised to state that the deletion of and amendments to various sections of Chapter 67 are necessitated by the deletion of Subchapter F of 75 Pa.C.S. §§ 1761—1769, and the amendment of Title 75 to add Subchapter I, which allows certain claimants to continue to receive benefits through the Fund.

Section 67.2 (relating to definitions) is proposed to be revised to delete definitions for "Board," "Commissioner," "Director," "Fund charge," "insured," "insurer," "manager," "policy" and "self-insurer" which are no longer applicable. Further, definitions have been added for "claims manager," "eligible claimant" and "surcharge" which are necessary due to changes in the regulations.

Section 67.3 (relating to fund financing) is proposed to be amended to reflect that the Fund is now financed with surcharges placed on motor vehicle violations as opposed to a surcharge paid by each vehicle owner.

Section 67.4 (relating to filing of claim) is proposed to be revised to specify that the Fund will review a claim for benefits, advise the claimant of eligibility and may employ an administrator to perform these functions.

Section 67.5 (collection of data) is proposed to be revised in subsection (a) to clarify that both the Fund and its Administrator are authorized to obtain data or information from claimants, health care providers, insurers and self-insurers to assist in determining eligibility for Fund benefits. The language in subsection (a) authorizing the Administrator to collect data to assure sufficient Fund funding was deleted since the Administrator no longer performs this role. Subsection (b) was deleted in its entirety since it is no longer needed to properly enforce the law.

Section 67.6 (relating to appeals) is proposed to be changed to provide a new claim review procedure wherein a claimant may request review of the Administrator's determination of eligibility for benefits, allowance of benefits or otherwise by filing a complaint in writing that is received by the Claims Manager of the Fund no later than 30 days from the date of the Administrator's denial letter. No later than 30 days after receipt of claimant's written complaint, the Claims Manager shall issue a letter determination notifying the claimant of the decision on eligibility or allowance of benefits. If the claimant is

dissatisfied with the results of the Claim Manager's determination, the claimant may then request, in writing, a formal administrative hearing before the Commissioner. This request must be received by the Department no later than 30 days of the date of the Claim Manager's determination.

This appeal process is a change from the procedure contained in the previous regulations, which allowed the claimant to request review of the Administrator's determination from the Department's Policyholders Services and Enforcement Division. This change is necessitated because the management of the Fund within the Department has changed from the Policyholder Services and Enforcement Division to the Bureau of Special Funds. Although the prior regulations did not set forth an explicit time period for the review process, the proposed amendments provide a 30-day time requirement for submitting requests for review to both the Claims Manager and the Commissioner. This time frame is consistent with the appeal periods contained in other insurance laws and the General Rules of Administrative Practice and Procedure, specifically 1 Pa. Code § 31.11.

Fund claimants who suffered a catastrophic loss between June 1, 1989, and December 31, 1989, may also be eligible to receive Extraordinary Medical Benefits (EMB). For these individuals, § 67.16 (relating to eligible claimant for Fund benefits) confirms that the EMB carrier would be the primary payor and the Fund secondary. This section must be added because EMB coverage came into effect after the December 12, 1988, deletion of the Catastrophic Loss Trust Fund.

Finally, § 67.16 is proposed to be added to delineate the claimant's duty to cooperate in providing coordination of benefits information to the Fund and its administrator. This section is necessary to ensure that the Fund is properly paying claimant benefits in all instances in which it is the primary payor, and not paying benefits in instances in which it is not.

#### *Affected Parties*

Parties who will be affected by these proposed amendments include claimants who are currently receiving benefits from the Fund, catastrophically injured claimants who are not currently eligible to receive benefits from the Fund but who may be eligible in the future, the Administrator for the Fund and the Fund itself.

#### *Fiscal Impact*

##### *State Government*

The proposed amendments will not have an impact on costs of the Fund or the Department.

##### *General Public*

The proposed amendments are not expected to have a fiscal impact upon the general public.

##### *Political Subdivisions*

The proposed amendments have no impact on costs to political subdivisions.

##### *Private Sector*

The proposed amendments have no impact on costs to the private sector.

*Paperwork*

The proposed amendments impose no additional paperwork requirements on the Department or the Fund.

*Effectiveness/Sunset Date*

The proposed amendments will become effective 90 days after final adoption and publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date has been assigned. All Department regulations are reviewed for continued effectiveness on a triennial basis.

*Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 1997, the Department submitted a copy of proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

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

M. DIANE KOKEN,  
*Acting Insurance Commissioner*

**Fiscal Note:** 11-160. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART II. AUTOMOBILE INSURANCE**

**CHAPTER 67. MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW**

**Subchapter A. CATASTROPHIC LOSS TRUST FUND**

**§ 67.1. Purpose.**

[The purpose of this] This subchapter [is to provide] provides procedures for the establishment and administration of the Catastrophic Loss [Trust] Benefits Continuation Fund, which continues the Catastrophic Loss Trust Fund eligibility determinations for certain individuals suffering catastrophic losses prior to June 1, 1989, or who may have suffered a catastrophic loss during the December 1988 to December 1989 vehicle registration year for

which payment for Catastrophic Loss Trust Fund coverage was made in accordance with former section 1762 of the act (Repealed).

**§ 67.2. Definitions.**

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

\* \* \* \* \*

**Administrator**—The person or entity designated by the Catastrophic Loss [Trust] Benefits Continuation Fund [Board] to review claims for catastrophic loss benefits, determine the eligibility of the claimant and make payment [where] when appropriate.

**Benefits**—Payments by the Catastrophic Loss [Trust] Benefits Continuation Fund for reasonable [and], necessary and accident-related expenses for medical treatment and rehabilitative services which exceed \$100,000, subject to limitations provided in the act.

[Board]—The Board of Directors responsible for the general supervision of the Catastrophic Loss Trust Fund Board. ]

**Claims manager**—The Department employe designated by the Insurance Commissioner to manage the daily activities of the Fund.

[Commissioner]—The Insurance Commissioner of the Commonwealth. ]

\* \* \* \* \*

[Director]—The Executive Director hired by the Board to carry out its decisions, receive all claims for benefits, forward them to the administrator for handling and monitor their progress. ]

**Eligible claimant**—An individual who meets the requirements of § 67.16 (relating to eligible claimant for fund benefits).

**Fund**—The Catastrophic Loss [Trust] Benefits Continuation Fund established to provide benefits required by the act.

[Fund charge]—The amount to be paid by persons registering motor vehicles to fund the Catastrophic Loss Trust Fund.

**Insured**—A person who has purchased an insurance policy that provides coverage to satisfy the financial responsibility requirements of the act.

**Insurer**—An insurance company, association or exchange providing coverage on motor vehicles under the act.

**Manager**—The person designated by the Catastrophic Loss Trust Fund Board to accept, invest and reinvest the monies of the Catastrophic Loss Trust Fund.

**Policy**—An insurance policy which provides coverage to satisfy the financial responsibility requirements of the act.

**Self-insurer**—A person or entity designated as an approved self-insurer by the Department of Transportation as set forth in 67 Pa. Code § 223.5 (relating to certificate). ]

**Surcharge**—The amount to be paid by drivers upon conviction of any traffic violation, exclusive of parking offenses, to fund the Fund.

§ 67.3. [ Amount of fund charge ] Fund financing.

[ (a) **Fund charge** ] The [ fund ] Fund shall be financed by [ levying a fund charge on each motor vehicle required to be registered under 75 Pa.C.S. § 1301—1373 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedacycles or like type vehicles ] surcharges for motor vehicle violations pursuant to 75 Pa.C.S. § 6506(a) and (b).

[ (b) **Initial Fund charge**. On October 1, 1984, the amount of fund charge shall be \$5 per annum.

[ (c) **Subsequent Fund charge**. By January 1, 1986, and by January 1 every year thereafter, the Board shall have established an annual fund charge in the amount necessary to ensure funding for all the Fund's liabilities, which amount shall be calculated in a manner consistent with sound actuarial principles.

[ (d) **Amount required**. The Catastrophic Loss Trust Fund charge shall be \$8 for each vehicle required to be registered under 75 Pa.C.S. Chapter 13 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedacycles or like type vehicles during the period October 1, 1988—January 31, 1989. The charge during the period February 1, 1989—September 30, 1989 is \$24. ]

§ 67.4. [ Filing of claim ] Claim filing and review.

(a) A person who [ is eligible for ] seeks benefits from the Fund [ may ] shall file a claim for benefits [ on a form available at the regional offices of the Department or at the office of the insurer ] with the Fund. The Fund will review the claim for benefits and advise the claimant in writing as to whether the claimant is an eligible claimant.

(b) A [ form ] claim submitted to the Fund which is erroneously completed or contains inadequate information may be returned to the claimant for correction and resubmission [ at the discretion of the Administrator ].

(c) The Fund may employ an Administrator to review the claim for benefits and advise the claimant of eligibility.

§ 67.5. Collection of data.

[ (a) ] The Administrator [ is ] and Fund are authorized to obtain from claimants, insurers and self-insurers data or information which is necessary [ to assure that funding is sufficient to pay claimants, ] to permit review of claims for Fund benefits [ and to perform other duties under the act.

(b) As soon as practical, but no later than 10 days after determining that a claim for medical and

rehabilitative expenses is likely to exceed \$100,000, the insurer or self-insurer shall notify the Fund in writing. ]

§ 67.6. Appeals.

(a) A claimant who disputes a determination by [ of ] the Administrator or Fund concerning eligibility for or allowance of benefits, [ allowance of benefits or otherwise, ] may [ obtain a review by filing ] file a written complaint [ with the Policyholders Services and Enforcement Division of the Department ] with the Claims Manager. The written determination by the Fund or Administrator shall advise the claimant how to file a complaint with the Claims Manager. A complaint is timely filed by the claimant if received by the Claims Manager no later than 30 days after the date of the written determination from the Administrator or the Fund denying eligibility for or allowance of benefits.

(b) The Claims Manager shall issue a written determination notifying the claimant of the results of the Claims Manager's review. If the claimant is not satisfied with the results of the [ Department's ] Claims Manager's review, [ he ] the claimant may [ seek ] request in writing a formal administrative hearing before the Insurance Commissioner [ under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law.) ] The written determination by the Claims Manager shall advise the claimant how to request a hearing. A request for hearing is timely if received by the Department no later than 30 days after the date of the written determination from the Claims Manager.

(c) Appeals are conducted with the General Rules of Administrative Practice and Procedure applicable to the Department as set forth in 1 Pa. Code Part II and Chapter 56 (relating to special rules of administrative practice and procedure).

§ 67.16. Eligible claimant for Fund benefits.

An individual who has suffered injuries in a motor vehicle accident is an eligible claimant for Fund benefits if the individual meets the following criteria:

(1) The individual was a resident of this Commonwealth at the time of the accident.

(2) The injury arose out of the maintenance or use of a motor vehicle after October 1, 1984, and prior to June 1, 1989, or during the December 1988 to December 1989 vehicle registration year for which payment for Catastrophic Loss Trust Fund coverage was made in accordance with former section 1762 of the act (Repealed).

(3) The auto accident occurred in the United States, its territories or possessions or Canada.

(4) The injured person was not the driver or occupant of a recreational vehicle not intended for highway use, a motorcycle, a motorized pedal cycle, a motor-driven cycle or any vehicle required to be registered under 75 Pa.C.S. (relating to the Vehicle Code) but not subject to the Fund charge.

(5) As a result of the accident, the individual incurred reasonable and necessary medical and rehabilitative expenses exceeding \$100,000.

(6) The individual's medical and rehabilitative expenses were not covered by workers' compensation.

(7) The individual's medical and rehabilitative expenses were not covered by a policy issued under the Pennsylvania No-fault Motor Vehicle Insurance Act (repealed).

**§ 67.17 Extraordinary medical benefits coverage.**

An eligible claimant receiving Fund benefits for accidents occurring between June 1, 1989, through December 31, 1989, may also be insured for extraordinary medical benefits coverage. If the Administrator or the Fund determines that extraordinary medical benefits are applicable, the insurer providing those benefits is the primary payor and the

Fund has no obligation to pay until the benefits payable by the insurer providing the extraordinary medical benefits have been exhausted. No duplicate recovery is available. The total lifetime aggregate to one eligible claimant under both Extraordinary Medical Benefits coverage and the Fund may not exceed \$1 million dollars.

**§ 67.18. Coordination of benefits.**

An eligible claimant shall cooperate in providing coordination of benefit information to the Administrator and the Fund. Failure to cooperate will result in a claimant's suspension of benefits.

[Pa.B. Doc. No. 97-1910. Filed for public inspection November 28, 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 Environmental Protection

The Executive Board approved a reorganization of the Department of Environmental Protection effective November 12, 1997.

The following organization chart at 27 Pa.B. 6235 (November 29, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

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

[Pa.B. Doc. No. 97-1911. Filed for public inspection November 28, 1997, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

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

#### Reorganization of the Department of Transportation

The Executive Board approved a reorganization of the Department of Transportation effective November 17, 1997.

The following organization chart at 27 Pa.B. 6236 (November 29, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

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

[Pa.B. Doc. No. 97-1912. Filed for public inspection November 28, 1997, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

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

#### Reorganization of the State Police

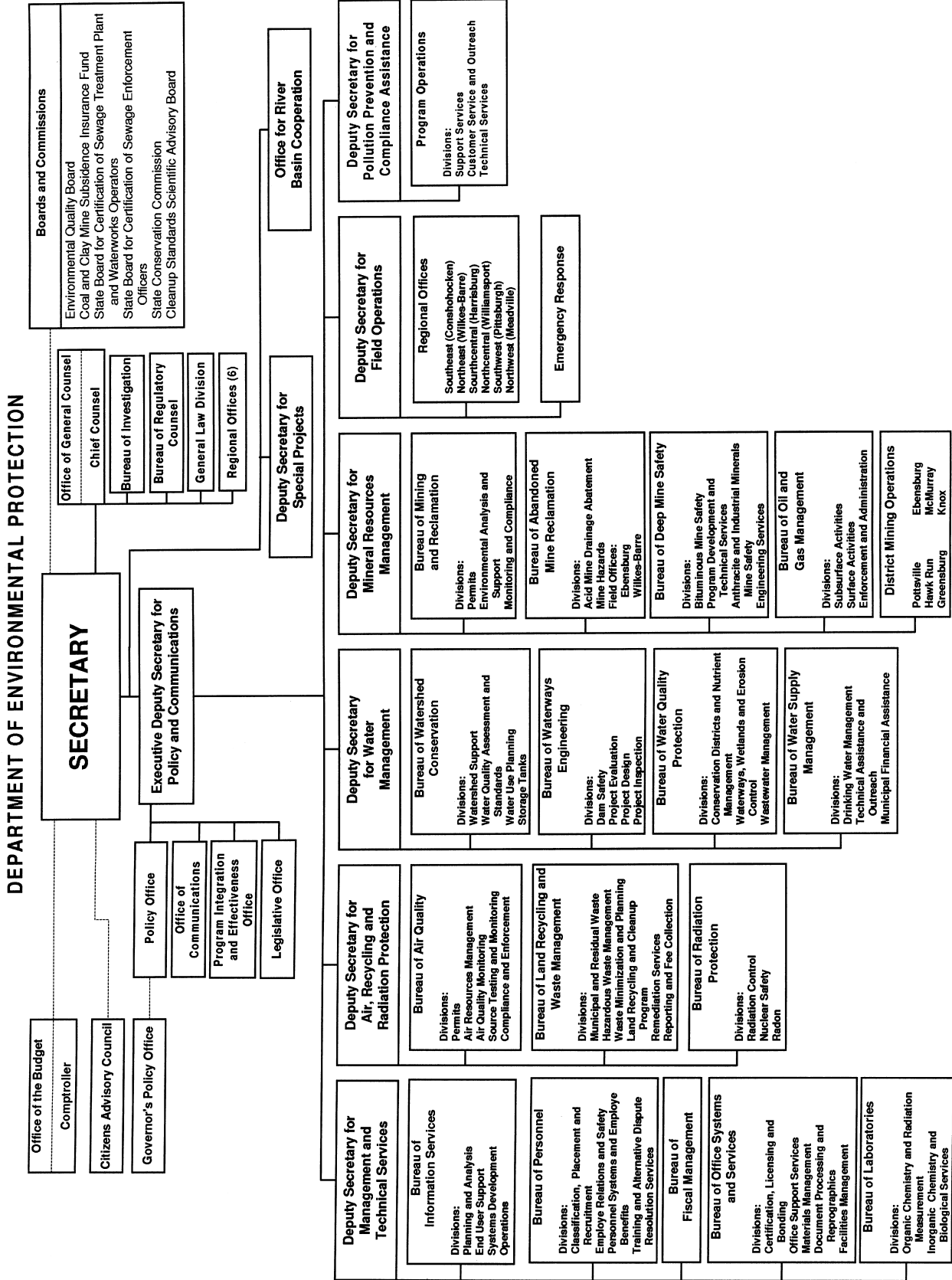
The Executive Board approved a reorganization of the State Police effective November 17, 1997.

The following organization chart at 27 Pa.B. 6237 (November 29, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

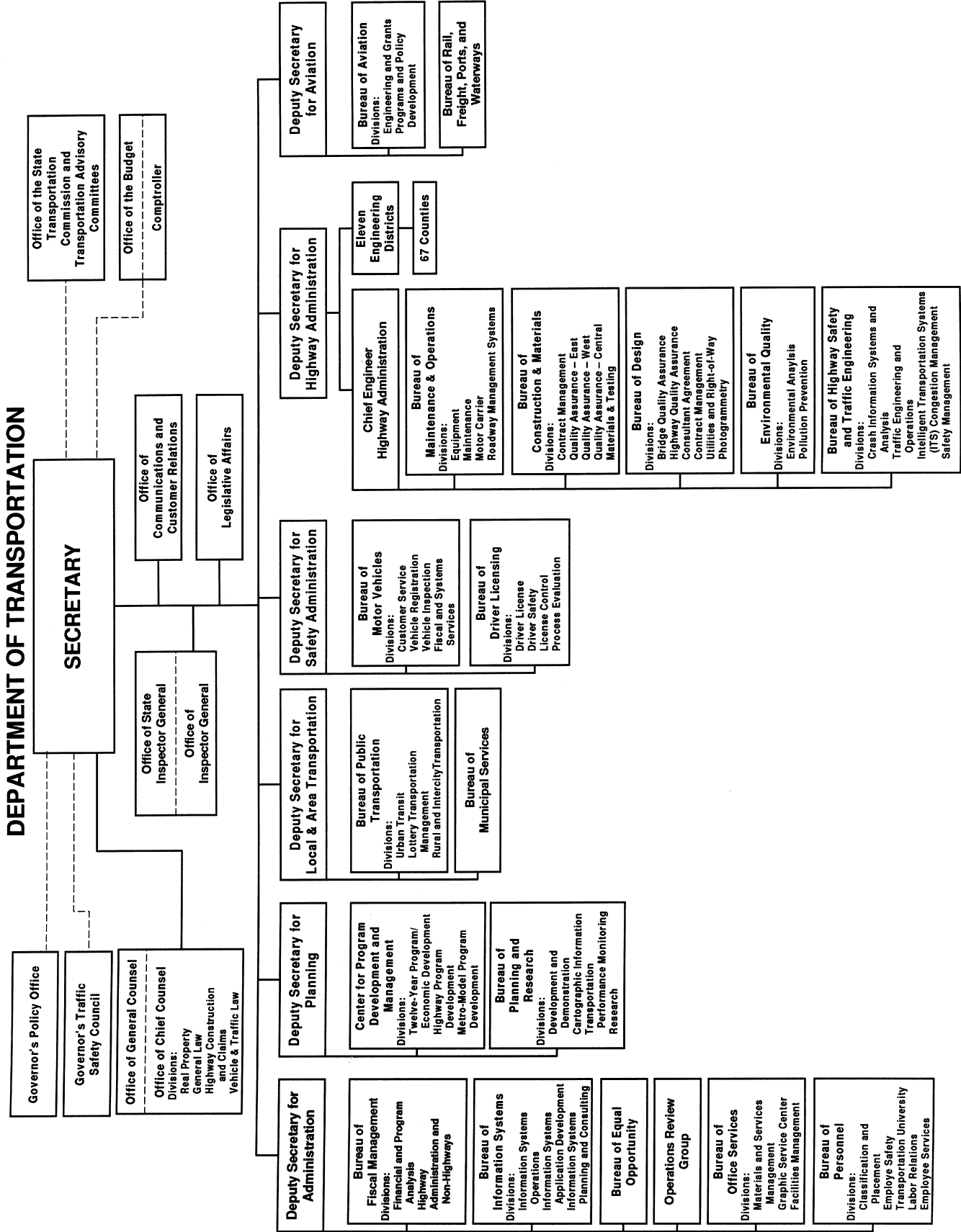
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 97-1913. Filed for public inspection November 28, 1997, 9:00 a.m.]

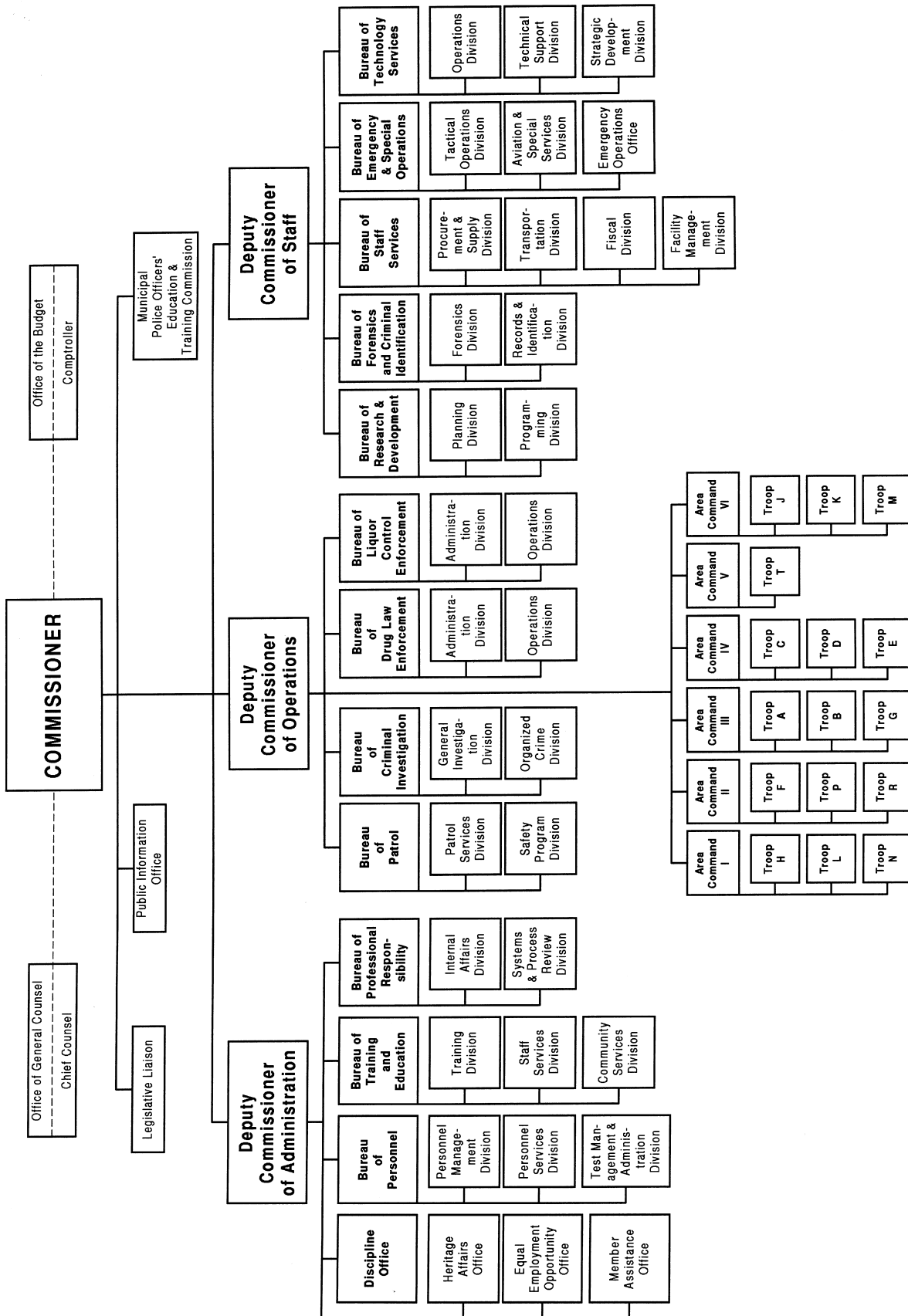
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PENNSYLVANIA STATE POLICE



## Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE  
[55 PA. CODE CH. 1187]

### Medical Assistance Manual; General Provisions

This statement of policy explains the circumstances under which the Department of Public Welfare (Department) will make capital component payments for replacement beds. Current Department regulations relating to reimbursement for nursing facilities enrolled and participating in the Commonwealth's Medical Assistance (MA) Program authorize capital component payments for replacement beds only if the nursing facility was "issued a Certificate of Need or a letter of nonreviewability for the project by the Department of Health." 55 Pa. Code § 1187.113(a)(3). Because Chapter 7 and all other portions of the Health Care Facilities Act (35 P. S. §§ 448.701—448.712) pertaining to Certificate of Need (CON) sunsetted on December 18, 1996, the Department will amend its regulations to authorize capital component payments for replacement beds constructed subsequent to the sunset of the CON program. Pending the promulgation of these regulations, the Department is issuing the following statement of policy to authorize, in certain circumstances, the payment of capital costs for replacement beds. Absent the issuance of this statement of policy, capital component payments for replacement beds without a CON or letter of nonreviewability could not be authorized.

#### Discussion

The Department will authorize capital component payments for replacement beds (up to applicable regulatory limits) only when it has determined that there is a need for the beds. To qualify for capital component payments, a replacement bed must replace a pre-moratorium bed, that is, a bed built under a CON dated on or before August 31, 1982, and for which the Department is making a capital payment under the Department's case mix regulations (55 Pa. Code §§ 1187.1—1187.141). This policy specifies the factors that the Department will consider in determining whether to grant approval of replacement beds. The Department will consider, among other things, the basis for the construction of the replacement beds, whether the overall total occupancy and MA occupancy levels of the facility indicate there is a need for the beds, and whether the provider has demonstrated that it would be more costly to renovate, rather than replace, the beds.

#### Amendments to Draft Statement of Policy

Prior to the publication of this statement of policy, the Department distributed copies of draft replacement bed guidelines to interested persons and made them available for public review and comment. The Department also discussed and solicited public input at the September meetings of the Medical Assistance Advisory Committee (MAAC), as well as the Consumer, Fee-For-Service, and Long Term Care Subcommittees of MAAC. All comments were reviewed and considered when developing this final statement of policy.

After consideration of the comments, the Department revised its policy to clarify that a participating provider of nursing facility services with a valid CON or letter of nonreviewability for its replacement beds may receive capital component payments for the beds if the provider is in compliance with all applicable statutory and regulatory requirements. In addition, the Department made the following revisions. First, the definition of "replacement

bed" has been revised to include reconstructed or renovated beds within an existing building or structure when the cost of the reconstruction or renovation equals or exceeds 50% of the total facility's appraised value in effect for the rate period in which the request is made. Second, the policy has been revised to state that, absent exceptional circumstances, the Department will not authorize capital component payments for replacement beds which will physically separate, in a different building, the replacement beds from other licensed and certified beds which will remain in operation in the existing facility. Finally, the policy has been clarified to state that the Department may approve a portion, rather than the entire, number of replacement beds.

#### Comments

Although this statement of policy will become effective on November 29, 1997, the Department will consider comments. To be considered, comments must be received within 45 days of the date of publication in the *Pennsylvania Bulletin*.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users). If a person requires another alternative, contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

#### Contact Person

Comments and questions regarding this statement of policy should be directed to Policy Section, P. O. Box 8025, Harrisburg, PA 17105, (717) 772-2570.

#### Effective Date

This statement of policy shall take effect on November 29, 1997.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-159. No fiscal impact, (8) recommends adoption.

#### Annex A

### TITLE 55. PUBLIC WELFARE PART III. MEDICAL ASSISTANCE MANUAL CHAPTER 1187. NURSING FACILITY SERVICES

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

#### § 1187.113a. Nursing facility replacement beds— statement of policy.

(a) *Scope.* This section applies to any participating provider of nursing facility services that intends to seek capital component payments under this chapter for replacement beds constructed, licensed or certified after November 29, 1997.

(b) *Purpose.*

(1) Department regulations relating to capital component payments for nursing facilities enrolled and participating in the Commonwealth's Medical Assistance (MA) Program state that capital component payments for replacement beds are allowed only if the nursing facility was "issued a Certificate of Need or a letter of nonreviewability for the project by the Department of Health." See § 1187.113(a)(3) (relating to capital component payment limitations).

(2) Chapter 7 and all other portions of the Health Care Facilities Act (35 P. S. §§ 448.701—448.712) pertaining to Certificates of Need (CON) sunsetted on December 18, 1996. To allow the Department to continue to make capital component payments for replacement beds for which a nursing facility does not have a CON or letter of nonreviewability, the Department will amend its regulations to specify the conditions under which it will recognize beds as replacement beds for purposes of making capital component payments. Pending the promulgation of these regulations, the Department has issued this section to specify instances in which the Department will make capital component payments for replacement beds.

(c) *Requests for approval of replacement beds.* A nursing facility provider that intends to seek capital component payments under § 1187.113(a)(3) for nursing facility beds constructed, licensed or certified after November 29, 1997, shall submit a written request to the Department for approval of the beds as replacement beds.

(1) The facility shall submit an original and two copies of its request prior to beginning construction of the beds. If a facility began construction of the beds prior to November 29, 1997, the facility shall submit an original and two copies of its request by February 27, 1998, or the date on which the facility requested the Department of Health to issue a license for the beds, whichever date is earlier.

(2) A facility that fails to submit a request under paragraph (1) may not receive capital component payments for the beds.

(d) *Policy regarding approval of replacement beds.*

(1) *Nursing facility beds authorized under a CON dated on or before December 18, 1996.*

(i) The Department will approve replacement beds as qualifying for capital component payments under § 1187.113(a) if the following conditions are met:

(A) The facility has a CON or letter of nonreviewability dated on or before December 18, 1996, authorizing the replacement bed project.

(B) The facility has "substantially implemented" its project, as defined in 28 Pa. Code § 401.2 (relating to definitions).

(C) The beds that are being replaced:

(I) Are currently certified.

(II) Are premeratorium beds.

(III) Will be decertified and closed permanently effective on the same date that the replacement beds are certified.

(ii) If a facility has a CON dated on or before December 18, 1996 authorizing a replacement bed project, but the facility fails to substantially implement its project as defined in 28 Pa. Code § 401.2, the Department will treat the facility as though it does not have a CON, and consider the facility's request under paragraph (2).

(2) *Nursing facility beds not authorized by a CON dated on or before December 18, 1996.* The Department will approve replacement beds as qualifying for capital component payments under § 1187.113(a) if, after applying the guidelines set forth in subsection (e), the Department determines that the following conditions are met:

(i) Construction of the replacement beds is necessary to assure that MA recipients have access to nursing facility services consistent with applicable law. If the Department determines that some, but not all, of the replacement

beds are necessary to assure that MA recipients have appropriate access to nursing facility services, the Department may limit its approval to the number of beds it determines are necessary. If the Department limits its approval to some of the beds, the remaining unapproved beds will not qualify for capital component payments.

(ii) Unless the Department finds that exceptional circumstances exist that require the replacement beds to be located at a further distance from the existing structure, the replacement beds will be constructed within a 1-mile radius of the existing structure in which the beds that are being replaced are situated.

(iii) Unless the Department finds that exceptional circumstances exist that require the replacement beds to be located at a further distance from the existing structure, the replacement beds will be attached or immediately adjacent to the existing structure in which beds that are being replaced are situated if the replacement beds will replace only a portion of the beds in the existing structure.

(iv) The beds that are being replaced:

(A) Are currently certified.

(B) Are premeratorium beds.

(C) Will be decertified and closed permanently effective on the same date that the replacement beds are certified.

(e) *Guidelines for evaluation of requests to construct replacement beds.* The Department will use the following guidelines, and will consider the following information, as relevant in determining whether to approve replacement beds under subsection (d)(2).

(1) Whether, and to what extent, construction of all the replacement beds is required to ensure the health, safety and welfare of the residents of the facility.

(2) Whether, and to what extent, building code violations or other regulatory violations exist at the facility requiring the construction of all of the replacement beds. If the provider alleges these violations, it shall attach waivers from the relevant regulatory agencies, and explain why the waivers of code violations may not continue indefinitely.

(3) Whether, and to what extent, the facility has considered the development of home and community-based services in lieu of replacing some or all of its beds.

(4) Whether other support services for MA recipients, including home and community-based services, are available in lieu of nursing facility services.

(5) Whether the overall total occupancy and MA occupancy levels of the facility and facilities in the county indicate that there is a need for all or a portion of the replacement beds.

(6) If the provider is proposing to construct a new facility or wing, whether the provider has satisfactorily demonstrated that it would be more costly to renovate the provider's current facility rather than to construct the new facility or wing.

(7) Whether the facility, or section of the facility, which currently contains the beds to be replaced is able to be utilized for another purpose.

(f) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Premoratorium beds*—Nursing facility beds that were built under an approved CON dated on or before August 31, 1982, and for which the Department is making a capital component payment under these regulations.

*Replacement beds*—Nursing facility beds constructed in a new building or structure that take the place of existing

beds located in a separate or attached building or structure; or reconstructed or renovated beds within an existing building or structure when the cost of the reconstruction or renovation equals or exceeds 50% of the total facility's appraised value in effect for the rate period in which the request is made.

[Pa.B. Doc. No. 97-1914. Filed for public inspection November 28, 1997, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Rescission of General Quarantine Order

The Department of Agriculture (Department) gives notice that the General Quarantine Order it issued on May 16, 1997, and a revision to that General Quarantine Order, which it issued on July 25, 1997 are rescinded. The May 16, 1997, General Quarantine Order was published at 27 Pa. B. 2650 (May 31, 1997), and the revision to that General Quarantine Order was published at 27 Pa.B. 4007 (August 9, 1997).

The Department is authorized to rescind the General Quarantine Order and the Revised General Quarantine

Order under the Domestic Animal Law (3 Pa.C.S. § 2329(b)).

This rescission is effective this 10th day of November 1997.

Further information may be obtained from Max VanBuskirk, Director, Bureau of Animal Health and Diagnostic Services, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 783-6677.

SAMUEL E. HAYES, Jr.,  
*Secretary*

[Pa.B. Doc. No. 97-1915. Filed for public inspection November 28, 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 November 18, 1997.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-14-97	The Chase Manhattan Corporation, New York, NY to acquire 100% of the voting stock of New Trust Company, National Association, Pittsburgh, PA	New York, NY	Approved

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-97	Port Richmond Savings, Philadelphia, and Fillmore Building and Loan Association, Philadelphia Surviving Institution—Port Richmond Savings, Philadelphia	Philadelphia	Approved
11-14-97	Premier Bank, Doylestown, and Premier Interim Bank, Doylestown Surviving Institution—Premier Bank, Doylestown	Doylestown	Effective
	Subject merger is being effective to facilitate the acquisition of Premier Bank, Doylestown, by Premier Bancorp, Inc., Doylestown (#8124), a new bank holding company.		
11-14-97	Community Bank and Trust Company Forest City Susquehanna County Purchase of assets/assumption of liabilities of two branch offices of First Union National Bank, Avondale, located at: Eynon Plaza Route 6 Eynon Lackawanna County	Forest City 97 College Avenue Factoryville Wyoming County	Effective

## NOTICES

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-5-97	The Drovers & Mechanics Bank York York County	Intersection of I-83 and Route 851 Shrewsbury Township York County	Opened
11-6-97	First Republic Bank Philadelphia Philadelphia County	1408 Old York Road Abington Montgomery County	Opened
11-8-97	Fulton Bank Lancaster Lancaster County	Oregon Dairy Farm Market 2900 Oregon Pike Manheim Township Lancaster County	Opened

**Branch Relocations/Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-17-97	Summit Bank Bethlehem Northampton County	<i>To:</i> Laneco Store Stefko Boulevard Shipping Center 1880 Stefko Boulevard Bethlehem Northampton County  <i>From:</i> Stefko Boulevard Shopping Center 1816 Stefko Blvd. Bethlehem Northampton County	Effective
11-13-97	Mid-State Bank and Trust Company Altoona	<i>To:</i> 301 West Plank Road Altoona Blair County  <i>From:</i> 908 Logan Boulevard Altoona Blair County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-31-97	Summit Bank Bethlehem Northampton County	3900 Hamilton Blvd. Allentown Lehigh County	Effective
11-18-97	First Commonwealth Bank Indiana Indiana County	2032 East Pleasant Valley Boulevard Altoona Blair County	Approved

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS****Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-18-97	Belco Community Credit Union Harrisburg Dauphin County	Regency Square East Hempfield Twp. Lancaster County	Approved

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-1916. Filed for public inspection November 28, 1997, 9:00 a.m.]

# DEPARTMENT OF EDUCATION

## Guidelines for Performance Funding for Pennsylvania Schools

Incentive awards for schools that significantly improve in student achievement or effort will be made after the 1998 administration of the Pennsylvania System of School Assessment (PSSA). The results of these tests will be available at the conclusion of the 1997-98 school year, and the resultant incentive awards will be made shortly thereafter. This program will utilize more than \$10.4 million in school performance funding appropriated in the 1997-98 budget. All 3,504 public schools may be eligible to receive funds based on their performance. Individual school performance will be considered in two broad categories: achievement and effort.

School achievement will be determined by improvement on the Statewide PSSA. Scores in 1998 and beyond will be compared with a school's baseline of PSSA which is the average of their 1996 and 1997 scores. A demonstrable increase, estimated to be at least 50 points in total points on the combined school average reading and math assessments, will determine whether or not a school qualifies for an award. The exact minimum increase to qualify for school performance funding will be determined based on analyses of school performance data as they become available.

School effort will be determined by improvement in school attendance. School attendance rates are currently listed on each school's annual school profile. A 2-year student attendance history (1995-96 and 1996-97), a baseline, is available for every school. This baseline will be compared to the 1997-98 student attendance rate. For high schools, graduation rate will also be considered for future years. While the Department of Education (Department) maintains data on both measures, at present the dropout data is unreliable. The Department, as part of the school performance funding program, will begin collecting graduation rate data (for high schools only) by school in a more reliable manner starting in the 1997-98 school year. Four years will be required to establish a reliable baseline for graduation rate. Starting in the 2002-2003 school year, a school effort measurement to gauge improvement in both school attendance and graduation rates will be available. For the first 4 years of the school performance funding program, a demonstrable increase estimated to be at least a 0.75% increase in average daily attendance over the baseline will determine whether or not a school qualifies for an award. The exact % will be determined based on studies of school attendance and graduation rates.

Area Vocational-Technical Schools (AVTSs) are included in the program with slightly different school performance measures. The school effort criteria, student attendance rate and graduation rate as described, are the same as in all public schools. The achievement component, however, is tailored to the occupational mission of AVTSs. AVTS occupational competency will be determined by student performance on a Statewide occupational competency test

(required by recently revised Charter 6 of State Board of Education Regulations). The SOCAT/NOCTI occupational competency performance tests will be used. After a 2-year baseline of AVTS performance on these tests, an improvement score for the achievement portion of school performance funding for AVTSs will be available in 2000-2001. While the Statewide occupational competency test is being installed and a 2-year data base developed, employment related to training will be used as an interim measure for occupational competency. This will be determined by the use of an annual Secondary School Completer Survey. To qualify for an achievement improvement funding award, an AVTS must achieve a minimum of a 4% improvement in rate of job related placement for its graduates of 1997-98 compared to its graduates of 1995-96 and 1996-97 averaged to form a 2-year baseline.\*\*\*

### Awards

Schools that attain a demonstrable increase (estimated to be 50 combined points on the PSSA tests) in student achievement will receive awards of between \$4 and \$25 per student depending on the level of increase over the estimated minimum of 50 points.\* Schools that attain a demonstrable increase in effort will receive an incentive payment of between \$4 and \$35.50 per student depending on the level of increase over the estimated 0.75% increase.\*\* AVTSs that attain a demonstrable increase (estimated to be 4 percentage points in their rate of job-related placement) will receive awards of between \$8 and \$20 per student depending on the level of increase over the estimated minimum increase of 4%. Schools have up to 3 years to accomplish significant increases in their achievement or effort data. After 3 years without a significant increase, a new baseline or point of comparison will be established for the school. If a school's performance decreases after receiving a performance award, the school will not qualify for performance funding again until the original highest level in both achievement and effort scores has been reattained.

\* Increasing levels of achievement improvement will be awarded based on combined increases of 10 additional points above the demonstrable difference level. For example, if a 50 point increase in combined school raw score on PSSA is ascertained to be of demonstrable significance (\$4 per student), then each additional increase of 10 points above this in a given year would receive an additional \$1 of funding per student in the school.

\*\* If a 0.75% increase in student attendance is ascertained to be a demonstrable increase (\$4 per student), then each additional increase of 0.25% in a given school year would receive an additional \$1.50 per student in the school.

\*\*\* If a 4% increase in student job-related placement is ascertained to be a demonstrable increase (\$8 per student), then each additional increase of 1% in a given school year would receive an additional \$2 per student in the AVTS.

EUGENE W. HICKOK,  
*Secretary*

[Pa.B. Doc. No. 97-1917. Filed for public inspection November 28, 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 office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

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

**PA 0057223.** Sewage, **William and Donna Hodson**, 387 Allenton Road, Souderton, PA 18964-2103.

This application is for issuance of an NPDES permit to discharge treated sewage from the Hodson residence in Franconia Township, **Montgomery County**. This is a new discharge to East Branch of the Perkiomen Creek.

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

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

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

The EPA waiver is in effect.

**PA 0057266.** Sewage, **Jack W. Burk**, 1971 Kimberwick Road, Media, PA 19063.

This application is for issuance of an NPDES permit to discharge treated sewage from the Jack W. Burk in Upper Providence Township, **Delaware County**. This is a new discharge to UNT to Ridley Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of .0005 mgd, are as follows:

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

The EPA waiver is in effect.

**PA 0057207.** Sewage, **William Smith**, 1492 Salford Street, Salford, PA 18457.

This application is for issuance of an NPDES permit to discharge treated sewage from the William Smith residence in Upper Salford Township, **Montgomery County**. This is a new discharge to UNT to Perkiomen Creek.

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

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

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

The EPA waiver is in effect.

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*Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.*

**PA 0031071.** Sewerage, **St. Pius X. Seminary**, R. R. 2, Dalton, PA 18414.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into a wet weather channel to Ackerly Creek in Dalton Borough, **Lackawanna County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is PP&L electric Station on Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of .02 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Dissolved Oxygen	a minimum of 5 mg/l at all times	
Fecal Coliform	200/100 ml as a geometric mean	
(5-1 to 9-30)	2,000/100 ml as a geometric mean	
(10-1 to 4-30)	6.0—9.0 standard units at all times	
pH		
Total Residual Chlorine	monitor and report	
(1st Month—24th Month)	1.2	2.8
(25th Month—Expiration Date)		

The EPA waiver is in effect.

**PA 0061573.** Sewerage, **Camp Moshava**, 25 West 26th Street, New York, NY 10010.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into an unnamed tributary of Indian Brook Orchard in Berlin Township, **Wayne County**.

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

Effluent requirements were evaluated at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .036 mgd, are:

<i>Parameter</i>	<i>Monthly Average (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		
(5-1 to 10-31)	2	4
(11-1 to 4-30)	6	12
Dissolved Oxygen	a minimum of 7 mg/l at all times	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine		
(1st Month—36th Month)	monitor and report	
(37th Month—Expiration)	.07	.17

The EPA waiver is in effect.

**PA 0013501.** Industrial waste, SIC: 3081, **Allied-Signal, Inc.**, P. O. Box 697, Westwood Road, Pottsville, PA 17901.

This proposed action is for renewal of an NPDES permit to discharge treated/process wastewater/cooling water and stormwater into an unnamed Tributary to West Branch of Schuylkill River in Norwegian Township, **Schuylkill 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/proposed downstream potable water supply (PWS) considered during the evaluation is Borough of Pottstown Water Authority on Schuylkill River.

*Outfall 001*

The proposed effluent limits based on a design flow of .098 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>		9.5	
TSS		7.0	
Oil and Grease		11	
pH		6—9 standard units at all times	

*Outfall 002* uncontaminated stormwater only.

The EPA waiver is in effect.

**PA 00629.** Industrial waste, SIC: 4941, **Lehighon Water Authority**, c/o Richard Barclay, Chairperson, P. O. Box 29, Lehighon, PA 18235.

This proposed action is for renewal of an NPDES permit to discharge process wastewater into Long Run in Franklin Township, **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/proposed downstream potable water supply (PWS) considered during the evaluation is Long Run Reservoir Number 1 located approximately 600 feet downstream from the proposed discharge.

*Outfall 001*

The proposed effluent limits based on a design flow of 0.0135 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30.0	60.0
Total Aluminum	4.0	8.0
Total Iron	2.0	4.0
Total Manganese	1.0	2.0
pH	6—9 at all times	

*Outfall 002*

This outfall is permitted to discharge stormwater only. There are no effluent limitations or monitoring requirements at this time.

*Outfall 003*

This outfall is permitted to discharge stormwater only. There are no effluent limitations or monitoring requirements at this time.

The EPA waiver is in effect.

**PA 0014681.** Industrial waste, **ALPO Pet Foods of Pennsylvania, Inc.**, P. O. Box 25100, Lehigh Valley, PA 18001-5200.

This application is for renewal of an NPDES permit to discharge treated process wastewater, cooling water and stormwater from the ALPO Pet Foods of Pennsylvania, Inc. facility located in South Whitehall Township, **Lehigh County**. This is an existing discharge to an unnamed tributary to Jordan Creek.

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

The proposed effluent limits for Outfall 001 based on an average flow of 0.64 mgd, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	20	40	50
(11-1 to 4-30)	40	80	100
Total Suspended Solids	25	50	63
Total Dissolved Solids	1,000	2,000	2,500
Ammonia (as N)			
(5-1 to 10-31)	4	8	10
(11-1 to 4-30)	12	24	30
Oil and Grease	15		30
Total Zinc	0.23	0.58	0.72
Temperature			110°
Total Residual Chlorine	0.51		1.2
Dissolved Oxygen		minimum of 3 mg/l at all times	
pH		within limits of 6.0—9.0 standard units at all times	
Fecal Coliform		200 colonies/100 ml as a geometric average	

The proposed effluent limits for stormwater Outfall SW2 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			monitor/report
COD			monitor/report
Oil and Grease			monitor/report
pH			monitor/report
Total Suspended Solids			monitor/report
Total Kjeldahl Nitrogen			monitor/report
Total Phosphorus			monitor/report
Dissolved Iron			monitor/report

The proposed effluent limits for stormwater Outfalls SW1 and SW3 are as follows: not monitored.

**PA 0063746.** Industrial waste, SIC: 5541, **Unocal Corporation**, 2300 Barrington Road, Suite 500, Hoffman Estate, IL 60195.

This proposed action is for issuance of an NPDES permit to discharge treated groundwater from a remediation system into Pocono Creek in Stroud Township, **Monroe County**.

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

The proposed effluent limits for Outfall 001 based on a design flow of 0.0144 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Benzene	0.001	0.002	0.0025
Total BETX*	0.100	0.200	0.250
Ethylbenzene		monitor and report	
Toluene		monitor and report	
Xylenes		monitor and report	

\*BETX shall be measured as the sum of benzene, ethylbenzene, toluene and xylenes.

The EPA waiver is in effect.

**PA 0032204.** Sewerage, **Ashland Regional Medical Center**, Michael Callan, 101 Broad Street, Ashland, PA 17921-2198.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Mahanoy Creek in Butler Township, **Schuylkill County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the Dauphin Consolidated Water Supply.

The proposed effluent limits for Outfall 001 based on a design flow of .0625 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)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine (Months 1—24)	monitor and report	
(Months 25—60)	1.2	2.8

The EPA waiver is in effect.

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

**PA 0084611.** Sewage, SIC: 6514, **Hollis McKinney Mobile Home Park (Noss Village)**, R. D. 10, Box 18414, York, PA 17404.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to unnamed tributary to Codorus Creek, in North Codorus Township, **York County**.

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

The proposed effluent limits for Outfall 001 for a design flow of .1 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Total Suspended Solids	10	20
NH <sub>3</sub> -N (5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	10.0
Total Residual Chlorine (Interim)	shall be monitored	
(Final)	< 0.1	0.2
Dissolved Oxygen	minimum of 5.0 at all times	
pH	from 6.0—9.0 inclusive	
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	

The EPA waiver is in effect.

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

**PA 0100277.** Sewage. **North and South Shenango Joint Municipal Authority**, 3397 Dam Road, Jamestown, PA 16134.

This application is for renewal of an NPDES permit to discharge treated sewage to the Shenango River in South Shenango Township, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Reynolds Water Company intake on the Shenango River located in Pymatuning Township, Mercer County, approximately 12 miles below point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.945 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
CBOD <sub>5</sub>			
(5-1 to 10-31)	15	22	30
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
Ammonia-Nitrogen			
(5-1 to 10-31)	4.5		9
(11-1 to 4-30)	10		20
Phosphorus (as P)	1		2
Total Residual Chlorine	0.47		1.5
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	4,300/100 ml as a geometric average		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0035289.** Sewage. **Glen Lake Estates**, 6315 Forbes Avenue, Pittsburgh, PA 15217.

This application is for revocation and reissuance of an NPDES permit to discharge treated sewage to the unnamed tributary to Wolf Creek in Pine Township, **Mercer County**. This is an increased discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Camp Allegheny-Salvation Army on Slippery Rock Creek located at Camp Allegheny, approximately 24 miles below point of discharge.

The proposed effluent limits based on a design flow of 0.005 mgd, are:

*Outfall No. 001*

*Interim Limits*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia-Nitrogen		
(5-1 to 10-31)	4	8
(11-1 to 4-30)	12	24
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	monitor and report	
Dissolved Oxygen	minimum of 4 mg/l at all times	
pH	6.0—9.0 at all times	

The proposed effluent limits, based on a design flow of 0.0145 mgd, are:

*Outfall No. 001*

*Final Limits*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia-Nitrogen		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	25	50
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	11,400/100 ml as a geometric average	
Total Residual Chlorine	1.0	2.3
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0210714.** Sewage, **Mark D. and Wendy J. Watt**, 344 N. Park Avenue, Sykesville, PA 15865.

This application is for a renewal of an NPDES permit to discharge treated sewage to Unnamed Tributary to Fehley Run in Winslow Township, **Jefferson County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fish, aquatic life, water supply and recreation. for the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Hawthorne Water Authority on Redbank Creek located at Hawthorne Borough which is approximately 35 miles below point of discharge.

The proposed discharge limits for Outfall 001, based on a design flow of 0.000800 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
TSS	30		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	XX		XX
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

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

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

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

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

Following the 30-day comment period, the Water Management Program 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 renewal application and related documents, proposed effluent limitations and special conditions, comments received and other information are on the Department's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0070513	Edward Redding Sweet Arrow Lake Road R. R. 2, Box 322 Pine Grove, PA 17963-9528	Schuylkill Washington Township	Upper Little Swatara Creek	TRC

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0084573	K88 Motel-Hampton Inn Naran Patel 255 Bow Creek Road Grantville, PA 17028	Dauphin East Hanover Town- ship	Bow Creek	TRC

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA00034363	Pine View Acres M.H.P. 686 Bedington Circle Manheim, PA 17545	Lancaster Penn Township	UNT to Chickies Creek	TRC
PA0082228	Hill Top Mobile Home Park 112 S. Main Street Manheim, PA 17545	Lancaster Rapho Township	Chickies Creek	TRC
PA0080527	Oliver Enterprises R. D. 1, Box 250-A Annville, PA 17003	Lebanon S. Londonderry Township	UNT to Conewago Creek	TRC
PA0038326	Pequea Valley School District Intermediate and High 116 S. New Holland Road Kinzers, PA 17535	Lancaster Leacock Township	Pequea Creek	TRC
PA0038318	Pequea Valley School District Salisbury Elementary 116 S. New Holland Road Kinzers, PA 17535	Lancaster Salisbury Township	Pequea Creek	TRC
PA0082147	Irvin Peifer Holtwood M.H.P. 204 Stone Mill Dr. PA	Lancaster Martic Township	UNT to Susquehanna River	TRC
PA0085138	Five Forks Brethren, Inc. 9244 Five Forks Road Waynesboro, PA 17268-9612	Franklin Quincy Township	Five Forks Run	TRC

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

**Applications under the Pennsylvania Clean Streams Law**

**(Part II Permits)**

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

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

**Applications received for industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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

**A. 0797402.** Sewage, submitted by **Greenfield Township Municipal Authority**, R. D. 1, Box 948, Claysburg, PA 16625 in Greenfield Township, **Blair County** to construct and operate three collection system raw sewage pump stations constructed as part of an extension to the Greenfield Township Municipal Authority's existing collection system was received in the Southcentral Region on November 12, 1997.

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

**WQM Permit No. 1097409.** Sewage. **Peter Rabbit Campground, Inc.**, 551 Mahood Rd., Butler, PA 16001. This project is for major modifications of an existing facility in Brady Township, **Butler County**.

**WQM Permit No. 3397407.** Sewage. **Doverspike Brothers Coal Company**, R. D. 4, Box 271, Punxsutawney, PA 15767. This project is for a proposed small flow treatment facility to accommodate a bathhouse and office facility in Knox Township, **Jefferson County**.

**INDIVIDUAL PERMITS (PAS)**

**NPDES Individual**

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of pre-



liminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address, and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

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

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

*Berks County Conservation District, District Manager, P. O. Box 520, 1238 County Welfare Road, Leesport, PA 19533, (610) 372-4657.*

**NPDES Permit PAS-10-C035.** Stormwater. **Twin Valley School District**, R. D. 3, Box 52, Elverson, PA 19520-9310 has applied to discharge stormwater from a construction activity located in Caemarvon Township, **Berks County**, to East Branch Conestoga River.

**NPDES Permit PAS-10-C036.** Stormwater. **Wagner Farm Development Inc.** has applied to discharge stormwater from a construction activity located in Spring Township and Sinking Spring Borough, **Berks County**, to Cacoosing and Tulpehocken Creeks and Schuylkill River.

*Adams County Conservation District, District Manager, 57 N. Fifth Street, Gettysburg, PA 17325, (717) 334-0636.*

**NPDES Permit PAS-10-0024.** Stormwater. **Bred Realty**, 200 Old U. S. Route 15 York Springs, PA 17372 has

applied to discharge stormwater from a construction activity located in Huntington Township, **Adams County**, to Gardner Run.

## SAFE DRINKING WATER

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

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

**A. 3897502.** Public water supply. **Quentin Water Company**, West Cornwall Township, **Lebanon County**. *Responsible Official:* Harold C. Dundore, President, P. O. Box 243, Quentin, PA 17083. *Type of Facility:* Installation of a booster pump station to supplement water pressures for domestic usage in the distribution system. *Consulting Engineer:* David J. Gettle, Kohl Bros., Inc., P. O. Box 350, Myerstown, PA 17067.

**A. 2297504.** Public water supply. **United Water Pennsylvania**, Dauphin Borough, **Dauphin County**. *Responsible Official:* Gregory P. Wyatt, Vice President/General Manager, 4211 East Park Circle, Harrisburg, PA 17111. *Type of Facility:* Installation of new raw water pump station. *Consulting Engineer:* Julia C. Schiefer, P. E., Herbert, Rowland and Grubic, Inc., 369 East Park Drive, Harrisburg, PA 17111.

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

**A. 1297501.** The Department has received a construction permit for **Driftwood Borough Water System** (Box 235, Driftwood, PA 15832, Gibson Township, **Cameron County**) for construction of a 60,000 gpd slow sand filtration facility for Nanny Run Reservoir, installation for a new liner within the existing 120,000 gallon treated water storage reservoir and installation of individual customer water meters throughout the system.

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

**A. 2597505.** Public water supply. **Lake Shore Maintenance Association—Water Department**, 1001 Webster Road, Erie, PA 16505. This proposal involves the drilling of an emergency well (#110383) to replace dug well #1 in Fairview 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 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 A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.*

**Pennsylvania Power & Light Company (PP&L)—Retired South Side Substation, City of Scranton, Lackawanna County.** PP&L, Environmental Management Division 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.

## 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:

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

**Hollidaysburg Pole Storage Yard, Hollidaysburg Borough, Blair County. GPU Energy, 2800 Pottsville Pike, Reading, PA 19640-0001** has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals. The applicant proposes to remediate 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 *Altoona Mirror* on November 10, 1997.

*Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.*

**Lock Haven Laundry, Lock Haven, Clinton County. Mountain Research, Inc.** on behalf of Harry Maggs, P. O. Box 176, Lock Haven, PA 17745 has submitted a Notice of Intent to Remediate groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the Site-specific standard. A summary of the Notices of Intent to Remediate was reported to have been published in the *Lock Haven Express* on October 28, 1997.

## SOLID AND HAZARDOUS WASTE

### BENEFICIAL USE DETERMINATIONS

**Determination of Applicability under General Permit I. D. No. WMGR038.**

*Southwest Regional Office Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4747.*

**WMGR038-SW001. ETD Company, LLC.,** Schenley Industrial Park, P. O. Box 82, Schenley, PA 15682-0082. Processing and beneficial use of waste tires for use as civil engineering or construction material. Determination of Applicability received in the Regional Office on October 27, 1997.

**PREVIOUSLY UNPERMITTED CLASS OF SPECIAL  
HANDLING WASTE  
INFECTIOUS OR CHEMOTHERAPEUTIC WASTE**

**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.**

*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Penn State Geisinger System Services**, 100 North Academy Avenue, Danville, PA 17822-1540; Robert W. Davies, Regional Officer; License No. **PA-HC 0141**; renewal application received on November 3, 1997.

**White Bros. Trucking Company**, 864 Julia Street, Elizabeth, NJ 07201; Peter Roselle, Vice President; License No. **PA-HC 0133**; renewal application received on November 17, 1997.

**AIR POLLUTION  
OPERATING PERMITS**

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

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

**46-399-109: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) for the operation of an Industrial Wastewater Plant in Upper Merion Township, **Montgomery County**.

**Notice of Intent to Issue**

**Phase II Acid Rain Permit  
GPU Generation, Inc.  
Shawville Electric Generating Station  
Clearfield County**

The Department of Environmental Protection (Department) intends to issue a Phase II Acid Rain Permit to the GPU Generation, Inc. for the Shawville electric generating station located in Bradford Township, Clearfield County.

The Shawville 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 application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701. An appointment to review the documents may be scheduled by contacting Kathy Arndt at (717) 327-3693 between 8 a.m. to 4 p.m., Monday through Friday, except holidays.

Persons wishing to provide the Department with additional information which they believe should be consid-

ered prior to the issuance of this permit may submit the information to the Department at the address shown in the preceding paragraph.

A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain: the name, address and telephone number of the person submitting the comments; identification of the proposed permit; and concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Title V Facilities Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-0512.

**Phase II Acid Rain Permit  
Pennsylvania Power & Light Company Sunbury  
Steam Electric Station  
Snyder County**

The Department of Environmental Protection (Department) intends to issue a Phase II Acid Rain Permit to the Pennsylvania Power & Light Company for the Sunbury Steam Electric Station located in Monroe Township, Snyder County.

The Sunbury 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 application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701. An appointment to review the documents may be scheduled by contacting Kathy Arndt at (717) 327-3693 between 8 a.m. to 4 p.m., Monday through Friday, except holidays.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department at the address shown in the preceding paragraph.

A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain: the name, address and telephone number of the person submitting the comments; identification of the proposed permit; and concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to

hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Title V Facilities Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-0512.

**Phase II Acid Rain Permit  
Pennsylvania Power & Light Company  
Montour Steam Electric Station  
Montour County**

The Department of Environmental Protection (Department) intends to issue a Phase II Acid Rain Permit to the Pennsylvania Power & Light Company for the Montour Steam Electric Station located in Derry Township, Montour County.

The Montour 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, 1997 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 application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701. An appointment to review the documents may be scheduled by contacting Kathy Arndt at (717) 327-3693 between 8 a.m. to 4 p.m., Monday through Friday, except holidays.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department at the address shown in the preceding paragraph.

A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain: the name, address and telephone number of the person submitting the comments; identification of the proposed permit; and concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Title V Facilities Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-0512.

## PLAN APPROVALS

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

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

**14-303-007A: Glenn O. Hawbaker, Inc.** (P. O. Box 135, State College, PA 16804) for the installation of an air cleaning device (a fabric collector) on a drum mix asphalt plant in Spring Township, **Centre County**. This plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**08-323-003: Ingersoll-Rand Company** (101 North Main Street, Athens, PA 18810) for the construction of a heat treat/quench operation in Athens Borough, **Bradford County**.

**08-399-038B: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) for the installation of air cleaning devices (a fabric collector and a HEPA filter) on various molybdenum and tungsten wire annealers in Departments 090 and 012, Building 20 in North Towanda Township, **Bradford County**.

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

**24-313-008D: Carbone of America** (215 Stackpole Street, St. Marys, PA 15857) for the replacement of a Carbon Baking furnace (230,000 lbs/cycle) incinerator with a custom designed incinerator in St. Marys, **Elk County**.

**PA-10-319A: Main Steel Polishing Co., Inc.** (6 Whitney Dr., Harmony, PA 16037) for the installation of a steel polishing unit controlled by a hydrostatic precipitator in Harmony Township, **Butler County**.

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

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 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*

**32970201.** Permit Revision. **Britt Energies, Inc.** (P. O. Box 515, Indiana, PA 15701), revision to an existing coal refuse reprocessing operation for the restoration of industrial rather than forestland and pastureland on the lands of Kovalchick Salvage Company, in Center Township, **Indiana County**, affecting 4.6 acres, receiving streams unnamed tributaries to Two Lick Creek. Application received November 12, 1997.

**11920111.** Permit Renewal. **R.J.C. Kohl, Inc.** (P. O. Box 299, Nicktown, PA 15762), commencement, operation and restoration of bituminous strip-valid for reclamation mine, only in Susquehanna Township, **Cambria County**, affecting 66.0 acres, receiving stream two unnamed tributaries to Fox Run to the South Branch of the Susquehanna River. Application received November 12, 1997.

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

**17920122.** **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine-auger permit in Beccaria Township, **Clearfield County** affecting 372.9 acres, receiving streams: Blain Run, Turner Run and Clearfield Creek; application received October 17, 1997.

**17920115.** **P & N Coal Co., Inc.** (240 W. Mahoning St., Punxsutawney, PA 15767), renewal of an existing

bituminous surface mine permit in Goshen Township, **Clearfield County** affecting 16.5 acres, receiving streams: unnamed tributary to West Branch Susquehanna River; application received October 17, 1997.

**17870129.** **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine permit in Morris Township, **Clearfield County** affecting 498.3 acres, receiving streams: Emigh Run to Moshannon Creek and an unnamed tributary to Laurel Run, also a tributary to Moshannon Creek; application received October 17, 1997.

**17820151.** **Junior Coal Contracting, Inc.** (R. D. 3, Box 225-A, Philipsburg, PA 16866), revision to an existing bituminous surface mine permit for a Change in Permit Acreage from 250.2 to 274.2 acres, Bradford Township, **Clearfield County**, receiving streams: tributary to Millstone Run, tributary to Valley Fork Run, Roaring Run; application received October 29, 1997.

**17970118.** **Junior Coal Contracting, Inc.** (R. D. 3, Box 225-A, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 68.5 acres, receiving streams: Shimel Run; application received November 4, 1997.

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

**33870113.** **Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824), renewal of an existing bituminous surface strip operation in Winslow Township, **Jefferson County** affecting 257.0 acres. Receiving streams: Unnamed tributaries to Schoolhouse Run, Schoolhouse Run and unnamed tributaries to Panther Run. Application for reclamation only. Application received November 7, 1997.

**10930102.** **Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774), renewal of an existing bituminous surface strip and auger operation in Summit Township, **Butler County** affecting 22.6 acres. Receiving streams: An unnamed tributary to Bonnie Brook. Application for reclamation only. Application received November 7, 1997.

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

**54930102C6.** **Harriman Coal Corporation** (P. O. Box 127, Valley View, PA 17983), correction to an existing anthracite surface mine operation in Porter Township, **Schuylkill County** affecting 460.0 acres, receiving stream none. Application received October 16, 1997.

**49970203.** **Mid-Valley Coal Sales, Inc.** (5 Woodland Drive, Mt. Carmel Estates, Mt. Carmel, PA 17851), commencement, operation and restoration of an anthracite refuse, reprocessing and refuse disposal operation in Coal Township, **Northumberland County**, affecting 573 acres, receiving stream Shamokin Creek. Application received October 15, 1997.

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

#### *Large Industrial Mineral Permit Applications Received*

**1479401.** **Bellefonte Lime Co., Inc.** (P. O. Box 448, Bellefonte, PA 16823), major revision to an existing large industrial mineral permit (Gentzel Quarry), to add underground mining to be known as Mines 5 & 6, affecting 481.1 acres, Spring, Benner and Walker Townships, **Centre County**. The discharge from the proposed underground mine will use the existing Gentzel Quarry and/or underground Mines 1, 2, 3 and 4 NPDES Outfall Points. Bellefonte Lime Company's existing underground Mines

1, 2, 3 and 4 are permitted to discharge water into Logan Branch, a tributary of Spring Creek. Bellefonte Lime Company's Gentzel Quarry is permitted to discharge water to Logan Branch and/or Nittany Creek; application received October 17, 1997.

**4977SM6. Clifford Cross, Jr.** (Box 240, Mainesburg, PA 16932), transfer of an existing large industrial mineral permit from High Mountain Quarry, Clymer Township, **Tioga County** affecting 5 acres, receiving streams: Baker Branch of Asaph Run; application received October 29, 1997.

**14920302. Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-2310), revision to an existing large industrial mineral permit to permit a stream reconstruction project associated with the development of the Jacksonville Quarry's new entrance road. The project will consist of extending the 6' x 3' box culvert currently under S. R. 0026 to accommodate the widening of S. R. 0026 and the new entrance road to the Jacksonville Quarry. During the course of this action a section of a 36" corrugated metal pipe that leads from the 6' x 3' box culvert outlet will be removed. Once removed, the channel will be returned to an open rock lined channel as a connector between the new extended box culvert and Lick Run downstream from the present outlet of the 36" culvert. The new box culvert and open channel will create better hydraulic conditions to accommodate large precipitation events and previous flooding problems, Marion Township, **Centre County**; application received October 30, 1997.

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

#### *Noncoal Permits Received*

**58900302C. Stateline Quarries, Ltd.** (2183 Pennsylvania Avenue, Apalachin, New York, PA 13732), renewal of NPDES Permit No. PA0595471 in Apolacan Township, **Susquehanna County**, receiving stream unnamed tributary to Apalachin Creek and Cork Hill Creek. Application received October 20, 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). Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

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

**E45-342. Encroachment. Pasteur Merieux Connaught,** P. O. Box 187, Route 611, Swiftwater, PA 18370. To construct and maintain a pedestrian bridge having a single span of 53.4 feet and minimum underclearance of approximately 7 feet across Swiftwater Creek (HQ-CWF) for the purpose of providing access from an employee parking lot to research buildings. The project is located approximately 0.3 mile downstream from S. R. 0611 (Mount Pocono, PA Quadrangle N: 17.1 inches; W: 10.0 inches) in Pocono Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

**E45-343. Encroachment. Pocono Mountains Industrial Park Authority,** 556 Main Street, Stoudsburg, PA 18360. To place fill in 0.61 acre of PFO wetlands on Lot No. 4 and 0.39 acre of PFO wetlands on Lot No. 24 of Pocono Mountains Industrial Park. The wetland fills are associated with the proposed development of each lot into warehouse/distribution facilities and parking areas. The projects are located between S. R. 0380 and S. R. 0611, approximately 0.5 mile north of S. R. 0940 (Tobyhanna, PA Quadrangle N: 0.5 inch; W: 1.5 inches) in Coolbaugh Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

**E48-264. Encroachment. Guy Ahearn,** Holly Real Estate, Inc., 8735 North Delaware Drive, Bangor, PA 18013. To place fill in approximately 0.2 acre of PEM wetlands for the purpose of constructing a roadway (known as Fen Drive) to serve the purposed Holly Homes Subdivision. The project is located 200 feet east of Schoeneck Avenue and 1,000 feet north of S. R. 0191 (Windgap, PA Quadrangle N: 0.5 inch; W: 5.6 inches) in Upper Nazareth Township, **Northampton County** (Philadelphia District, Army Corps of Engineers).

*Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**E02-1209. Encroachment. Manor Care, Inc.,** 11555 Darnestown Road, Gaithersburg, PA 20879-3200. Place and maintain fill in 0.1 acre of wetlands (PEM) for the purpose of constructing an assisted living facility located just east of the intersection of Anderson Lane, Wyngate Drive and Tech One Drive (Braddock, PA Quadrangle N: 10.6 inches; W: 4.4 inches) in the Municipality of Monroeville, **Allegheny County**. The permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

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

**E62-333. Encroachment. PA Department of Transportation,** Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323-1289. To remove existing single span steel stringer bridge and to construct and maintain a reinforced concrete box culvert with a clear span of 20 feet and a minimum underclearance of approximately 5 feet (invert submerged into stream bed approximately 1 foot) on S. R. 2012 across Sill Run (CWF). The project is

located on S. R. 2012 across Sill Run approximately 250 feet west of the intersection of S. R. 2012, S. R. 3005, and T-417 (Warren, PA Quadrangle N: 13.9 inches; W: 8.8 inches) located in Pleasant Township, **Warren County**.

**E62-334. Encroachment. Sugar Grove Township,** R. D. 4, Box 205, Sugar Grove, PA 16350. To maintain a two-steel-culvert road crossing on Dobson Road (T-587) across Stillwater Creek (CWF). This crossing will utilize two steel culvert pipes, each measuring 7 feet, 8 inches in diameter by 50 feet long. This road crossing was placed without a permit and this application is the result of the August 15, 1997 NOV sent to the Township. The project is located on Dobson Road (T-587) approximately 0.5 mile north of the intersection of Dobson Road (T-587) and S. R. 0957 (Sugar Grove, PA Quadrangle N: 20.6 inches; W: 8.5 inches) located in Sugar Grove Township, **Warren 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.*

**EA02-002C0. Environmental Assessment. Ohio Valley General Hospital** (Heckel Road, McKees Rocks, PA 15136). To construct and maintain a nonjurisdictional dam across a tributary to the Ohio River (WWF) impacting approximately 0.15 acre of wetlands (PEM/PSS) for the purpose of stormwater management at the proposed Ohio Valley General Hospital's Assisted Living Facility located approximately 1,000 feet northwest of the intersection of Heckel Road and McKees Rocks Road (Pittsburgh West, PA Quadrangle N: 17.75 inches; W: 13.00 inches in Kennedy Township, **Allegheny 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, Rachel Carson State Office Building, 400 Market Street, Second Floor, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time

period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

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

**NPDES Permit No. PA 0090514. Sewage. E. J. Gulick Mobile Home Park,** 123 Beatty Drive, Saxonburg, PA 16056 is authorized to discharge from a facility located in Winfield Township, **Butler County** to an unnamed tributary to Buffalo Creek.

**WQM Permit No. 1097408. Sewerage, Robert W. Sirera, SRSTP,** 304 Green Lake Dr., Mars, PA 16046. Construction of Robert W. Sirera SRSTP located in Adams Township, **Butler County**.

#### INDIVIDUAL PERMITS

##### (PAS)

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by aggrieved persons under the Environmental Hearing Board Act (35 P. S. § 7514) and; 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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

**PAS-10-0061. Individual NPDES. The Goldenberg Group,** Six Neshaminy Interplex, Suite 211, Trevoise, PA 19053. To implement an erosion and sedimentation control plan for the Red Rose Commons Shopping Center on 80.26 acres in Manheim Township and City of Lancaster, **Lancaster County**. The project is located along south side of U. S. Route 30 and west of Fruitville Pike (Lancaster, PA Quadrangle N: 12.5 inches; W: 10.0 inches). Drainage will be to a tributary of Little Conestoga Creek.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10F062-1	Calibre Boalburg Assoc. Limited Partnership 100 N. Patterson St. State College, PA 16801	Harris Township Centre County	Spring Creek
PAS101712	Robert Todd Jr. R. R. 2, Box 353E Curwensville, PA 16833	Jordan Township Clearfield County	Unt. Stoney Run
PAS104904	Northwestern Human Services of PA 620 Germantown Pike Lafayette Hill, PA 19444	Coal Township Northumberland	Quaker Run and Shamokin Ck.

### INDIVIDUAL PERMITS

#### (PAR)

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#### Approvals to Use NPDES and/or Other General Permits

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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>
Upper Bern Township Berks County	PAR-10-C190	Reading Eagle Company 345 Penn Street P. O. Box 582 Reading, PA 19603-0582	UNT Northkill Crk.	Berks CCD P. O. Box 520 1238 County Welfare Leesport, PA 19533 (610) 372-4657
Greenfield Twp. Blair County	PAR-10-0646-R	Greenfield Twp. Mun. Auth. R. D. 1, Box 948 Claysburg, PA 16625	Frankstown Branch Juniata River	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Allegheny Twp. Blair County	PAR-10-0647-R	Jack Campbell Unit 13, 764 Plaza Duncansville, PA 16635	Gillans Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Logan Township Blair County	PAR-10-0648-R	Morris Management H.I.A.P. Limited Part P. O. Box 1252 Altoona, PA 16602	Mill Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Logan Township Blair County	PAR-10-0649-R	Randy Degol 1643 Duquesne Lane Altoona, PA 16602	UNT Burgoon Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Snyder Township Blair County	PAR-10-0651-R	Tyrone Area School District 1317 Lincoln Avenue Tyrone, PA 16686	Schell Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Allegheny Township Blair County	PAR-10-0652-R	Joseph L. Witt 559 Foot of Ten Road Duncansville, PA 16635	Blair Gap Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Logan Township Blair County	PAR-10-0653-R	Brinton Simington 1226 Pleasant Valley Blvd. Altoona, PA 16602	Sandy Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Logan Township Blair County	PAR-10-0607-R	Altoona City Authority Greenwood Road Altoona, PA 16602	Burgoon Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Blair Township Blair County	PAR-10-0614-R	Hollidaysburg Shopping Center L. P. 422 Allegheny Street Hollidaysburg, PA 16648	Beaverdam Branch	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Hollidaysburg Borough Blair County	PAR-10-0617-R	Annette Lehman Olde Farm Office Centre Hollidaysburg, PA 16648	Brush Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Logan Township Blair County	PAR-10-0626-R	Ronald L. Harkless 803 N. Juniata Street Hollidaysburg, PA 16648	Brush Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Tyrone Borough Blair County	PAR-10-0627-R	Tyrone Associates 222 S. Market Street Elizabethtown, PA 17022	Decker Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Hollidaysburg Borough Allegheny Twp. Blair Twp. Blair County	PAR-10-0630-R	Greg Dempsie 310 Orchard Avenue Altoona, PA 16601	UNT Brush Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877

## NOTICES

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Blair Twp. Freedom Twp. Blair County	PAR-10-0635-R	Zane Helsel R. D. 2, Box 168 Duncansville, PA 16635	Poplar Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Allegheny Twp. Blair County	PAR-10-0638-R	Boyd A. England and Elizabeth Linderman 50 East Court Street Doylestown, PA 18901-4396	Blair Gap Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
Allegheny Twp. Blair County	PAR-10-0642-R	Allegheny Twp. Sewer Au- thority 3131 Old 6th Avenue Road Duncansville, PA 16635	Burgoon and UNT Beaver Dam Branch, Sugar, Spencer and Gillians Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
City of Altoona Blair County	PAR-10-0654-R	Blair County Comm. 423 Allegheny Street Hollidaysburg, PA 16648	Brush Run	Blair County CCD 1407 Blair St. Hollidaysburg, PA (814) 696-0877
East Pennsboro Twp. Cumberland County	PAR-10-H020-R	FM&T Sgrignoli 817 Enola Rd. Enola, PA 17025	Holtz Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Allen Twp. Cumberland County	PAR-10-H058-R	John Knaub Meadowview Est. Sect. II 580 Wilson Lane Mechanicsburg, PA 17055	Yellow Breeches	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Twp. Cumberland County	PAR-10-H031-R	Shadow Oaks Associates 6570 Carlisle Pike Mechanicsburg, PA 17055	Hogestown Run Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
South Middleton Twp. Cumberland County	PAR-10-H047-R	LSP Associates 1442 Trindle Road Carlisle, PA 17013	Hogestown Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Allen Twp. Cumberland County	PAR-10-H104-R	The Grantham Church 421 Grantham Rd. Grantham, PA 17027	UNT Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Allen Twp. Cumberland County	PAR-10-H105-R	Bowman's Village Part 2171 Tall Oaks Lane York, PA 17043	Yellow Breeches	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
East Pennsboro Twp. Cumberland County	PAR-10-H061-R	East Pennsboro Twp. 98 South Enola Drive Enola, PA 17025	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Middlesex Twp. Cumberland County	PAR-10-H114-R	PennDOT 21st and Herr Sts. Harrisburg, PA 17120	Letort Spring Run and UNT	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Carlisle Borough Cumberland County	PAR-10-H065-R	Community Assets Inc. 26 West Broad St. Bethlehem, PA 18018	Letort Spring Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAR-10-H004-R	Hampden Hearth Joint Venture 2505 North Front St. Harrisburg, PA 17110	UNT Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812

<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>
Upper Allen Twp. Cumberland County	PAR-10-H082-R	Anderson-Stern Inc. 19 North Baltimore St. Dillsburg, PA 17019	Trout Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Cumberland County	PAR-10-H032-R	Mahion Zimmerman 20 Cocalico Rd. Ephrata, PA 17522	Middle Spring Crk.	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Mifflin Twp. Cumberland County	PAR-10-H076-R	Martin Weller 58 Feaster Rd. Chambersburg, PA 17201	UNT	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Monroe Twp. Cumberland County	PAR-10-110-R	Group Kronenburg & Asso. 217 Pine Rd. Mt. Holly Springs, PA 17065	UNT to Hogestown Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Cumberland County	PAR-10-H057-R	Hanover Excavating 915 Barts Church Rd. Hanover, PA 17331	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Allen Twp. Cumberland County	PAR-10-H064-R	Mechanicsburg Area Youth Organization P. O. Box 171 Grantham, PA 17027	Yellow Breeches	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
East Pennsboro Twp. Cumberland County	PAR-10-H090-R	Rothman, Schubert & Reed P. O. Box 188 Camp Hill, PA 17001-0188	UNT Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Twp. Cumberland County	PAR-10-H039-R	Robert Potteiger P. O. Box 125 New Kingstown, PA 17072	Hogestown Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Camp Hill Borough Lower Allen Twp. Cumberland County	PAR-10-H097-R	ADM Milling P. O. Box 3100 Shiremanstown, PA 17011	Cedar Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Twp. Cumberland County	PAR-10-H109-R	Mechanicsburg GF Inves- tors 5401 Carlisle Pike Mechanicsburg, PA 17055	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Twp. East Pennsboro Twp. Cumberland County	PAR-10-H112-R	Richard Yingst 7100 Fishing Creek Valley Rd. Harrisburg, PA 17112	Holtz Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Twp. Cumberland County	PAR-10-H119-R	Timber Chase Associates P. O. Box 622 Lemoyne, PA 17043	Sears Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Lower Allen Twp. Cumberland County	PAR-10-H016-R	Dept. of Corrections 2520 Lisburn Rd. P. O. Box 598 Camp Hill, PA 17001	Cedar Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
East Pennsboro Twp. Cumberland County	PAR-10-H125-R	Laurel Hill Dev. Corp. P. O. Box 323 Berwick, PA 18603	UNT Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Twp. Cumberland County	PAR-10-H135-R	John Keener 105 Texaco Rd. Mechanicsburg, PA 17055	Trindle Spring Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812

<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>
Carlisle Borough Cumberland County	PAR-10-H136-R	Carlisle Corp. 1285 Ritner Highway Carlisle, PA 17013	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Twp. Cumberland County	PAR-10-H129-R	Hampden Commerce Center 6345 N. Power Horn Road Mechanicsburg, PA 17055	Sears Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Mechanicsburg Bor- ough Hampden Twp. Cumberland County	PAR-10-H128-R	First Industrial Dev. Grp. 6400 Flank Drive Harrisburg, PA 17112	Trindle Spring Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Twp. Cumberland County	PAR-10-H132-R	Patriot News Company 812 Market St. Harrisburg, PA 17105	Sears Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Cumberland County	PAR-10-H019-R	O & A Partnership 217 Frederick St. Hanover, PA 17331	Burd Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAR-10-H134-R	Good Hope Real Estate 518 Bridge St. New Cumberland, PA 17070	Sears Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Upper Allen Twp. Cumberland County	PAR-10-H129-R	Kinsley Equities II Limited R. D. 1, Box 131AA Seven Valleys, PA 17360	Cedar Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Twp. Cumberland Co.	PAR-10-H133-R	The Eagle Foundation 6746 Carlisle Pike Mechanicsburg, PA 17055	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Silver Spring Twp. Cumberland County	PAR-10-H131-R	Max Marbain 2933 Arconia Rd. Mechanicsburg, PA 17055	Trindle Spring Run	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Cumberland County	PAR-10-H073-R	Donald Irvin 188 Hershey Rd. Shippensburg, PA 17257	Middle Spring Crk.	Cumberland CCD 43 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Southampton Twp. Franklin County	PAR-10-M144	Nicholas J. Kalathas 47 Diffy's Drive Shippensburg, PA 17257	Furnace Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-8074
Southampton Twp. Franklin County	PAR-10-M142	Lester Martin 92 Mt. Rock Rd. Shippensburg, PA 17257	Rowe Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-8074
Belfast Twp. Fulton County	PAR-10-2806-R	Maurice Carlisle c/o Turkey Hill Subdiv. 19700 Barnesville Rd. Dickerson, MD 20842	Palmer Run Barnetts Run	Fulton County 216 North Second Street McConnellsburg, PA 17233 (717) 485-3547
Todd Twp. Fulton County	PAR-10-2807-R	Joyce Engel c/o Field Stone Estates	UNT Cove Creek	Fulton County 216 North Second Street McConnellsburg, PA 17233 (717) 485-3547

<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>
Paradise Twp. Lancaster County	PAR-10-0279	PennDOT District 8-0 2140 Herr St. Harrisburg, PA 17103	Eshleman Run	Lancaster CCD 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361
Manchester Twp. York County	PAR-10-Y277	Shiloh Ridge Assoc. 1643 Rodney Rd. York, PA 17404	Willis Run	York County CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County	PAR-10Y276-R	Logan's Landing 1945 Hanover Pike Littlestown, PA 17340	UNT Plum Creek	York County CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Monroe County Chestnuthill Twp.	PAR10S002-R	Pleasant Valley High School Pleasant Valley School Dis- trict Route 115 Brodheads ville, PA 18322	Weir Creek	Monroe CD (717) 629-3060
Monroe County Ross Township	PAR10S016-R	Spring Valley Farms at Ross Deck Creations, Inc. P. O. Box 341 Effort, PA 18330	Princess Run	Monroe CD (717) 629-3060
Monroe County Chestnuthill Township	PAR10S017-R	Weis Market Blackford Realty Ltd. 1910 Fruitville Pike Lancaster, PA 17601	Pohopoco Creek	Monroe CD (717) 629-3060
Womelsdorf Borough Berks County	PAR-10-C193	Denver Dev. Company 181 Denver Road Denver, PA 17517	Tulpehocken Creek	Berks CCD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Southampton Twp. Franklin County	PAR-10-M003-R	Troy Beam 401 Shippensburg Rd. Shippensburg, PA 17257	Furnace Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Antrim Twp. Franklin County	PAR-10-M008-R	Tex R. and Betty M. Myers 13204 Worleytown Road Greencastle, PA 17225	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Washington Township Franklin County	PAR-10-M009-R	Mountain View Terrace P. O. Box 248 Smithburg, PA 21783-0248	East Branch Antietam Crk.	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Waynesboro Borough Franklin County	PAR-10-M014-R	Cold Spring Estates 5886 Hess Benedict Rd. Waynesboro, PA 17268	West Branch Antietam Crk.	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Guilford Township Franklin County	PAR-10-M017-R	Martin's Famous Pastry 1000 Potato Roll Lane Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201

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<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>
Chambersburg Borough Franklin County	PAR-10-M022-R	Penn Mall Inc. 1425 Philadelphia Avenue Chambersburg, PA 17201	Conococheague Crk.	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M025-R	Laurich Company Inc. 3745 Lincoln Way West Chambersburg, PA 17201	UNT Back Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M030-R	Richard E. and Laura E. Rockwell 3745 Lincoln Way West Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Guilford Township Franklin County	PAR-10-M032-R	Deerwood Estates P. O. Box F01 Fayetteville, PA 17202	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Antrim Township Franklin County	PAR-10-M037-R	Willow Dale Creative In- vestment P. O. Box 1305 Hagerstown, MD 21790	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Franklin County	PAR-10-M041-R	Sycamore Meadows 3775 Manor Lane Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Franklin County	PAR-10-M057-R	Jere D. Stouffer 900 Floodtide Way Mt. Pleasant, SC 29464	Rowe Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Montgomery Township Franklin County	PAR-10-M058-R	Whitetail Ski Company Inc. 13805 Blairs Valley Road Mercersburg, PA 17236	UNT Licking Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Franklin County	PAR-10-M065-R	Beechwood Assoc. 49 West Orange St. P. O. Box D Shippensburg, PA 17257	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Guilford Township Franklin County	PAR-10-M075-R	Jeffrey W. Nitterhouse 2655 Molly Pitcher Highway South Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Washington Township Franklin County	PAR-10-M078-R	Millwood Village Phase II 10204 Amsterdam Rd. Waynesboro, PA 17268	Red Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Franklin County	PAR-10-M083-R	El-Mar Estates 226 Topaz Drive Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201

<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>
Antrim Twp. Franklin County	PAR-10-M084-R	Daniel and Cathy Twigg P. O. Box 238 Greencastle, PA 17225-0238	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M095-R	Nellie and T. K. Nitterhouse Memorial Park P. O. Box 680 Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Washington Township Franklin County	PAR-10-M096-R	Ashton Heights 11770 Buchanan Trail East Waynesboro, PA 17268	Red Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Letterkenny Township Franklin County	PAR-10-M102-R	Roxbury Holeness Camp- ground 13658 Cumberland High- way Orrstown, PA 17244	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Southampton Town- ship Franklin County	PAR-10-M105-R	Shippensburg Investment Group 100 East Orange St. Shippensburg, PA 17257	Middle Spring Crk.	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Franklin County	PAR-10-M107-R	Chambers Ridge 35 Towns Rd. Levittown, PA 19056	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Shippensburg Borough Franklin County	PAR-10-M109-R	Cressler Plaza Cressler's Market Place 1075 West King St. Shippensburg, PA 17257	Rowe Run	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Southampton Town- ship Franklin County	PAR-10-M112-R	Stony Point Edwin Martin 4961 Cumberland Highway Chambersburg, PA 17201	Middle Spring Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Greene Township Guilford Township Franklin County	PAR-10-M016-R	Chester and Glenn Snivlely 918 McKinley St. Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M117-R	Laurich Ridge Expansion 340 N. Meadowcreek Drive Chambersburg, PA 17201	Back Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Waynesboro Borough Franklin County	PAR-10-M119-R	Appalachian Nurseries 10 East Main St. Waynesboro, PA 17268	West Branch Antietam Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M120-R	Hamilton Hill 1364 Lincoln Way East Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201

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<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>
Quincy Township Franklin County	PAR-10-M122-R	WACCO Properties 11870 Mutual Drive Waynesboro, PA 17268	West Branch Antietam Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Hamilton Township Franklin County	PAR-10-M124-R	Warm Spring Ridge P. O. Box N Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Ave. Chambersburg, PA 17201 (717) 264-17201
Manchester Township York County	PAR-10-Y281-R	Shearer Industrial Supply P. O. Box 1272 York, PA 17405	UNT to Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAR-10-Y016-R	Stone Enterprises Inc. 12 Stoneridge Drive New Freedom, PA 17349	UNT to Fishing Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR-10-Y025-1R	Emig Mill Partnership 1770 E. Market St. York, PA 17402	UNT to Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAR-10-Y066-R	John Argento 400 Hunting Park Lane York, PA 17402	Kreutz Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAR-10-Y070-R	W. Allen Deamer 2209 East Market Street York, PA 17402	UNT to Kreutz Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAR-10-Y085-R	Hickory Heights R. D. 3 Red Lion, PA 17356	UNT to North Branch Muddy Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
North Hopewell Town- ship York County	PAR-10-Y089-R	Spring Valley Heights R. D. 3, Box 237N Red Lion, PA 17356	UNT to East Branch Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Lower Windsor Town- ship York County	PAR-10-Y110-R	Shalako Mobile Home Park Expansion P. O. Box 550 Elizabethtown, PA 17022	Cabin Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township York County	PAR-10-Y130-R	Pineview, Allen F. Shaffer 3659 Baltimore Pike Hanover, PA 17331	UNT to South Branch Conewago Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
North Codorus Town- ship York County	PAR-10-Y165-R	Country Manor Estates Phase III P. O. Box 286 New Salem, PA 17371	UNT to West Branch Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
New Freedom Borough York County	PAR-10-Y188-R	Quail Ridge Phase 6 2700 Water Street York, PA 17403	Bee Tree Run	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR-10-Y189-R	Country Club West 7 Sherry Drive York, PA 17404	UNT to Little Conewago Crk.	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430



<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
East Prospect Borough York County	PAR-10-Y193-R	Maple Ridge Development P. O. Box 123 East Petersburg, PA 17520	Cabin Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR-10-Y206-R	Slater Hill Townhouses P. O. Box 163 Red Lion, PA 17356	Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAR-10-Y219-R	Sarah Woods Estates P. O. Box 163 Red Lion, PA 17356	UNT to Kreutz Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Winterstown Borough York County	PAR-10-Y227-R	Arthur Hilderbrand Subdiv. 5699 Swamp Rd. Felton, PA 17322	UNT to East Branch Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Fairview Township York County	PAR-10-Y229-R	Fox Run, Triple Crown Corp. 5351 Jaycee Ave. Harrisburg, PA 17112	UNT to Fishing Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springfield Township Shewsbury Township York County	PAR-10-Y238-R	Topflight Corporation P. O. Box 2847 York, PA 17402-2847	Seaks Run	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Dover Township York County	PAR-10-Y239-R	Tall Fir Acres 6381 Carlisle Rd. Dover, PA 17315	UNT to Big Conewago Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township York County	PAR-10-Y247-R	American Ash Recycling Corp. 1058 Roosevelt Ave. York, PA 17404	Willis Run	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Butler County Butler Township	PAR10E007-R	Maple Grove Dev. Corp. 204 Dick Rd. Butler, PA 16001	Sullivan Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut St. Meadville, PA 16335- 3481 (814) 332-6942
Butler County Cranberry Township	PAR10E010-R	Maronda Homes, Inc. 11 Timberglen Drive Imperial, PA 15126	Brush Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut St. Meadville, PA 16335- 3481 (814) 332-6942
Butler County Jackson Township	PAR10E013-R	Alfred E. Thompson, III 9400 McKnight Rd. Pittsburgh, PA 15237	Glade Run	Northwest Region Water Management Pro- gram Manager 230 Chestnut St. Meadville, PA 16335- 3481 (814) 332-6942
Butler County Connoquenessing Bor- ough	PAR10E014-R	J. Stevenson Suess 318 West Cunningham St. Butler, PA 16001	Tributary of Connoquenessing Crk.	Northwest Region Water Management Pro- gram Manager 230 Chestnut St. Meadville, PA 16335- 3481 (814) 332-6942

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<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>
Butler County Butler Township	PAR10E020-R	Southgate Limited 421 N. Main St. Butler, PA 16001	Unnamed tributary of Butcher Run	Northwest Region Water Management Pro- gram Manager 230 Chestnut St. Meadville, PA 16335- 3481 (814) 332-6942
Butler County Valencia Borough	PAR10E041-R	Valencia Woods Nursing Center 85 Charity Place Valencia, PA 16059	Unnamed tributary of Breakneck	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Butler County Cranberry Township	PAR10E052-R	Newman Construction, Inc. 135 Heather Craft Drive Cranberry Township, PA 16066	Brush Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Butler County Cranberry Township	PAR10E055-R	FYT Associates 215 Corporate Drive Cranberry Township, PA 16066	Brush Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Butler County Adams Township	PAR10E060-R	Appleridge Development R. D. 3 Evans City, PA 16033	Beaver River	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Crawford County City of Meadville	PAR102307-R	Crawford Central School District Meadville Middle/High School Adminstration Center 11280 Mercer Pike Meadville, PA 16335	Mill Run	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Crawford County Woodcock Township	PAR102308-R	Meadville Redi-Mix Wood Meadows P. O. Box 418 Meadville, PA 16335	Woodcock Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Crawford County Greenwood Township	PAR102310-R	Dept. of the Army US Army Corps. of Engi- neers US Army Reserve ECS/ AMSA Baltimore District P. O. Box 1715 Baltimore, MD 21203-1715	Conneaut Outlet	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Erie County Albion Borough	PAR10K010-R	George Burns Park Avenue Albion, PA 16401	Unnamed tributary to East Branch Conneaut Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Erie County Millcreek Township	PAR10K042-R	Harold F. Redinger, Jr. 1533 West 38th St. Erie, PA 16508	Unnamed tributary to Walnut Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Erie County Millcreek Twp.	PAR10K061-R	Baldwin Gardens, Inc. 5 West 10th St. Erie, PA 16501	Lake Erie	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Erie County Summit Township	PAR10K064-R	Stephen Mioduszewski 1201 Ponderosa Drive Erie, PA 16509	Walnut Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Erie County Washington Township	PAR10K071-R	General McLane School District 11771 Edinboro Rd. Edinboro, PA 16412	Unnamed tributary to Conneauttee Creek	Northwest Region Water Management Pro- gram Manager 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942

*General Permit Type—PAG 3*

<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>
Lawrence County Taylor Township	PAR328302	Kasgro Rail Corp. 320 East Cherry Street New Castle, PA 16102	Shenango River	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Erie County Fairview Township	PAR208320	Erie Bronze & Aluminum Co. P. O. Box 8099 Erie, PA 16505	Walnut Creek	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Butler County Mercer Township	PAR218302	Wayne Donaldson Montgomery Block Works, Inc. 4275 William Flynn Highway Harrisville, PA 16038	Unnamed Tributary of Slippery Rock Crk. McMurray Run	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Elk County St. Marys City	PAR228301	Babcock Lumber Company 2220 Palmer St. P. O. Box 8348 Pittsburgh, PA 15218	Unnamed Tributary of Iron Run and Unnamed Tributary of Elk Creek	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Jefferson County Snyder Township	PAR228312	Paul and Kathleen Fremer Paul Fremer Lumber, Inc. and Fremer Moulding, Inc. R. D. 1, Box 102 Brockway, PA 15824	Toby Creek	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG 4*

<i>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>
Mercer County Jefferson Township	PAG048464	Albert and Alberta Slosky 7214 Lamor Rd. Sharpsville, PA 16150	Unnamed Tributary of Daley Run	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Butler County Adams Township	PAG048463	Robert W. Sirera 304 Green Lake Dr. Mars, PA 16046	Unnamed Tributary to Wolfe Run	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Erie County Harborcreek Township	PAG048465	Mark J. Corey 5845 Jordan Rd. Erie, PA 16510	Unnamed Tributary of Four Mile Crk.	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG 5*

<i>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>
Franklin County Washington Township	PAG053515	Robert Etter Etters Auto Service Waynesboro, PA 17268	Red Run	Southcentral Region Room 126 1 Ararat Boulevard Harrisburg, PA 17110 (717) 657-4590

*General Permit Type—PAG 8*

<i>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>
Wayne County Waymart Borough	PAG8-2202	Waymart Municipal Authority P. O. Box 224 Waymart, PA 18472		Water Management Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2516

**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. 4697510.** Public water supply. **Superior Water Company**, Robert A. Braglio, 1030 W. Germantown Pike, Fairview Village, PA 19409. A permit has been issued granting Superior Water Company permission to construct a 254,000 gallon concrete water storage tank and three distribution pumps at the Winding Creek III facilities in Douglass Township, **Montgomery**

**County.** *Type of Facility:* Public Water Supply System. *Consulting Engineer:* R. E. Coleman and Associates, 636 Lancaster Avenue, Frazier, PA 19355. *Permit to Construct Issued:* November 7, 1997.

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

**Permit No. 1396503. Schleicher Trailer Park**, Duane Schleicher, R. R. 7, box 198, Lehighton, PA 18235. This proposal involves the construction of a water supply system to serve the residents of Schleicher Trailer Park, East Penn Township, **Carbon County**. Facilities include a new well, treatment facilities, pump station, standpipe and distribution system serving a proposed facility con-

sisting of 96 units. This is located in East Penn Township, Carbon County. *Permit to Operate*: October 30, 1997.

**Permit No. 1397502. Chestnut Ridge Mobile Home Park.** Richard F. Beers, 175 Church Drive, Palmerton, PA 18071. This proposal involves a well house, well source, hypochlorinator, a basement finished water contact/storage reservoir, submersible service pump and hydropneumatic tanks. *Permit to Operate*: October 22, 1997.

**Permit No. 5497504. Tamaqua Area Water Authority,** Joseph R. Lopez, Chairperson, 320 East Broad Street, Tamaqua, PA 18252. This proposal involves an application for the construction of two 0.5 million gallon steel storage tank and connecting mains for the Tamaqua Area Water Authority. These tanks are referred to as the Tide tanks. It is located in Tamaqua Borough, **Schuylkill County**. *Permit to Operate*: November 3, 1997.

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

**Permit No. 3697501.** Public water supply. **Eastern Lancaster School District**, Brecknock Township, **Lancaster County**. *Responsible Official*: Neal Walsh Jr., Maintenance Supervisor, Brecknock Elementary School, 361 School Road, Bowmansville, PA 17507. *Type of Facility*: Install and operate a nitrate reduction system at the Brecknock Elementary School.

**Permit No. 3697502.** Public water supply. **Borough of Adamstown**, Adamstown Borough, **Lancaster County**. *Responsible Official*: Edward Stoudt, Borough Council President, 98 Lancaster Avenue, P. O. Box 546, Adamstown, PA 19501. *Type of Facility*: Construct a new 300,000 gallon concrete storage tank and install approximately 350 feet of 12-inch water line.

**Permit No. 3697503.** Public water supply. **West Earl Water Authority**, West Earl Township, **Lancaster County**. *Responsible Official*: Jeffery C. Jessell, Project Engineer, ACER Engineers and Consultants, Inc., 270 Granite Run Drive, Lancaster, PA 17601. *Type of Facility*: Installation of 12" and 6" DIP, booster pumping station and corrosion control facility. The project includes an interconnection with the City of Lancaster Authority who will supply the West Earl Authority. Nolt Spring will be abandoned.

**Permit No. 3697504.** Public water supply. **Borough of Quarryville**, Municipality: Borough of Quarryville, **Lancaster County**. *Responsible Official*: Daniel W. Mylin, Borough of Quarryville, 300 Saint Catherine Street, Quarryville, PA 17566. *Type of Facility*: Installation of a granulated activated carbon treatment system to treat VOC contamination in the Chase Well.

**Permit No. 3697505.** Public water supply. **Strasburg Borough**, Municipality: Strasburg Borough, **Lancaster County**. *Responsible Official*: Gene Osmun, Borough Manager, 145 Precision Avenue, Strasburg, PA 17579. *Type of Facility*: Installation of Aqua-Mag for general corrosion control.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

**Pennsylvania Power & Light Company (PP&L)—Distribution pole #53576N43170 (Netters Street),** Borough of West Pittston, **Luzerne County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to have been contaminated with PCBs (polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard.

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

**Distribution Pole 23258S32835,** Lower Allen Township, **Cumberland County**. **Pennsylvania Power and Light Company**, Two North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning remediation of site soils contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

*Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.*

**Abramson Auto Wrecking and Fresh Water Drainage Ditch**, College Township, **Centre County**. Blazosky Associates, Inc. on behalf of Fred Abramson, 3149 Nittany Valley Drive, Howard, PA 16841 has submitted Final Reports addressing soil contaminated with BTEX, PHCs and PAHs; groundwater contaminated with BTEX, PHCs, PAHs, Mirex and Kepone; and sediment contaminated with Mirex, Photomirex and Kepone. These reports are intended to document remediation of the site to meet the background and/or Statewide health standards.

## 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.*

**CMD Transportation, Inc.**, 13150 S. Clackamas River Drive, Oregon City, OR 97045; License No. **PA-AH S24421**; renewal license issued November 6, 1997.

**Environmental Industrial Services**, 524-B South Walnut Street, Wilmington, DE 19801; License No. **PA-AH 0457**; renewal license issued November 5, 1997.

**Salesco Systems USA Inc.—AZ**, 5736 W. Jefferson Street, Phoenix, AZ 85043; License No. **PA-AH 0508**; renewal license issued November 6, 1997.

**License expired 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.*

**Sealand Environmental Services, Inc.**, P. O. Box 249, Derby, CT 06418; License No. **PA-AH 0242**; license expired on October 31, 1997.

### BENEFICIAL USE DETERMINATIONS

**Registration for General Permit I. D. No. WMGR038 under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a solid waste processing or disposal area or site.**

*Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**I. D. No. WMGR038. Allegheny Environmental Solutions**, 104 Alder Street, Punxsutawney, PA 15767. Operation of a waste tire processing facility to manufac-

ture crumb rubber in Susquehanna Township, **Cambria County**. Registration completed on November 13, 1997.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

**Permit No. 101092. Boyd E. Diller Transfer Station**, Boyd E. Diller, Inc. (6820 Wertzville Road, Enola, PA 17025). Minor permit modification for construction/demolition waste processing at a site in Hampden Township, **Cumberland County**. Application withdrawn in the Regional Office November 14, 1997.

**Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

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

**Unpermitted. BNZ Materials**, 191 Front St., Zelenople, PA 16063, located in Zelenople Borough, **Butler County**. A closure plan for two unpermitted Residual Waste Impoundments at the BNZ Materials Zelenople Plant was approved in the Regional Office on October 29, 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.*

**Altoona Hospital**, 620 Howard Avenue, Altoona, PA 16601; License No. **PA-HC 0124**; renewal license issued November 6, 1997.

**JPS Equipment Co.**, P. O. Box 788, Edgemont, PA 19028; License No. **PA-HC 0142**; renewal license issued November 6, 1997.

**S. H. Bio-Waste, Ltd.**, 900 Selma Street, Norristown, PA 19401; License No. **PA-HC 0096**; renewal license issued November 6, 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-53-0007A: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) for the operation of three 540 hp natural gas-fired reciprocating internal combustion engines at the East Fork Compressor Station in Wharton Township, **Potter County**.

**OP-53-0009A: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) for the operation of one 1,000 hp and two 2,000 hp natural gas-fired reciprocating internal combustion engines at the Ellisburg Compressor Station in Allegany Township, **Potter County**.

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

**61-312-026: Pennzoil Products Co.** (2 Main St., Rouseville, PA 16344) issued for a wastewater drain system in Cornplanter Township, **Venango County**.

**24-307-026A: Keystone Powdered Metal Co.** (1935 State St., St. Marys, PA 15857) issued for a rotary tempering furnace in St. Marys, **Elk County**.

**37-399-011: Reactive Metals & Alloys Corp.** (P. O. Box 366, West Pittsburg, PA 16160) issued for magnesium grinding in Taylor Township, **Lawrence County**.

**25-316-003: Bush Industries of PA Inc.** (2455 Robison Rd. W., Erie, PA 16509) issued for a woodworking facility in Summit Township, **Erie 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.

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

**PA-62-087A: OSRAM Sylvania Products, Inc.** (816 Lexington Ave., Warren, PA 16365) issued October 30, 1997, for the construction of a sludge dryer in Warren, **Warren County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits

issued in response to 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 Applications Issued

**11850106. Permit Renewal. C & K Coal Company** (Box 69, Clarion, PA 16214), commencement, operation and restoration of a bituminous strip mine, valid for reclamation, only in Reade Township, **Cambria County**, affecting 232.0 acres, receiving stream Curtis Run and an unnamed tributary to/and Muddy Run; application received September 15, 1997; permit issued November 10, 1997.

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

**17930116. Hamilton Bros. Coal, Inc.** (R. R. 2, Box 563, Clymer, PA 15728), revision to an existing bituminous surface mine permit for a change in permit acreage from 148 to 107 acres, Beccaria Township, **Clearfield County**, receiving streams: Snyder Run and three unnamed tributaries to Clearfield Creek; application received August 19, 1997; permit issued November 10, 1997.

**17920114. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), revision to an existing bituminous surface mine permit for a change in permit acreage from 61.7 to 77.4 acres, Decatur Township, **Clearfield County**, receiving streams: unnamed tributary to Little Beaver Run and North Branch of Morgan Run; application received July 18, 1997; permit issued November 10, 1997.

**17940103. King Coal Sales, Inc.** (P. O. Box 712, Philipsburg, PA 16866), renewal of an existing bituminous surface mine permit affecting 50 acres, Decatur Township, **Clearfield County**, receiving streams: Shimel Run, Moshannon Creek, West Branch of the Susquehanna River; application received September 8, 1997; permit issued November 4, 1997.

**17970103. Ecklund Coal Company, Inc.** (R. R. 1, Box 109, Irvona, PA 16656), commencement, operation and restoration of bituminous surface mine permit in Bigler Township, **Clearfield County** affecting 33.2 acres, receiving streams: Alexander Run to Clearfield Creek to the West Branch of the Susquehanna River; application received March 18, 1997; permit issued October 31, 1997.

**17960107. Bermuda Triangle, Inc.** (R. R. 1, Box 247, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine-auger permit in Greenwood Township, **Clearfield County** affecting 40.7 acres, receiving streams: unnamed tributary to West Branch of the Susquehanna River; application received May 6, 1996; permit issued November 12, 1997.

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

**37940103. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), revision to an existing bituminous strip operation to change the postmining land use from forestland to pastureland/land occasionally cut for hay on the Aubrey M. Walton property in Hickory Township, **Lawrence County**. Receiving streams: Two unnamed tributaries to Neshannock Creek and three unnamed tributaries to Hottenbaugh Run. Application received: September 5, 1997. Permit Issued November 3, 1997.

**33860109. Ed Hanslovan Coal Company, Inc.** (R. D. 2, Box 230, Morrisdale, PA 16858), revision to an existing bituminous strip operation to add auger mining in Washington Township, **Jefferson County** affecting 157.0 acres. Receiving streams: Unnamed tributaries to Rattlesnake Creek. Application received August 13, 1997. Permit Issued November 7, 1997.

**16920107. C & K Coal Company** (P. O. Box 69, Clarion, PA 16214), renewal of an existing bituminous strip, tippel refuse disposal and beneficial use of Fly Ash/Bottom Ash Operation in Perry Township, **Clarion County** affecting 547.0 acres. Receiving streams: Unnamed tributary to Cherry Run. Application received September 12, 1997. Permit Issued November 7, 1997.

**24970101. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824), commencement, operation and restoration of a bituminous strip operation in Fox Township, **Elk County** affecting 44.7 acres. Receiving streams: Curry Run and Little Toby Creek. Application received: May 12, 1997. Permit Issued November 7, 1997.

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

**54860108C. Reading Anthracite Company** (200 Mahantongo Street, P. O. Box 1200, Pottsville, PA 17901), correction to an existing anthracite surface mine operation, New Castle and Norwegian Townships and St. Clair Borough, **Schuylkill County**, 1469.0 acres, receiving stream East Branch of Norwegian Creek. Correction issued November 13, 1997.

**54753035C3. N & T Coal Company** (5 Woodland Drive, Mt. Carmel Estates, Mt. Carmel, PA 17851), correction to an existing anthracite surface mine operation in West Mahanoy Township, **Schuylkill County** affecting 103.16 acres, receiving stream Mahanoy Creek. Correction issued November 14, 1997.

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

*Large Industrial Mineral Permit Issued*

**4474SM14. New Enterprise Stone & Lime Co., Inc.** (Box 77, Church Street, New Enterprise, PA 16664), transfer of an existing Large Industrial Mineral (Stone and Lime) permit from I. A. Construction Corp./d/b/a Emlenton Limestone, Bradford Township, **Clearfield County** affecting 50 acres, receiving streams unnamed tributary to Moravian Run to West Branch Susquehanna River; application received April 11, 1997; permit issued November 3, 1997.

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

*Noncoal Permits Issued*

**7974SM1C. Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-0231), renewal of NPDES Permit No. PA0594121 in East Rockhill Township, **Bucks County**, receiving stream unnamed tributary to Tomhickon Creek. Renewal issued November 10, 1997.

**7775SM6A1C3. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0119121 in Perry Township, **Berks County**, receiving stream unnamed tributary to Schuylkill River. Renewal issued November 12, 1997.

**7775SM9A2C4. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0595659 in Perry Township, **Berks County**, receiving stream unnamed tributary to Schuylkill River. Renewal issued November 12, 1997.

**8274SM1C3. D. M. Stoltzfus & Son, Inc.** (P. O. Box 84, Talmage, PA 17580), renewal of NPDES Permit No. PA0595705 in Manheim and Upper Leacock Townships, **Lancaster County**, receiving stream Conestoga River. Renewal issued November 12, 1997.

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

*Small Industrial Mineral Authorizations Granted*

**08970812. Jerry L. Johnson** (R. R. 2, Box 179A-1, Wyalusing, PA 18853), commencement, operation and restoration of a small industrial mineral (Bluestone) permit in Wilmot Township, **Bradford County** affecting 5 acres, receiving streams: Susquehanna River; application received June 2, 1997; authorization granted October 27, 1997.

**08960804. Jerry L. Johnson** (R. R. 2, Box 179A-1, Wyalusing, PA 18853), commencement, operation and restoration of a small industrial mineral (Bluestone) permit in Wyalusing Township, **Bradford County** affecting 2 acres, receiving streams: Camp Creek, tributary to Wyalusing Creek; application received September 6, 1996; authorization granted October 27, 1997.

**08970813. Wilmer Chilson** (R. R. 2, Box 140 CH2, Towanda, PA 18848), commencement, operation and restoration of a small industrial mineral (Bluestone) permit in Asylum Township, **Bradford County** affecting 1 acre, receiving streams: Durrell Creek; application received June 4, 1997; authorization granted October 29, 1997.

**53970801. Toner's Building Stone** (Route 64, Box 246, Lamar, PA 16848), commencement, operation and restoration of a small industrial mineral (Bluestone) permit in Abbott Township, **Potter County** affecting 2 acres, receiving streams: unnamed tributary to Little Kettle Creek; application received August 20, 1997; authorization granted November 4, 1997.

**08970818. Olin Canfield, Jr.** (R. R. 1, Box 110, Laceyville, PA 18623), commencement, operation and restoration of a small industrial mineral (Bluestone/Shale) permit in Tuscarora Township, **Bradford County** affecting 2 acres, receiving streams: Tuscarora Creek, tributary to Susquehanna River; application received August 6, 1997; authorization granted November 4, 1997.

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

*General Small Noncoal Authorizations Granted*

**64970803. Tompkins Bluestone Co., Inc.** (P. O. Box 776, Hancock, NY 13783), commencement, operation and restoration of a small quarry operation in Scott Township, **Wayne County** affecting 1.0 acre, receiving stream none. Authorization granted November 10, 1997.

## 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 2 Pa.C.S. §§ 501—508 and 701—704



(relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board, (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.*)

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

**E13-099.** Encroachment. **John J. Kovatch, Jr.**, One Industrial Complex, Nesquehoning, PA 18240. To construct and maintain an 18-inch diameter CPP stormwater outfall structure (Outfall No. 1) and a 24-inch diameter CPP stormwater outfall structure (Outfall No. 2) along First Hollow Run. The project is part of the Little Flower Estates residential subdivision and is located approximately 0.38 mile north of the intersection of S. R. 0209 and S. R. 0054 (Nesquehoning, PA Quadrangle N: 21.4 inches; W: 9.9 inches) in Nesquehoning Borough, **Carbon County**.

**E39-337.** Encroachment. **Bruce C. Bodien**, 5490 Golden Key Road, Kempton, PA 19529-9115. To remove the existing structure and to construct and maintain a single span bridge having a span of 14.0 feet with an underclearance of 5.0 feet across a tributary to Kistler Creek for a private residential driveway. The project is located immediately south of the intersection of S. R. 4040 and S. R. 0863 (New Tripoli, PA Quadrangle N: 2.4 inches; W: 6.9 inches) in Lynn Township, **Lehigh County**.

**E48-262.** Encroachment. **Columbia Gas Transmission Corporation**, 525 Highlands Boulevard, Suite 100, Coatesville, PA 19320. To repair and maintain a 54 mile section of Pipeline No. 1278, a 14-inch natural gas transmission pipeline, across various streams and wetlands throughout Forks, Upper Mount Bethel, Lower Mount Bethel, and Washington Townships, **Northampton County**, Smithfield and Middle Smithfield Townships, **Monroe County**, and Lehman, Delaware, Dingman, Westfall and Milford Townships, **Pike County**. The proposed work will be confined to the existing right-of-way with repairs consisting of the replacement of short sections of deteriorated pipeline and the upgrading of the cathodic protection system with the installation of a wire along the length of the entire pipeline. This project begins in Lower Mount Bethel Township, Northampton County (Bangor, PA-NY Quadrangle N: 5.4 inches; W:

12.9 inches) and ends in Westfall Township, Pike County (Port Jervis North, NY-PA Quadrangle N: 5.9 inches; W: 16.5 inches).

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

**E08-314.** Encroachment. **Michael and Nancy Boose**, Middletown Mobile Home Park, R. R. 3, Columbia Crossroads, PA 16914. To maintain a 10' × 51' trailer for residential use in the floodway of Trout Creek. The project is located approximately 1.4 miles east of the intersection of SR 4013 with SR 4018 on the north side of SR 4018 (Bentley Creek, PA Quadrangle N: 9.8 inches; W: 9.3 inches) in Ridgebury Township, **Bradford County**. This permit was issued under section 105.13(e) Small Projects.

**E14-309.** Encroachment. **Garner Lumber Inc.**, P. O. Box 462, James Creek, PA 16657. To construct and maintain a ford crossing to haul forest products across Beech Creek located 0.3 mile upstream of the confluence of Twin Run and Beech Creek (Howard, PA Quadrangle N: 19.9 inches; W: 10.3 inches) in Beech Creek Township, **Clinton County** and Liberty Township, **Centre County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E17-312.** Encroachment. **City of DuBois**, 16 W. Scribner Ave., DuBois, PA 15801-0408. To construct and maintain a 6 foot wide by 130 foot long single span pedestrian bridge across Sandy Lick Creek located next to SR 4014 approximately 800 feet north of US Rt. 219 (DuBois, PA Quadrangle N: 22.1 inches; W: 1.7 inches) in the City of DuBois, **Clearfield County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E18-237.** Encroachment. **Chapman Township Supervisors**, P. O. Box 485, North Bend, PA 17760. To construct and maintain a 6 inch pipe as an intake structure approximately 12 feet into Young Womans Creek, 6 inches below the stream bed surrounded by R-3 rock and a single lane access road from the northern edge of Old Route 120 to the creek. The project is located approximately 1,000 feet southeast of North Bend off Old Route 120 (Renovo East, PA Quadrangle N: 17.9 inches; W: 10.1 inches) in Chapman Township, **Clinton County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E19-171.** Encroachment. **Christopher J. Welkom**, R. R. 9, Box 323B, Bloomsburg, PA 17815. To construct and maintain a 6 foot 6 inch diameter steel culvert pipe in an unnamed tributary to Black Run. This property is located off Tunnel Road approximately 0.5 mile north of Black Run Road (Millville, PA Quadrangle N: 14.0 inches; W: 5.0 inches) in Madison Township, **Columbia County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

**E49-204.** Encroachment. **Northumberland Borough**, 221 Second St., Northumberland, PA 17857. To remove the existing structure and to construct and maintain 1) 250 feet of R-5 riprap channel lining; 2) 260 linear feet of 5 foot diameter pipe; 3) 240 linear feet of 6 foot diameter pipe; 4) 850 linear feet of mostly open channel except for four box culverts under roads and alleys in an unnamed tributary to the North Branch of the Susquehanna River located near the Liberty Pool Complex (Northumberland, PA Quadrangle N: 3.0 inches; W: 5.25 inches) in the

Borough of Northumberland, **Northumberland County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E53-302.** Encroachment. **William H. Morgart**, HCR 1, Box 158, Shinglehouse, PA 16748. To construct, operate and maintain a private, single residence road crossing Eleven Mile Creek. The road crossing shall be constructed with a metal culvert pipe that has a diameter of 5 feet and a maximum length of 20 feet. The project is located along eastern right of way of SR 044 approximately 1,000 feet west of the intersection T-380 and SR 4023 (Oswayo, PA Quadrangle N: 15.4 inches; W: 4.5 inches) in Oswayo Township, **Potter County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

*Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E04-248.** Encroachment. Operate and maintain an existing barge mooring facility and to construct and maintain an access walkway in the channel of and along the right bank of the Ohio River (WWF) for the purpose of mooring barges. The project is located approximately 2,500 feet downstream from the Beaver Valley Expressway (S. R. 60) bridge (Beaver, PA Quadrangle N: 9.5 inches; W: 12.4 inches) in Vanport Township, **Beaver County**.

**E02-1198.** Encroachment. Place and maintain fill in a de minimis area of wetlands less than or equal to 0.05 acre for the purpose of constructing a 37 lot residential subdivision (Brandymill Estate Plan of Lots). The project is located on the south side of Beaver Grade Road approximately 1,000 feet north of the intersection of Beaver Grade Road and Aiken Road (Oakdale, PA Quadrangle N: 14.6 inches; W: 2.2 inches) in Robinson Township, **Allegheny County**.

**E11-255.** Encroachment. Remove the existing structure and to construct and maintain a single span bridge having a normal span of 57.5 feet and an underclearance of 9.8 feet across Chest Creek for the purpose of improving transportation safety and roadway standards. This permit also authorizes the temporary placement and maintenance of fill in a de minimis area of wetlands less than or equal to 0.05 acre and the construction and maintenance of a temporary road crossing consisting of three 84-inch CMP Culverts in Chest Creek upstream of the proposed bridge. The project is located on S. R. 1007, Section 001, Segment 0070, Offset 0000 (Carrolltown, PA Quadrangle N: 9.3 inches; W: 6.1 inches) in Allegheny and East Carroll Townships, **Cambria County**.

**E65-675.** Encroachment. Place and maintain fill in a de minimis area of wetlands less than or equal to 0.05 acre for the purpose of constructing a stormwater management facility as part of the development of a retail complex located off of U. S. Route 30 approximately 0.25 mile west of its intersection with PA Turnpike Route 66 (Greensburg, PA Quadrangle N: 11.3 inches; W: 13.5 inches) in Hempfield Township, **Westmoreland County**.

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

**E16-100.** Encroachment. **Paint Township Supervisors**, P. O. Box 128, Shippenville, PA 16254. To remove the existing structure and to construct and maintain a precast reinforced concrete box culvert having a 19-foot wide by 8.5-foot high waterway opening with concrete and rock riprap approach and exit aprons in Step Creek on

T-578 approximately 1.6 miles south of S. R. 66 at Lucinda (Lucinda, PA Quadrangle N: 6.2 inches; W: 16.3 inches) in Paint Township, **Clarion County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E20-448.** Encroachment. **Titusville Area School District**, 221 North Washington Street. To remove two existing buildings and to construct and maintain a new middle school building, athletic field and playground within the floodplain of Oil Creek and the floodway/floodplain of Church Run west of Brown Street (Titusville South, PA Quadrangle N: 22.6 inches; W: 5.7 inches) in the City of Titusville, **Crawford County**.

**E24-201.** Encroachment. **Spring Creek Township Supervisors**, Rules and Regulations 2, Box 179, Ridgway, PA 15853. To rehabilitate and maintain the following three existing structures on T-307 (Spring Creek Road) west of the Borough of Ridgway associated with the repaving of T-307 in Spring Creek Township, **Elk County**:

1. Structural steel plate arch culvert having a span of 6.096 meters and an underclearance of 2.679 meters in Crow Run at project station 0+117.45 approximately 13.4 kilometers west of S. R. 948.

2. A reinforced concrete arch bridge having a span of 15.24 meters and an underclearance of 3.2 meters across Bear Creek at project station 5+481.56 approximately 8.2 kilometers west of S. R. 948.

3. A structural steel arch culvert having a normal span of 4.927 meters and an underclearance of 2.121 meters on a 60 degree skew in Little Bear Creek at project station 5+834.31 approximately 7.8 kilometers west of S. R. 948.

Rehabilitation work includes repairs/rehabilitation of headwalls and wingwalls, underpinning of abutments, rock riprap placement at inlet and/or outlet and resurfacing of the roadway. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

#### ENVIRONMENTAL ASSESSMENT

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

**E10-010NW.** Environmental Assessment. **Cherry Township Supervisors**, Dixie L. Christy, Secretary/Treasurer, 192 Pipestem Road, Slippery Rock, PA 16057. To remove the superstructure of the bridge across South Branch Slippery Rock Creek on Pleasant Valley Road (T-537) approximately 600 feet downstream of S. R. 308 in the Village of Moniteau (West Sunbury, PA Quadrangle N: 11.9 inches; W: 3.4 inches) located in Cherry Township, **Butler County**.

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### SPECIAL NOTICES

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#### Public Notice of Revisions to General Permits No. PAG-7, PAG-8 and PAG-9 for Beneficial Use of Sewage Sludge by Land Application.

The Department of Environmental Protection (Department) by this notice is revising the General Permits (PAG-7, PAG-8 and PAG-9) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application and related documents. The three general permits were issued by the Department on May 24, 1997 at 27 Pa.B. 2585.

The general permits and related documents are revised to clarify the following:

1. *Appendices to the three general permits*—Appendices to the three general permits are revised to better explain procedures for calculating the agronomic rate of sewage sludge to be applied to the field.

2. *Recordkeeping and Reporting Forms*—The Recordkeeping and Reporting forms associated with the three general permits are revised to clarify the frequency for completing and submitting the form.

3. *Notification of First Land Application of Sewage Sludge to A Site*—The notification form is revised to include the provision that states “Land application of sewage sludge in watershed designated as exceptional value in Title 25, Chapter 93 is not eligible for coverage under the general permit. Application of sewage sludge to the land in exceptional value watersheds is required to be covered under an individual permit.”

4. *Notice of Intent (NOI) Form*—The NOI form is revised to identify pathogen alternatives and vector attraction reduction options as they appeared in the general permits.

5. *Instructions for completing the NOI Form*—The instructions for completing the NOI form are revised (1) to identify where the NOI must be submitted to for facilities located outside this Commonwealth; (2) to clarify the required attachments must be submitted with the NOI; and (3) the number of samples and/or analytical data of samples collected which the applicant must submit with the NOI in demonstrating the quality of sewage sludge seeking coverage under the general permit.

Applicants seeking coverage under the general permit for sewage sludge generated without sufficient analytical data as required, particularly for the coverage of exceptional quality sewage sludge, should consider seeking coverage under the nonexceptional quality sewage sludge general permit (PAG-8) until sufficient data are collected in demonstrating the quality criteria requirements in PAG-7 are met.

6. *Sampling Manual for Pollutant Limits, Pathogen and Vector Attraction Reductions In Sewage Sludge*—The manual was developed to assist the applicants as well as permit holders understanding the pollutant limits, pathogen and vector attraction reduction requirements. The manual describes detailed procedures that should be followed by applicants and permit holders of the general permits in obtaining representative samples, and insuring the quality and analytical results of samples collected. The manual also describes the purpose of each pathogen alternative and each vector attraction reduction option which can be used at a facility. Other sections in the manual describe specific parameters for which the samples collected should be analyzed and recommended documentation and recordkeeping, in accordance with the specific treatment processes used.

Persons wishing to obtain a copy of the revised general permits and related documents should request them from the appropriate Department regional office or the following Department central office. 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). The documents will be sent as soon as possible after they are printed and available for distribution.

Department of Environmental Protection  
Bureau of Water Quality Protection  
Division of Wastewater Management  
Rachel Carson State Office Building, 11th Floor  
P. O. Box 8774  
Harrisburg, PA 17105-8774  
(717) 787-8184

E-mail address: VU.CUONG@A1.DEP.STATE.PA.US.  
World Wide Web Address:  
HTTP://WWW.DEP.STATE.PA.US.

The revised general permits and related documents are on file at the Harrisburg office of the Division of Wastewater Management, Bureau of Water Quality Protection at the location noted above. Persons wishing to review or receive a copy of the permit documents, or to receive further information, should contact C. D. Vu of that office.

[Pa.B. Doc. No. 97-1918. Filed for public inspection November 28, 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—New Guidance*

DEP ID: 391-2000-020 Title: Protocol for Estimating First Order Pollutant Fate Coefficients for Volatile Organic Substances Description: Lays out the procedures recommended or used by the Department for field data collection and evaluation of such data. The Department will consider the use of alternative procedures. Effective Date: September 7, 1995 Page Length: 8 pages Location: Vol 29, Tab 08 Contact: Chuck Yingling at (717) 787-9637

#### *Final Technical Guidance—Minor Revision*

DEP ID: 381-5513-001 Title: Guidance for the Review and Processing Act 339 State Grants for Operation of Sewage Treatment Works Description: Applies to all

requests from municipalities, municipal authorities and school districts seeking subsidy based on the local share of construction of publicly-owned sewage treatment works. Effective Date: October 30, 1997 Page Length: 32 pages Location: Vol 27, Tab 07 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0810-206 Title: Summary of Key Requirements—Surface Water Identification Protocol Description: Directs and supports implementation of surface water identification protocols under the safe drinking water management program. Effective Date: March 27, 1997 Page Length: 15 pages Location: Vol 20, Tab 02 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0810-301 Title: Summary of Key Requirements for Nontransient Noncommunity Water Systems Description: Directs and supports implementation of nontransient noncommunity water systems activities under the safe drinking water management program. Effective Date: March 27, 1997 Page Length: 32 pages Location: Vol 15, Tab 14 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-2000-108 Title: Construction and Operation Permits Guidance Description: Directs and supports implementation of permit issuance and tracking activities under the drinking water management program. Effective Date: November 1, 1997 Page Length: 9 pages Location: Vol 22, Tab 06 Contact: Joseph Hoffman (717) 787-5017

DEP ID: 383-2000-208 Title: Pilot Plant Filtration Studies for Surface Water Sources Guidance Description: Supports implementation of pilot plant studies necessary for permitting innovative or alternative treatment technologies under the Safe Drinking Water Management Program. Effective Date: September 1, 1997 Page Length: 22 pages Location: Vol 22, Tab 08 Contact: Joseph Hoffman (717) 787-5017

DEP ID: 383-3110-211 Title: Public Water Supply Manual—Part 5 (Appendix A) Operations and Maintenance for Small Groundwater Systems Description: Procedures to review and evaluate implementation of the public water supplier's operations and maintenance plans under the drinking water management programs. Effective Date: November 1, 1997 Page Length: 81 pages Location: Vol 25, Tab 03 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3120-101 Title: Surveillance Strategy and Implementation Guidelines Description: Procedures for Department to conduct surveillance activities at all public water systems. Effective Date: October 3, 1997 Page Length: 190 pages Location: Vol 15, Tab 16 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 391-2000-006 Title: Implementation Guidance Design Conditions Description: In establishing effluent limitations based on water quality criteria in Chapter 93, the Department may consider design conditions. The combinations of conditions shall provide a minimum of 99% level of protection. Effective Date: September 15, 1997 Page Length: 21 pages Location: Vol 29, Tab 02 Contact: Chuck Yingling at (717) 787-9637

DEP ID: 391-2000-008 Title: Interim Method For the Sampling and Analysis of Osmotic Pressure on Streams, Brines and Industrial Discharges Description: Intended to provide guidance to regional investigators, to clarify the use and applicability of osmotic pressure in writing permits and to document the osmotic pressure research performed in the Bureau of Laboratories. Effective Date: October 24, 1997 Page Length: 13 pages Location: Vol 29, Tab 19 Contact: Chuck Yingling at (717) 787-9637

DEP ID: 391-2000-019 Title: Implementation Guidance for Application of § 93.5 (e) for Potable Water Supply Protection Total Dissolved Solids (TDS), Nitrite-Nitrate (NO<sub>2</sub>-NO<sub>3</sub>), Nonpriority Pollutant Phenolics and Fluorides. Description: Provides guidance on the protection of potable water supplies when any discharge (existing or proposed) contains one or more of the pollutants specified in § 93.5(e). Effective Date: October 28, 1997 Page Length: 16 pages Location: Vol 29, Tab 17 Contact: Chuck Yingling at (717) 787-9637

DEP ID: 560-0600-101 Title: Memorandum of Understanding with Pennsylvania Fish and Boat Commission Description: Establishes procedures and areas of cooperation which the Department and the PA Fish and Boat Commission shall employ to administer laws and regulations. Effective Date: October 1, 1993 Page Length: 6 pages Location: Vol 12, Tab 112 Contact: Dottie Shellehamer at (717) 787-5103

DEP ID: 560-0600-102 Title: Memorandum of Understanding with Pennsylvania Game Commission Description: Establishes procedures and areas of cooperation which the Department and the PA Game Commission shall employ to administer laws and regulations. Effective Date: October 1, 1993 Page Length: 6 pages Location: Vol 12, Tab 113 Contact: Dottie Shellehamer at (717) 787-5103

DEP ID: 562-2112-316 Title: Sealing Bituminous Underground Mine Openings Description: Describes the duties of mine operators, district mining staff and deep mine safety inspectors during the routine sealing of mine openings. Effective Date: November 7, 1997 Page Length: 6 pages Location: Vol 12, Tab 25 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-0300-101 Title: Engineering Manual for Coal Mining Operations Description: Addresses areas of permit applications which involve engineering. Further substantive revision pending. Effective Date: July 1991 Page Length: 131 pages Location: Vol 12, Tab 126 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2000-655 Title: Perennial Stream Protection Description: Procedures the Department will follow in reviewing plans for mining beneath perennial streams. Effective Date: November 14, 1997 Page Length: 20 pages Location: Vol 12, Tab 82 Contact: Evan Shuster at (717) 787-7846

*Draft Technical Guidance—Substantive Revision*

DEP ID: 381-5500-001 Title: Guidance for Reviewing Capital Grants for Construction Description: Applies to the administration of grants for nonState related public institutions from State legislative appropriations by Bureau of Water Supply Management. Effective Date: November 1, 1997 Page Length: 31 pages Location: Vol 27, Tab 05 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-2128-108 Title: Public Water Supply Manual Part IV—Noncommunity System Design Standards Description: Directs and supports implementation of permitting activities for noncommunity water systems under the drinking water management programs. Effective Date: March 2, 1998 Page Length: 42 pages Location: Vol 22, Tab 02 Contact: Joseph Hoffman at (717) 787-5017

*Notice of Intent—Substantive Revision*

DEP ID: 391-2000-007 Title: Implementation Guidance for the Water Quality Analysis Model 6.3 Description: Designed to determine effluent limitations for Carbonaceous BOD and Ammonia Nitrogen for single and multiple point source discharge scenarios. The accompa-

nying model will be rewritten for use with Windows. Anticipated Effective Date: September 1998 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-2000-010 Title: Implementation Guidance for Phosphorus Discharges to Lakes, Ponds and Impoundments Description: Guidance on the implementation of § 95.6. It takes into consideration the impacts of existing point and nonpoint sources on lake water quality. The accompanying model will be rewritten for use with Windows. Anticipated Effective Date: September 1998 Contact: Clarence Yingling at (717) 787-9637

*Notice of Intent—Rescind Technical Guidance*

DEP ID: 381-5511-008 Title: Innovative and Alternative Technology Reviews—PENNVEST Funded Projects Description: On May 9, 1997, PENNVEST eliminated Federal Title II requirements for loans under their program. As a result, several PENNVEST procedure documents are no longer required. Anticipated Effective Date: December 1, 1997 Contact: Robert Gibson at (717) 772-4461

DEP ID: 381-5511-009 Title: Recreation and Open Space Opportunities—PENNVEST Funded Projects Description: On May 9, 1997, PENNVEST eliminated Federal Title II requirements for loans under their program. As a result, several PENNVEST procedure documents are no longer required. Anticipated Effective Date: December 1, 1997 Contact: Robert Gibson at (717) 772-4461

DEP ID: 381-5511-010 Title: User Charge System and Sewer Use Ordinance Review; and Legal, Institutional, Managerial and Financial Capability—PENNVEST Funded Projects Description: On May 9, 1997, PENNVEST eliminated Federal Title II requirements for loans under their program. As a result, several PENNVEST procedure documents are no longer required. Anticipated Effective Date: December 1, 1997 Contact: Robert Gibson at (717) 772-4461

DEP ID: 381-5511-011 Title: Infiltration and Inflow (I/I) Analysis—PENNVEST Funded Projects Description: On May 9, 1997, PENNVEST eliminated Federal Title II requirements for loans under their program. As a result, several PENNVEST procedure documents are no longer required. Anticipated Effective Date: December 1, 1997 Contact: Robert Gibson at (717) 772-4461

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1919. Filed for public inspection November 28, 1997, 9:00 a.m.]

### Low-Level Waste Advisory Committee

The date for the next meeting of the Department of Environmental Protection's Low-Level Waste Advisory Committee (LLWAC) is December 12, 1997. The meeting will begin at 9 a.m., and will end at 4 p.m. at the Forum Building, Room G-50.

Questions concerning the meeting should be addressed to Rich Janati at (800) 232-2786 or e-mail at janati.rich@al.dep.state.pa.us.

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

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1920. Filed for public inspection November 28, 1997, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Meeting Canceled

The Health Policy Board meeting scheduled for December 10, 1997, at 10:30 a.m. in Room 812, Health and Welfare Building, Commonwealth and Forster Streets, Harrisburg, PA, has been canceled.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 97-1921. Filed for public inspection November 28, 1997, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Availability of the FY 1998 Low-Income Home Energy Assistance Program State Plan

The Department of Public Welfare is making available to the public *The 1998 Low-Income Home Energy Assistance Program State Plan*. This document describes how the Department plans to use block grant funds provided under the Low-Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 42 U.S.C.A. § 8621 et seq., as amended, during the 1997-98 program year.

Copies of the State Plan are available for all interested individuals and groups at County Assistance Offices, or upon written request to Nancy Poindexter, Acting Director, Division of Food Stamps and LIHEAP, DPW Building Complex No. 2, Room 224 Willow Oak Building No. 42, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users).

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-158. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-1922. Filed for public inspection November 28, 1997, 9:00 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Retention of Engineering Firms

### Elk County

#### Project Reference No. 08430AG2140

The Department of Transportation will retain an engineering firm to provide final design and services during construction (consultation during construction and shop drawing review) for S. R. 0219, Section C10 (the Johnsonburg bypass) in the Boro of Johnsonburg, Elk County.

S. R. 0219, Section C10 is the relocation of S. R. 0219 between the Kwik Fill gas station and the intersection of S. R. 0219 and Main Street for a distance of 7700'. The roadway will be relocated from going thru the business district of Johnsonburg to the west side of the West branch of the Clarion River. The project consists of 7700' roadway realignment, three multi-span bridges, five retaining walls, two noise barriers, and one culvert extension. Approach adjustments will include project termini as well as Grant Street, Center Street, a logging road and Main Street. A left hand turning lane will be provided onto Main Street from Northbound S. R. 0219 and Grant Street from Northbound and Southbound S. R. 0219. The estimated construction cost is \$17 million. The anticipated duration of the agreement is two years.

The engineering firm will be required to perform surveys; preliminary design/Step 9; utility coordination; PUC application; wetland and habitat mitigation plan; final roadway design; final right-of-way plan; noise analysis and barrier design; structure design; traffic signal study/design and plans; signing, pavement marking and delineation design/plans; erosion and sedimentation control plan; traffic control plan; geotechnical engineering; hazardous waste management plan; and the construction plans, specifications, and estimates. Work also included will be Construction Consultation and Shop Drawing Review. This project will be performed in English units.

The Department will establish an order of ranking of a minimum of three firms. The following factors, listed in order of importance, will be considered by the Consultant Selection Committee 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. How the required work tasks will be accomplished and how the required services will be provided.
- c. Specialized experience and technical competence of firm.
- d. Specialized experience, previous experience, technical competence of individuals who constitute the firm.
- e. Special requirements of this final design assignment.
- f. Current workload and capacity of firm to perform work.
- g. Past record of performance with respect to cost control, work quality, and ability to meet schedules.

The short listing for this project(s) will be done at Engineering District 2-0. All firms submitting letters of interest will be notified by the District of the short listing date.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. George Khoury, P.E. District Engineer, District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830.

Any technical questions concerning the requirements for this project should be directed to Mr. Vasco A. Ordenez, P.E., District 2-0, at (814) 765-0439.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

### Indiana County

#### Project Reference No. 08430AG2141

The Department of Transportation will retain an engineering firm to provide final design services and construction services including shop drawing review and construction consultation for State Route 0119, Section 480, (Route 119 South Improvement Project). The project is located in Burrell and Center Townships, Borough of Homer City; Indiana County, Pennsylvania from Segment 0010, Offset 0000 to Segment 0180, Offset 1237.

The required services will be for final design roadway and structure activities required to improve S. R. 0119 to a four lane facility utilizing, for the most part, the existing horizontal and vertical alignments. Also included will be, final design activities for a "grade separated" full interchange between S. R. 0119 and S. R. 0022. To provide the interchange, will require reconstruction of S. R. 0022 (a four lane facility) from Segment 0060, Offset 0033 to Segment 0090, Offset 0619. The total length for S. R. 0119 will be 12,072 meters. The total length for S. R. 0022 will be 1,974 meters. The total estimated construction costs for both projects is \$44 million.

The selected firm will be provided approved preliminary design drawings (English Units) for the roadway alignment and approximately nine structures including retaining walls, box culverts and multi-span bridges. The selected firm will also be provided with Metric Aerial mapping of the entire projects. All environmental clearances will have been obtained. Copies of the plans will be available for inspection at the Indiana PA Engineering District Office.

The selected firm will provide final design services using Metric Units of measurements. The following tasks will be included: Field Editing-Survey; Plot and Check Survey; Utility Coordination; Subsurface Exploration Program; Geotechnical Engineering Report/ Foundation Submission; PUC Involvement/Liaison with Railroad; Cross-Sections; Type, Size and Location Plans; Joint Permit Application; Erosion and Sedimentation Control Plan; Right-of-Way Plans; Final Roadway Plans; Final Structure Plans; Value Engineering; Safety Review; Contour Grading and Drainage Plan; Landscape Planting Plan; Signing and Pavement Marking Plan; Traffic Control Plan; Soil Profile Plans; Traffic Signal Plans; Wetland Mitigation Plans; Noise Walls; Waste Management Plans; Stream Relocation Design; Construction C.P.M. Scheduling; Public Meetings; Partnering; Estimates; Meetings and Project Management.

Letters of Interest will be evaluated at the Engineering District 10-0 Office with emphasis on the following factors which are listed in order of importance:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Specialized experience and technical competence of firm.
- c. Ability of prime and subconsultants to provide a completed PS&E package within the allotted schedule.
- d. Location of firm.
- e. Workload and available staff of prime and subconsultants.
- f. Past records of performance with respect to technical competence, cost control, work quality and ability to meet or exceed schedules.
- g. Quality Assurance/Quality Control Plan of prime and subconsultants.

The District will announce the firms that have been short listed at an open public meeting to be held at Engineering District 10-0, P. O. Box 429, Route 286 South, Indiana, PA 15701. Specify a person, in the letter of interest, to be notified of the shortlist meeting date.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Richard H. Hogg, P.E., District Engineer, District 10-0, P. O. Box 429, Indiana, PA 15701.

Any technical questions concerning the requirements for this project should be directed to Mr. Raymond K. Schilling, P.E., District 2-0, (412) 357-2874.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Armstrong County  
Project Reference No. 08430AG2142**

The Department of Transportation will retain an engineering firm for a portion of the final design, shop drawing review and construction consultation for the State Route 6028, Section 015 project (Kittanning Bypass) in Armstrong County. The project will begin at the eastern end of the S. R. 0028/S. R. 0422 bridge over the Allegheny River located in Manor Township (Segment 0260, Offset 0000) and continuing east and then north past S. R. 0422 and ending at a point just north of the S. R. 0028/S. R. 0066 intersection with S. R. 0085 located in Rayburn Township (Segment 0280, Offset 0600) for an approximate length of 4,700 meters.

The project will involve the construction of a 4-lane bypass of Kittanning Borough. The Department of Transportation will perform the roadway design. The selected firm will be required to complete the following final design activities: plans for a dual curved girder bridge (approximately 150 meters long); all geotechnical exploration and evaluations for the structure and noise walls; wetland mitigation plan; noise monitoring; noise wall design; erosion and sediment pollution control plan; signing and pavement marking plan; traffic control plan; traffic signal plans; energy dissipators; NPDES permit;

waste management plan; landscape plan/terrestrial mitigation plan and stream relocation design. The firm will also attend public meetings, partnering meetings during the design and construction phase of this project and perform shop drawing reviews, consultation services.

The design of this project will be developed in metric units. The estimated construction cost of this project is \$34 million. The duration of this Contract will be sixty (60) months.

Letters of interest will be evaluated with emphasis on the following factors:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Experience in the design of curved girder bridges.
- c. Specialized experience and technical competence of the firm.
- d. Past record of performance with respect to cost control, work quality, ability to meet schedules and ability to work with accelerated schedules.
- e. Workload.
- f. Listing of subconsultants.
- g. Location of office to perform the work.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Richard Hogg, P.E., District Engineer, District 10-0, Rt. 286 South, P. O. Box 429, Indiana, PA 15701.

Any technical questions concerning the requirements for this project should be directed to Mr. Craig A. Chelednik, P.E., District 10-0 at (412) 357-2842.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Indiana County  
Project Reference No. 08430AG2143**

The Department of Transportation will retain an engineering firm for a multi-phase specific agreement for the preliminary engineering and environmental studies, final design and construction consultation for the S. R. 0022, Section 493 project in Indiana County. The project will begin at the eastern end of the existing structure carrying S. R. 0022 over the Conemaugh River located in Burrell Township (Segment 0010, Offset 0700) and continuing east on S. R. 0022 through the existing S. R. 0217 interchange area and ending at a point near Township Road 576 located in Blairsville Borough (Segment 0020, Offset 1408) for an approximate length of 1050 meters.

The project will involve improving the horizontal and vertical alignments for the S. R. 0022/217 interchange to provide the highest level of service, safety and design criteria. The selected firm will obtain all environmental clearances. Other tasks will include but not limited to field surveys; preliminary area reconnaissance; initial site assessment; alternatives analysis; cross sections; reconnaissance soils and geologic engineering report; erosion and sedimentation control plan; design field view submis-

sion (Step 9); project management and public meetings; final design activities; and construction consultation.

The design of this project will be developed in metric units. The estimated construction costs of this project is \$5 million. The duration of this Contract thru final design will be eighteen (18) months.

Letters of interest will be evaluated with emphasis on the following factors:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Specialized experience and technical competence of the firm.
- c. Past record of performance with respect to cost control, work quality, ability to meet schedules and ability to work with accelerated schedules.
- d. Workload.
- e. Listing of subconsultants.
- f. Location of office to perform the work.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Richard Hogg, P.E., District Engineer, District 10-0, Rt. 286 South, P. O. Box 429, Indiana, PA 15701.

Any technical questions concerning the requirements for this project should be directed to Mr. Brian N. Allen, District 10-0, at (412) 357-7614.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

#### **Northumberland and Union Counties Project Reference No. 08430AG2144**

The Department of Transportation will retain an engineering firm to perform preliminary engineering, final design, and engineering services during construction for both EB and WB bridges and roadway on Interstate 80, S. R. 0080, Section 52D from just west of its interchange with S. R. 0015 to just east of the bridge over S. R. 1029 including improvements to S. R. 0015 and S. R. 0180/S. R. 0147 necessary to complete the respective interchange areas.

The proposed improvements will include:

An upgrade of two full interchanges (S. R. 0015 and S. R. 0147);

Reconstruction/replacement of 2 River Bridges (EB/WB): Existing bridges are 10 spans (steel plate girder pin hanger system) having a total length of 1586';

Widening/Rehabilitation of the bridges at the interchanges, 2 bridges over Conrail, 2 bridges over S. R. 1011/railroad and 2 bridges over S. R. 1019; and

Approximately 5 miles of roadway reconstruction in each direction.

A PS & E submission is anticipated within eighteen (18) months of the notice to proceed.

The estimated construction cost is \$39 million.

The selected firm will provide preliminary and final design services using metric units of measurement. The following tasks will be included: plot and check field surveys; utility coordination; Step 9 plans/submission; Public Utility Commission coordination; preliminary interchange/roadway horizontal and vertical geometry analysis/plans; detailed bridge replacement analysis; type, size and location plans; geotechnical engineering reports; foundation analysis/design; erosion control plans; right-of-way plans; traffic control plans; drainage studies; hydraulic analysis/permits; final roadway and bridge design/plans; value engineering; safety review; constructability review; specifications and estimates; meetings; project management and any other tasks the District may be required to complete design. The selected firm will also provide shop drawing review and construction consultation services.

Letters of interest will be evaluated at the Engineering District 3-0 office with emphasis on the following factors which are listed in the order of importance:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Specialized experience and technical competence of the firm including the firm's experience with similar type projects and their ability to provide innovative solutions to complex technical problems.
- c. Experience of employees to be associated with this project. Of particular importance are the key people assigned to the project including their experience and past record of performance with similar projects.
- d. Overall current workload of the firm.
- e. Past performance record.

The District will announce the firms that have been shortlisted at an open public meeting scheduled for December 23, 1997 at 10:00 A.M. at Engineering District 3-0, 715 Jordan Avenue, Montoursville, PA 17754. All candidates that submitted a letter of interest will be notified if the date is changed. Specify a contact person in the letter of interest.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Mr. Paul E. Heise, P.E., District Engineer, District 3-0, 715 Jordan Avenue, Montoursville, PA 17754.

Any technical questions concerning the requirements for this project should be directed to Mr. Leon J. Liggitt, P.E., District 3-0, at (717) 368-4390.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

#### **General Requirements and Information**

Firms interested in providing the above work and services are invited to submit two copies of a Letter of Interest and required information for each Project Reference Number for which the applicant wishes to be considered.



The first copy of the Letter of Interest and required information must be submitted to:

Mr. Charles W. Allwein, P.E., Chief  
 Consultant Selection Committee  
 7th Floor, Forum Place,  
 555 Walnut Street  
 P. O. Box 3060  
 Harrisburg, Pennsylvania 17105-3060

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. 97-1923. Filed for public inspection November 28, 1997, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Designations of Waters Subject to Special Fishing Regulations

Under 58 Pa. Code § 57.4, a stream qualifies for a wilderness trout stream designation "where stream remoteness and populations of naturally reproducing trout combine to offer sport fishing opportunity for the recreation of anglers in a wilderness setting away from roads or vehicular access."

Roaring Run is a small freestone stream located in northwestern Somerset County near Jennerstown, Pennsylvania. It is a tributary to Quemahoning Creek and contains a naturally reproducing brook trout population. Roaring Run, Section 01 (from the headwaters downstream to Boswell Reservoir), contains a Class B naturally reproducing brook trout population. Roaring Run continues to harbor a robust brook trout population for this size stream coming off the Laurel Ridge. It also provides a wild brook trout fishery in a remote setting.

Notice is hereby given that the Fish and Boat Commission is designating Roaring Run, Somerset County, as a wilderness trout stream.

Notice is further given that the Fish and Boat Commission is designating the following waters as subject to the special fishing regulations under 58 Pa. Code Chapter 65 effective January 1, 1998:

*58 Pa. Code § 65.2. Delayed Harvest Fly-Fishing Only Areas.*

The following waters are deleted from the list of "Delayed Harvest Fly-Fishing Only Areas" designated under 58 Pa. Code § 65.2:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Lehigh	Little Lehigh Creek	1.4 miles from Lauderslager's Mill Dam upstream to T-508

*58 Pa. Code § 65.4a. All-Tackle Trophy Trout.*

The following waters are designated to be regulated and managed under the All-Tackle Trophy Trout Program and are added to the list of waters subject to these regulations (58 Pa. Code § 65.4a):

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Elk	Clarion River	8.5 miles from the confluence of the East and West Branches downstream to the confluence with Elk Creek

*58 Pa. Code § 65.5. Catch-and-Release Areas:*

The following waters are deleted from the list of "Catch-and-Release Areas" designated under 58 Pa. Code § 65.5:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Columbia	Fishing Creek	1.1 miles from the confluence of the East and West branches of Fishing Creek at Grassmere Park downstream to the lower Gray Cook property line
Potter	Kettle Creek	1.7 miles from 500 feet below S. R. 144 Bridge upstream

*58 Pa. Code § 65.6. Delayed Harvest Artificial Lures Only Areas:*

The following waters are designated to be regulated and managed under the Delayed Harvest Artificial Lures Only Program and are added to the list of waters subject to these regulations (58 Pa. Code § 65.6):

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Lehigh	Little Lehigh Creek	2.1 miles from the S. R. 2017 (Brookside Road) bridge downstream to the T-510 (Millrace Road) bridge
Potter	Kettle Creek	From 500 feet downstream S. R. 144 Bridge upstream 1.7 miles

*58 Pa. Code § 65.8. Warmwater/Coolwater Species Special Conservation Waters*

The following waters are deleted from the list of "Warmwater/Coolwater Species Special Conservation Waters" designated under 58 Pa. Code § 65.8:

<i>County</i>	<i>Water</i>
Lehigh	Leaser Lake

*58 Pa. Code § 65.9. Big Bass Special Regulations:*

The following lakes are designated to be regulated and managed under the Big Bass Special Regulations and are added to the list of waters subject to these regulations (58 Pa. Code § 65.9):

<i>County</i>	<i>Water</i>
Somerset	Somerset Lake
Venango	Justus Lake

*58 Pa. Code § 65.10. Select Trout Stocked Lake Program:*

The following waters are designated "Select Trout Stocked Lakes" (Late Winter Extended Trout Season) and are added to the list under 58 Pa. Code § 65.10:

<i>County</i>	<i>Water</i>
Lackawanna	Lackawanna Lake
Lehigh	Leaser Lake
McKean	Bradford Reservoir #3

*58 Pa. Code § 65.21. Waters Limited to Specific Purposes—Exclusive Use Areas*

The following waters are added to the list of waters designated as waters for the exclusive use of children 12 and under pursuant to 58 Pa. Code § 65.21:

<i>County</i>	<i>Water</i>	<i>Description</i>
Schuylkill	Pine Creek	250 yards from Gap Street Bridge West to the waterfalls below the nursery

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 97-1924. Filed for public inspection November 28, 1997, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. The regulations will be considered

within 30 days of their receipt at a public meeting of the Commission. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
12-44	Department of Labor and Industry Retirement Pensions and Annuities	11/13/97
18-342	Department of Transportation Licensing	11/18/97

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
54-52	Pennsylvania Liquor Control Board 120 Day Rule	11/18/97
11-144	Insurance Department Mass Merchandising of Property and Casualty Insurance	11/18/97

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 97-1925. Filed for public inspection November 28, 1997, 9:00 a.m.]

1996-05 Prepaid Pennsylvania Premium Taxes  
1996-18 Addition to Eligible Surplus Lines Insurer List  
1997-02 Repeal of outdated notices

Questions regarding this notice may be addressed to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429.

M. DIANE KOKEN,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1927. Filed for public inspection November 28, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Alleged Violation of Insurance Laws: Daniel P. Wright; Doc. No. SC97-10-022

Notice is hereby given of the Order to Show Cause issued on November 13, 1997 by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: section 604 of The Insurance Department Act (40 P. S. § 234); 40 P. S. § 279 and 31 Pa. Code §§ 37.46 and 37.47.

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If Respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure); 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

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 ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1926. Filed for public inspection November 28, 1997, 9:00 a.m.]

### Repeal of Outdated Bulletin Notices; Department Notice 1997-05

The Acting Insurance Commissioner formally repeals the following Bulletin Notices. The notices were issued to provide general information, guidance in advance of the promulgation of a regulation or announce a change in law or Insurance Department practice. The insurance industry is now familiar with the information contained in these notices or the information is outdated and no longer relevant or necessary for the proper regulation of the insurance industry in this Commonwealth.

## MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

### Notice of and Amount of Surcharge

The Medical Professional Liability Catastrophe Loss Fund, under the authority granted by section 701(e) of the Health Care Services Malpractice Act (40 P. S. § 1301.701(e)), as amended by Act 135 of 1996, has determined that the annual surcharge to be assessed for calendar year 1998 shall be 64% applied to the prevailing primary premium for each health care provider.

Act 135 of 1996 defines "prevailing primary premium" as the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association (JUA). For purposes of the 1998 annual surcharge, the JUA rates to be used are \$300,000/\$900,000 for health care providers other than hospitals, and \$300,000/\$1,500,000 for hospitals. The filing does not incorporate any subsequent modifications to the approved rates of the JUA that were in effect as of January 1, 1997.

Health care providers having approved self-insurance plans shall be surcharged an amount equal to the surcharge imposed on a health care provider of like class, size, risk and kind as determined by the Fund's Director.

JOHN H. REED,  
*Director*

[Pa.B. Doc. No. 97-1928. Filed for public inspection November 28, 1997, 9:00 a.m.]

## MILK MARKETING BOARD

### Emergency Hearing for All Milk Marketing Areas to Consider Pooling the Class I Differentials

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct an emergency public hearing for all milk marketing areas on December 16, 1997, commencing at 9 a.m. in Meeting Room B on the second floor of the Farm Show Complex, Cameron and Maclay Streets, Harrisburg, PA. If necessary, the hearing will be continued on December 17 at the same time and location.

The purpose of the emergency hearing is to receive evidence on "pooling the entire Class I differentials with all producers delivering milk to Pennsylvania plants," as requested by petitioners Land O' Lakes, Inc. and Milk

Marketing, Inc. Under its own motion, the Board will also receive evidence on other issues directly related to the emergency created by virtual deregulation of Federal Class I differentials.

The petitioners and the staff of the Board are deemed to be parties to this hearing, and their counsel are deemed to have complied with the following filing requirements. Other persons who wish to present evidence may be included on the Board's list of parties by (1) having their attorney file with the Board on or before December 5, 1997, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 or (2) if unrepresented by counsel, filing with the Board on or before December 5, 1997, notification of their desire to be included as a party.

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 December 8, 1997.

c. Parties shall have available in the hearing room at least 20 copies of the exhibits referenced in paragraph A(3) for distribution to nonparties attending the hearing.

d. Presubmission of information concerning rebuttal testimony or exhibits is not required. However, parties wishing to present evidence shall at the hearing provide one copy of each rebuttal exhibit and one (1) copy of each rebuttal witness's prepared testimony if the testimony has been reduced to writing to each Board member and to the other parties. At least 20 additional copies shall be available for the use of 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 and 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 or exhibits of a party that fail to comply with the foregoing requirements.

A prehearing conference for all parties will be held at 9 a.m. on December 15, 1997, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg. 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.

If this information is required in an alternate Format, call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

O. FRANK DEGARCIA,  
*Executive Secretary*

[Pa.B. Doc. No. 97-1929. Filed for public inspection November 28, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Interconnection Agreement

**A-310574 F0002. Bell Atlantic-Pennsylvania, Inc. and Conectiv Communications, Inc.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Conectiv Communications, Inc. for approval of an Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Conectiv Communications, Inc., by its counsel, filed on October 27, 1997, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Conectiv Communications, Inc. Joint Petition are on file with the Commission and are available for public inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1930. Filed for public inspection November 28, 1997, 9:00 a.m.]

### Petition of Duquesne Light Company for a Waiver of and Exemption From Certain Meter Reading and Meter Testing Requirements of 52 Pa. Code Chapters 56 and 57; Doc. No. P-00971282

On November 6, 1997, Duquesne Light Company (Duquesne) filed a petition with the Pennsylvania Public Utility Commission (Commission) seeking waiver of and exemption from 52 Pa. Code § 56.12(5)(ii) (relating to actual reading of remote reading devices); 52 Pa. Code § 57(a) (relating to meter testing facilities); 52 Pa. Code § 57.20(e)(4)(5)(6) (relating to watt-hour meter testing); and 52 Pa. Code § 57.21(e) (relating to demand meter testing).

After a careful review of Duquesne's request, the Commission has determined that the solicitation of public comment is appropriate. Consequently, the Commission is providing this public notice with an abbreviated deadline for comments. The deadline for comments shall be 20 days following publication in the *Pennsylvania Bulletin*. Due to the abbreviated deadline, there will be no provision for reply comments.

Persons or entities submitting comments must file an original and 15 copies of any comment with the Office of Prothonotary referring to Doc. No. P-00971282. The address is P. O. Box 3265, Harrisburg, PA 17105-3265.

The contact person at the Commission is Stephen E. Gorka, Assistant Counsel, (717) 772-8840. A copy of the Petition may be obtained from Lisa Higley at the Office of the Prothonotary at (717) 787-1013.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1931. Filed for public inspection November 28, 1997, 9:00 a.m.]

### Petitions for Special Accommodation; Retail Access Pilot Program Implementation Orders

**P-00971168, P-00971169, P-00971171, P-00971172, P-00971173, P-00971175 and P-00971183.** Petitions for Special Accommodation filed by the Commonwealth's Department of Corrections (DOC), State System of Higher Education (SSHE) and the Department of General Services (DGS) relative to individual Retail Access Pilot Program Implementation Orders entered in the Electric Pilot Programs for Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, UGI Company, Allegheny Power Company, Pennsylvania Power Company, Duquesne Light Company, Pennsylvania Power and Light Company.

Retail Access Pilot Programs have been approved for the above-referenced electric distribution companies (EDCs). Under these pilot programs, electricity customers may choose their own generation supplier. Under 66 Pa.C.S. § 2806(g)(4), the pilot size is limited to 5% of each EDC's load, and the Pennsylvania Public Utility Commission has ordered for certain large industrial/commercial customers that only 10% of the load may be included in a pilot.

On September 26, 1997, SSHE filed a Petition and on September 29, 1997, DOC and DGS filed Petitions requesting that all of their designated electric accounts be included in their respective EDC pilot programs. Granting these petitions may require waivers of the 5% pilot load level limit and of the 10% load limit for an individual customer.

Interested parties may file answers to the Petitions with the Office of the Prothonotary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA, 17105-3265. Answers should be designated for filing in all eight docket numbers. Please submit an original and 15 copies of answers within 21 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Answers are to be filed by hard copy and electronically on 3.5 inch diskette in Microsoft Word 6.0 or less. The contact person is Louise Fink Smith, Attorney, Office of Special Assistants, (717) 787-8866.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1932. Filed for public inspection November 28, 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 22, 1997, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00114432. Red Carpet Limousine Connection, Inc.** (239 Main Street, Mount Pleasant, Westmoreland County, PA 15666), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the boroughs of Mount Pleasant and Youngwood and the townships of Mount Pleasant, East Huntingdon, Unity, Hempfield and Donegal, Westmoreland County, and the borough of Everson and the townships of Bullskin, Connellsville, Dunbar, Lower Tyrone, Perry, Saltlick, Upper Tyrone and Washington, Fayette County, and from said boroughs and townships to the city of Greensburg, Westmoreland County, and the cities of Uniontown and Connellsville, Fayette County, and the borough of Seven Springs, Somerset County, and return; subject to the following condition: that no right is granted to provide service for funeral homes or to persons attending funerals; which is to be a transfer of all of the rights authorized Bruce Craft, t/d/b/a Craft Limousine Service, under the certificate issued at A-00111394, subject to the same limitations and conditions. *Attorney:* Marvin D. Snyder, Jr., 17 North Diamond Street, Mount Pleasant, PA 15666.

**A-00114425 F. 2. Juliette D. Allis, t/d/b/a Valley Taxi** (RD 2, Box 453, Athens, Bradford County, PA 18810)—for the right to transport persons upon call or demand in the boroughs of Sayre, South Waverly and Athens and the township of Athens, Bradford County; which is to be a transfer of all of the rights authorized Jeffrey Agnew and Debra Agnew, Copartners, t/d/b/a Valley Taxi, under the certificate issued at A-00109949, subject to the same limitations and conditions. *Attorney:* Frances W. Crouse, 222 South Main Street, Athens, PA 18810.

**Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00113025, F.3. New Media Express, Inc., t/d/b/a Kids Ride Away** (110 South Main Street, Pittsburgh, Allegheny County, PA 15520), a corporation of the Commonwealth of Pennsylvania—additional right—persons in group and party service, from points in the townships of Pine, Ross, Richland and McCandless, Allegheny County, to points in the counties of Butler and Beaver which are within an airline distance of 30 statute miles of the

township of Pine, Allegheny County, and return. *Attorney:* Pamela L. Leyden, Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402.

**A-00113025, F.2. New Media Express, Inc.** (110 South Main Street, Pittsburgh, Allegheny County, PA 15520), a corporation of the Commonwealth of Pennsylvania—additional right—persons in paratransit service, from points in the townships of Pine, Ross, Richland and McCandless, Allegheny County, to points in the counties of Butler and Beaver which are within an airline distance of 30 statute miles of the township of Pine, Allegheny County, and return. *Attorney:* Pamela L. Leyden, Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402.

**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-00113533. (Corrected). Fayette County Community Action Agency, Inc.** (137 North Beeson Avenue, Uniontown, Fayette County, PA 15401), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Fayette, and from points in said county, to points in the counties of Allegheny, Greene, Washington and Westmoreland, and return. *Attorney:* Ernest P. DeHaas, III, 99 East Main Street, Uniontown, PA 15401.

**A-00114415. Allegheny Coach, Inc.** (401 Washington Road, Bridgeville, Allegheny County, PA 15017), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in that part of Pennsylvania on and West of U.S. Highway Route 219, and from points in said territory to points in Pennsylvania, and vice versa; excluding service in the counties of Beaver, Butler and Somerset. *Attorney:* Steve Papernick, One Oxford Centre, Pittsburgh, PA 15219.

**Applications of the following for approval of the right to begin to operate as a broker for the transportation of persons as described under each application.**

**A-00113025, F.4. New Media Express, Inc., t/d/b/a Kids Ride Away** (110 South Main Street, Pittsburgh, Allegheny County, PA 15520), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons and their baggage between points in Pennsylvania. *Attorney:* Pamela L. Leyden, Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402.

**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 December 14, 1997.

- A-00114419 Bruce Show, t/d/b/a Show Trucking  
R D #1, Box 216 B, Farmington PA 15437
- A-00114420 Gerald R. Weller, t/d/b/a J.R. Weller Hauling  
1445 East Philadelphia Avenue,  
Gilbertsville, PA 19525
- A-00114421 Lewis A. Layton, Sr., t/d/b/a Lewis Layton  
Transport  
5459 Race Track Road, St. Thomas, PA  
17252
- A-00114422 Hoffman Excavating and Trucking, Inc.  
1424 Piketown Road, PA 17112: James D.  
Campbell, Jr., 3631 N. Front Street Har-  
risburg, PA 17110
- A-00114434 Best Hauling Co.  
P O Box 898, Youngstown, OH 44501
- A-00114435 Emerald Xpress, Inc.  
P O Box 42, Industry, PA 15052: John A.  
Pillar, 1106 Frick Building, Pittsburgh PA  
15219
- A-00114436 Paper Trans, Inc.  
6 Aldworth Ct., NJ 08055-3330
- A-00114437 Demase & Manna Company  
2100 Smallman Street, Pittsburgh PA  
15222
- A-00114440 Al Morgan, Jr.  
68 Laurel Street, Carbondale, PA 18407
- A-00114448 Thomas Chuck  
P O Box 88, Spring City, PA 19475
- A-00114417 Leoni Motor Express, Inc.  
P O Box 670, Chicago Heights, IL 60412:  
Michael Spurlock, 275 East State Street,  
Columbus, OH 43215
- A-00114418 Carmelo M. Rodriquez, Jr.  
33 Riverside Avenue, PA 17602
- A-00114424 Michael Burns, t/d/b/a Burns Construction  
207 Intervilla Avenue, West Lawn, PA  
19609
- A-00114425 Juliette D. Allis, t/d/b/a Valley Taxi  
R D #2, Box 453, Athens, PA 18810:  
Frances W. Crouse, 222 South Main  
Street, Athens, PA 18810
- A-00114426 Ronald H. Petkus  
Star Route Box 7, Kresgeville, PA 18333
- A-00114427 Preferred Carriers, Inc.  
R D #1, Box 142, Turbotville, PA 17772
- A-00114441 Kay and Albert Hitchcock, t/d/b/a A-N-K  
Trucking  
883 Bentley Hill Road, Gerry NY 14740
- A-00114442 Agway Petroleum Corporation, t/d/b/a  
Agway Energy Products/Agway Propane  
P O Box 4367, Lancaster, PA 17604:  
Christopher Fox, P O Box 4933, Syracuse,  
NY 13221
- A-00114443 John K. Kohlmann t/d/b/a Kohlmann, John  
K. Trucking  
1181 Blackhawk Road, Beaver Falls, PA  
15010: William A. Gray, 2310 Grant  
Building, Pittsburgh, PA 15219-2383
- A-00114444 Raygene, Inc.  
P O Box 126, Duryea, PA 18642:  
Jonathan Spohrer, 400 3rd Ave, Park Of-  
fice, Bldg, Suite 101, Kingston, PA 19704-  
5816
- A-00114445 Jonathan R. Kark  
109 Winn Hill Road, Port Crane, NY  
13833

A-00114446 Ezra Hostetler t/d/b/a D.M.C. Trucking,  
R.R. #2, Box 39A, Middleburg, PA 17842  
A-00114447 Smithway Motor Xpress, Inc.  
P O Box 404, Fort Dodge, IA 50501-0404

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1933. Filed for public inspection November 28, 1997, 9:00 a.m.]

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### Telecommunications

**A-310424 F0002. Denver and Ephrata Telephone and Telegraph Company and 360° Communications Company.** Joint Application of Denver and Ephrata Telephone and Telegraph Company and 360° Communications Company for approval of a Landline/CMRS Transport and Termination Agreement under section 252(e) of the Telecommunications Act of 1996.

Denver and Ephrata Telephone and Telegraph Company and 360° Communications Company, by its counsel, filed on October 24, 1997, at the Pennsylvania Public Utility Commission (Commission), a Joint Application for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the application and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Denver and Ephrata Telephone and Telegraph Company and 360° Communications Company Joint Application are on file with the Commission and are available for public inspection. The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1934. Filed for public inspection November 28, 1997, 9:00 a.m.]

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### Telecommunications

**P-00971285. The United Telephone Company of Pennsylvania.** Petition of The United Telephone Company of Pennsylvania for designation as an Eligible Telecommunications Carrier under section 214(e) of the Telecommunications Act of 1996 and sections 54.201—54.207 of the Rules of the Federal Communications Commission.

Final Notice to those Pennsylvania entities contemplating submission of a Petition for designation as an Eligible Telecommunications Carrier for Universal Service Purposes under section 214(e) of the Telecommunications Act of 1996 and sections 54.201—54.207 of the Rules of the Federal Communications Commission.

On November 7, 1997, The United Telephone Company of Pennsylvania (United) submitted a Petition (Petition) with the Pennsylvania Public Utility Commission (Commission) seeking designation as an Eligible Telecommuni-

cations Carrier under section 214(e) of the Telecommunications Act of 1996 and sections 54.201—54.207 of the Rules of the Federal Communications Commission. The FCC's Notice DA-97-1747, dated August 14, 1997, requires the Commission to designate ETC carriers before January 1, 1998 in order to assure the uninterrupted receipt of Federal monies for universal service purposes to any current recipient.

After a careful review of the Petition, the Commission has determined that the solicitation of public comment is appropriate. Consequently, the Commission is providing this public notice with an abbreviated deadline for comments and reply comments. The deadline for delivery of comments in hand shall be 5 days following publication in the *Pennsylvania Bulletin*. The deadline for the filing of reply comments shall be 10 days following publication in the *Pennsylvania Bulletin*. This abbreviated deadline is necessary to complete action on the Petition before the year's end consistent with the deadline established in the FCC's Notice of August 14, 1997.

Persons or entities submitting comments must file an original and 15 copies of any comment or reply comment with the Office of the Prothonotary in Doc. No. P-00971285. One copy must also be filed in Doc. No. I-00940035.

In addition, the Commission has already expressed concern that some Pennsylvania Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) have not submitted a petition for ETC designation. Those entities interested in ETC designation for universal service purposes are notified and reminded that a petition for ETC designation must be submitted, with sufficient time for public notice and Commission review, for action by the Commission before the year's end. Those Pennsylvania ILECs and CLECs failing to comply with these filing requirements are given final notice that, as set forth in FCC Notice DA-97-1747 dated August 14, 1997, only eligible telecommunications carriers designated by State commissions under the criteria set forth in section 214(e) will be eligible to receive high cost, low income and most rural health care universal service support after January 1, 1998.

The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau (717) 787-3663. A copy of the Petition may be obtained from Lisa Higley at the Office of the Prothonotary at (717) 787-1013.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1935. Filed for public inspection November 28, 1997, 9:00 a.m.]

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### Wastewater Service Without Hearing

**A-230076. Patriot Treatment Plant, Inc.** Application of the Patriot Treatment Plant, Inc., for a certificate of public convenience authorizing it to provide wastewater service to the public in portions of South Centre Township, Columbia County, PA

This Application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before December 15, 1997, under 52 Pa. Code (relating to public utilities).



*Applicant:* The Patriot Treatment Plant, Inc

*Through and By Counsel:* Louise A. Knight, Esquire, Peter W. Kociolek, Jr., Esquire, Malatesta, Hawke and McKeon, 100 North Tenth Street, P. O. Box 1778, Harrisburg, PA 17105.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1936. Filed for public inspection November 28, 1997, 9:00 a.m.]

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## TURNPIKE COMMISSION

### Request for Bids

The Turnpike Commission is requesting sealed bids for Floor Slab, Soffit, Gutter and Fascia Repairs to Eastern Regional Office Building, Montgomery County.

*Mandatory Site Inspection:* December 9, 1997 at 11 a.m., at PA Turnpike Commission Eastern Regional Office, 251 Flint Hill Road, King of Prussia.

*Open Date:* December 18, 1997 at 11 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated above. Bid proposal Forms and Conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Dept., (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-1937. Filed for public inspection November 28, 1997, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET 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

**1391117** Food preparation and serving equipment—2 each steam cooker, Cleveland Model PDM-3 or approved equal.

**Department:** Corrections  
**Location:** Pittsburgh, Allegheny County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1411307** Lighting, portable—1 system temporary exhibit lighting system.

**Department:** Historical and Museum Commission  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1412317** Motor vehicles, trailers and cycles—1 unit Mack MS200P mid-liner uplink satellite truck.

**Department:** PA Emergency Management Agency  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1461237** Paper and printing—3M Bird and Mammal Charts—set 2—3,000 sets.

**Department:** Game Commission  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1512307** Sails—1 each Royal sail; 1 each Gan sail; 1 each Main Top STSL; 1 each Fore-Top-STSL; 1 each Jib sail; 1 each Flying Jib; 1 each Main Course.

**Department:** Historical and Museum Commission  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1448117** Service and trade equipment—1 each provide all labor, material, supervision and all items necessary to furnish and set-up a commercial quality washer/extractor.

**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

**1486117** Textiles—5,000 yards fleece: light weight, 50-50 poly/cotton B; end, 10 ounce per linear yard 60" open width, minimum of 100 continuous yards per roll, color: Storm Gray (Pantone Color No. 15-4003TP).

**Department:** Corrections  
**Location:** Dallas, Luzerne County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

## SERVICES

### Computer Related Services—08

**RFP5810-06** The Commonwealth will be issuing an RFP (Request For Proposal) for vendors to provide software and services to replace the existing Disaster Recovery product currently being used. This proposed software and services will be utilized by 50 plus State agencies. This RFP will be issued only to those vendors who have been previously qualified by successfully responding to ITQ 5810-06.

**Department:** General Services  
**Location:** Bureau of Purchases, Telecommunications Division, 2221 Forster Street G-13, Harrisburg, PA 17103  
**Duration:** 3 years (2 year option to renew)  
**Contact:** Richard L. Jacobs, (717) 705-0304

**Construction—09**

**Inquiry No. 44** The scope of this project is to furnish and install a full foam and stone roofing system and to repair portions of roof. Must supply all labor, scaffolding, tools, equipment and appurtenances to do repairs/or replacement.

**Department:** Public Welfare  
**Location:** Purchasing Department, Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18103  
**Duration:** December 01, 1997 to June 30, 1998  
**Contact:** T. F. Snyder, (610) 740-3428

**AE-5157** Construction of a wooden material storage building. FAX (717) 783-7971.

**Department:** Transportation  
**Location:** Maintenance District 3-1, Numidia Stockpile No. 12, Locust Township, Columbia County, PA  
**Duration:** 90 calendar days, proposed bid December 1997  
**Contact:** Tina Chubb, (717) 787-7001

**DGS A976-11** Project title: Replace and Preserve Oak Siding. Brief description: Repairs to the existing siding and structural elements of various onsite buildings. 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 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 17, 1997 at 2 p.m. Prebid conference will be held on December 5, 1997 at 10 a.m. in the Academy Building on the first floor, Ephrata Cloister, Ephrata, Lancaster County, PA. Contact person: Jim Caufield (717) 787-6944.

**Department:** General Services  
**Location:** Ephrata Cloister, Ephrata, Lancaster County, PA  
**Duration:** 150 days from date of initial job conference  
**Contact:** Contract and Bidding Section, (717) 787-6556

**K-98058** Edinboro University of Pennsylvania is seeking bids for replacement of E.P.D.M. roofs at Rose Hall, Ross Hall, Centennial Hall and Van Houten Dining Hall. A prebid meeting will be held December 5, 1997, at 9 a.m. in the South Dining Room, Van Houten Dining Hall. Bids are due by 2 p.m. on December 19, 1997, in the Purchasing Office, 219 Mc Nerney Hall, Edinboro, PA 16444. Plans and documents are available for a \$35 nonrefundable fee from Tom Anderson, Purchasing Office (814) 732-2704. Nondiscrimination and equal opportunity are the policies of the State System of Higher Education. MBE/WBE firms are urged to respond.

**Department:** State System of Higher Education  
**Location:** Edinboro University of Pennsylvania, Edinboro, PA 16444  
**Duration:** 135 days  
**Contact:** Tom Anderson, Contract Specialist, (814) 732-2704

**K-98059** Edinboro University of Pennsylvania is seeking bids for replacement of metal roofs at Van Houten Dining Hall and the State Garage. A prebid meeting will be held on December 5, 1997, at 9 a.m. in the South Dining Room, Van Houten Dining Hall. Bids are due by 2 p.m. on December 19, 1997 in the Purchasing Office, 219 Mc Nerney Hall, Edinboro, PA 16444. Plans and documents are available for a \$35 nonrefundable fee from Tom Anderson, Purchasing Office (814) 732-2704. Nondiscrimination and equal opportunity are the policies of the State System of Higher Education. MBE/WBE firms are urged to respond.

**Department:** State System of Higher Education  
**Location:** Edinboro University of Pennsylvania, Edinboro, PA 16444  
**Duration:** 135 days  
**Contact:** Tom Anderson, Contract Specialist, (814) 732-2704

**SU-326B** Project title: Alumni House Fire Escape Stair. Brief description: Work shall be completed at Shippensburg University, Shippensburg Township, Cumberland County, PA. The project shall include the furnishing of all labor, superintendence, material, tools, equipment and performing all work necessary to complete all construction to fabricate and erect the fire escape landing and stair for the Alumni House at 300 North Prince Street as shown on Drawing A-5, Steel Fire Escape. The work includes, but is not necessarily limited to, the following: fabrication of fire escape stair and handrails by the same fabricator for single-source responsibility, delivery, installation of foundations, erection and finish coating. Prebid meeting on Tuesday, December 9, 1997 at 8:30 a.m. in OM203A. Bids due: December 22, 1997, 4:30 p.m. in Old Main Room 200. Bids open: December 23, 1997, 2 p.m., Old Main Room 203B.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA  
**Duration:** 150 days from date of Notice to Proceed  
**Contact:** Deborah K. Martin, Contract Administrator, (717) 532-1121

**Engineering Services—14**

**1997-F-01** The Fish and Boat Commission intends to issue a Request for Proposal for an effluent water/waste treatment systems study at the Big Spring Fish Culture Station, Cumberland County, PA. While the waste being treated at this facility currently meets NPDES permit requirements, the Commission desires to improve the quality of the effluent, via an RFP, to contract with vendors for the development of alternate methods of more effective treatment and management of effluent waters and waste products coming from its fish culture operations at this facility.

**Department:** Fish and Boat Commission  
**Location:** Big Spring Fish Culture Station, Newville, Cumberland County, PA  
**Duration:** February through August 1998  
**Contact:** Kathi Tibbott, Purchasing Agent, (814) 359-5131

**08430AG2140** Final design and services during construction for S. R. 0219, Section C10, Elk County.

**Department:** Transportation  
**Location:** Engineering District 2-0  
**Duration:** Thirty (30) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2141** Final design and services during construction for S. R. 0119, Section 480, Indiana County.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** Thirty (30) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2142** Final design of a portion of S. R. 6028, Section 015 (Kittanning Bypass) in Armstrong County.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** Sixty (60) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2143** Multiphase Agreement for preliminary engineering, final design and services during construction for S. R. 0022, Section 493, Indiana County.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** Eighteen (18) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2144** Retain an engineering firm to perform preliminary engineering, final design and services during construction for EB and WB bridges and roadway for Interstate 80, S. R. 0080, Section 52D in Northumberland and Union Counties.

**Department:** Transportation  
**Location:** Engineering District 3-0  
**Duration:** Forty-eight (48) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**Extermination Services—16**

**1100** The contractor shall provide monthly pest control services for the entire facility.

**Department:** Corrections  
**Location:** Training Academy, 1451 North Market Street, Elizabethtown, PA 17022-1299  
**Duration:** 1—3 years  
**Contact:** Ruth Nagy, (717) 367-9070

**Food—19**

**1000** Dairy products: butter, 1 lb. containers, approximately 350 lbs/month; cottage cheese, 5 lb. containers, 250 lbs/month; American cheese, 5 lb. block, approximately 400 lbs/month; ice cream Dixie Cups, 24/box, approximately 40 boxes/month; ice cream sandwiches, 24/box, approximately 40 boxes/month; frozen novelty dessert (Natty Buddy or equal), 24/case, approximately 6 cases/month; eggs, fresh, Class 1, approximately 500 dozen/month; or any like items.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**1001** Fish, cod or pollack, breaded, 4 oz. portions, approximately 200 lbs/month; unbreaded, 4 oz. portions, approximately 150 lbs/month; or any like items.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**1002** Meats—beef, veal and pork products, meats to be in accordance with inspection meat products specs., fresh and frozen as specified. All items to be from Federally inspected plants. Approximate lbs/month: beef bologna—100 lbs.; Lebanon bologna—100 lbs.; beef franks—200 lbs.; beef liver—50 lbs.; sandwich steaks—250 lbs.; beef cubes—200 lbs.; beef sausage—110 lbs.; cube steaks—120 lbs.; ground beef—500 lbs.; Swiss steak—200 lbs.; round roast—300 lbs.; pork chops—200 lbs.; pork ham—100 lbs.; pork sausage—280 lbs.; salami—50 lbs.; veal steaks—100 lbs.; or any like items.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**1003** Chicken and poultry products: meats to be in accordance with PA Spec. C-94, fresh and frozen, as specified. All items to be from Federally inspected plants. Approximate lbs/month: whole turkey—400 lbs.; turkey ham—250 lbs.; chicken legs—300 lbs.; chicken breasts—200 lbs.; chicken nuggets—100 lbs.; turkey roll—100 lbs.; turkey roast—400 lbs.; poultry patties—100 lbs.; turkey pastrami—50 lbs.; or any like items.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**1005** Frozen foods, approximate lbs/month: broccoli cuts—120 lbs.; cauliflower—100 lbs.; cheese pizza—300 each; waffles—18 cases; Hot Pockets—18 cases; French fries—120 lbs.; frozen eggs—300 lbs.; frozen strawberries—2 cases; bread dough—2 cases; or any like item.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**1006** Bread and rolls: approximate units/month: bread, sliced, white—600 loaves; bread, sliced, wheat—480 loaves; hoagie rolls—300 bags; hamburger rolls—150 bags; hot dog rolls—180 bags; or any like item.

**Department:** Corrections  
**Location:** Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845  
**Duration:** January through December 1998  
**Contact:** Janine E. Packard, Purchasing Agent I, (814) 765-0644, ext. 234

**Hazardous Material Services—21**

**010328** Annual inspection, preventive maintenance and repairs and emergency service for one Sellers, 10,000 gallon, aboveground, heated, asphalt, storage tank, for the Department of Transportation, Maintenance District 1-5, 1460 Pittsburgh Road, Franklin, PA 16323. Bid packages with detailed requirements are available upon request. All requests must be received via FAX at (814) 437-1174. Direct questions to the attention of Patricia J. Carrara.

**Department:** Transportation  
**Location:** Maintenance District 1-5, 1460 Pittsburgh Road, P. O. Box 191, Franklin, PA 16323  
**Duration:** 1-year with three 1-year renewals  
**Contact:** Patricia J. Carrara, Clerical Supervisor, (814) 432-3115

**HVAC—22**

**090-000221** Preventive and emergency maintenance on heating, ventilation and air conditioning (HVAC) system, District 9-0/9-2 Building, Hollidaysburg, PA. Four scheduled visits per year and emergency visits as needed. Mandatory site visit prior to bidding. Contractor must be within 2 hours travel time from the building. At least two service personnel employed by the contractor must reside within 2 hours' travel time from the building. Two year contract with one optional renewal.

**Department:** Transportation  
**Location:** Engineering District 9-0, Maintenance District 9-2, 1620 and 1598 North Juniata Street, Hollidaysburg, PA (one building)  
**Duration:** February 1998 through January 31, 2000 (estimated)  
**Contact:** Greg Eilenberger, Maintenance Repairman, (814) 696-7118

**Contract No. FDC-413-254** Removal and disposal of the existing 40 kw generator and automatic transfer switches; and provide and install a new 60 kw generator with new fuel piping and electrical appurtenances. All work is located at Tuscarora State Park.

**Department:** Conservation and Natural Resources  
**Location:** Rush Township, Schuylkill County, PA  
**Duration:** 180 days  
**Contact:** Construction Management Section, (717) 787-5055

**FM 087797-02** Boiler replacement: contractor shall replace an existing hot water boiler located in the basement of Building No. 37 of the Ebensburg Center with a new one as specified including supply and return manifolds (headers) and zone stop valves and drain. Work required by this contract shall include, but not be limited to, the Contractor furnishing/installing all material, hardware, equipment, manpower and supervision to satisfy the intent of this contract. The intent of this contract is to replace an existing hot water boiler, associated breeching, manifolds and valves.

**Department:** Public Welfare  
**Location:** Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931  
**Duration:** 30 days from effective date of contract  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288

**Lodging/Meeting—27**

**1100** The contractor shall provide lodging facilities for staff while attending classes located in Elizabethtown. Rooms should be standard size for one to two people.

**Department:** Corrections  
**Location:** Training Academy, 1451 North Market Street, Elizabethtown, PA 17022-1299  
**Duration:** 1 year  
**Contact:** Ruth Nagy, (717) 367-9070

**X101956** Provide lodging, meeting room and meals for the Bureau of Land Recycling and Waste Management 1998 Education Conference.

**Department:** Environmental Protection  
**Location:** Within a 15 mile radius of Somerset, PA  
**Duration:** Contract to commence upon execution and terminate June 30, 1998  
**Contact:** Ally Castaneira, (717) 787-2471

**Medical Services—29**

**RFA 97-07-03** Requests for Applications: The Department of Health announces the availability of Community Primary Care Challenge Grants to develop and implement programs to improve access or availability of comprehensive clinical primary, medical and dental care to residents of Federally designated underserved areas. If interested, write or call Fred Bowlan to request a copy of the RFA. Fred Bowlan's address is: Bureau of Health Planning, Room 709, Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, (717) 772-5298.

**Department:** Health  
**Location:** Various underserved areas throughout Pennsylvania  
**Duration:** September 1, 1998 through August 31, 2000  
**Contact:** Fred Bowlan, (717) 772-5298

**Property Maintenance—33**

**LVMS-1** Demolition, rough carpentry, finish carpentry and millwork, metal roofing, metal flashing, slate roofing, caulking, painting, louvers and vents, electrical. Repair of the cupola, bell tower and balcony on top of the Visitor Center at Landis Valley Museum.

**Department:** Historical and Museum Commission  
**Location:** Landis Valley Museum, 2451 Kissel Hill Road, Lancaster, Lancaster County, PA 17601  
**Duration:** December 1996 to June 30, 1998  
**Contact:** William R. Morrow, (717) 569-0401, ext. 220

**Service Purchase Contract No. 338395** Furnish and install asphalt shingles on roofs at Group Camp No. 1 at French Creek State Park. Approximately 331 square of roof surface divided between seven units.

**Department:** Conservation and Natural Resources  
**Location:** State Parks, French Creek State Park, 843 Park Road, Elverson, Berks County, PA 19520-9523  
**Duration:** June 30, 1998  
**Contact:** Regional Park Office, (215) 453-5016

**Real Estate Services—35**

**31A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Health with 1,488 useable square feet of new or existing office space, with parking for 10 vehicles, within the Borough of Port Royal, PA. Proposals due: January 12, 1998. Solicitation No.: 92587.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17105  
**Duration:** Indeterminate 1997-98  
**Contact:** Doris Deckman or John A. Hocker, (717) 787-4394

**Sanitation—36**

**321162** Contractor shall be responsible for removal of trash (solid waste) throughout the facility. Contract shall call for placement of 4, 6 and 8 cubic yard containers. 30 cubic yard roll-offs will be required on an as-needed basis.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoe Road, Bensalem, PA 19020  
**Duration:** July 1, 1998 through June 30, 2001  
**Contact:** Mary Jo Scanlon, (215) 953-6405

**SP341252** Solid waste collection and disposal at Gifford Pinchot State Park.

**Department:** Conservation and Natural Resources  
**Location:** Gifford Pinchot State Park, 2200 Rosstown Road, Lewisberry, PA 17339-9787  
**Duration:** April 1, 1998 to March 31, 2001  
**Contact:** Jesse Taylor, (717) 432-5011

**SP341253** Solid waste collection and disposal at Susquehannock State Park.

**Department:** Conservation and Natural Resources  
**Location:** Susquehannock State Park, R. R. 1, Box 64, Drumore, PA 17518  
**Duration:** April 1, 1998 to March 31, 2001  
**Contact:** Jesse Taylor, (717) 432-5011

**Security Services—37**

**00677-000-98-AS-50** Maintain Fire and Security. Provide contract services for the maintenance and repair of the installed Fire and Security Systems at Pennsbury Manor, Morrisville, PA. A prebid meeting will be held at the site on December 19, 1997 at 11 a.m. for all firms interested in submitting bids for the project. For directions, contact the site at (215) 946-0400. All interested bidders should submit a request for a bid package in writing to: PA Historical and Museum Commission, P. O. Box 1026, Room 526, Harrisburg, PA 17108-1026. Attention: Judi Yingling or fax request to (717) 783-1073. Proposals are due on Monday, January 5, 1998 at 10 a.m. Proposals will be received in Room 526 of The State Museum of PA, corner of 3rd and North Streets, Harrisburg, PA.

**Department:** Historical and Museum Commission  
**Location:** Bureau of Historic Sites and Museums, Pennsbury Manor, 400 Pennsbury Memorial Lane, Morrisville, PA 19067  
**Duration:** July 1, 1998 to June 30, 2000  
**Contact:** Judi Yingling or Galen Brown, (717) 772-2401

**Vehicle, Heavy Equipment—38**

**SP-367405** Provide all labor, tools, equipment, parts, material, supervision and transportation to perform maintenance, repairs and service calls, if necessary, on the conveyor equipment located in the Bottle Pick Area of the PLCB's Southeastern Distribution Center, 8201 Enterprise Avenue, Philadelphia, PA 19153-3896.

**Department:** Liquor Control Board

**Location:** Bottle Pick Area, 8201 Enterprise Avenue, Philadelphia, PA 19153-3896

**Duration:** Upon final approval—five (5) years

**Contact:** Betty J. Goodling, (717) 787-6360

**Miscellaneous—39**

**20013** The contractor shall provide all materials and labor to construct and install approximately 163 linear feet, 12 foot high green vinyl 2 inch mesh fence.

**Department:** Corrections

**Location:** State Correctional Institution at Dallas, Dallas, PA 18612

**Duration:** January 1, 1998 through June 30, 1998

**Contact:** Robert Faneck, Business Manager, (717) 675-1101, ext. 215

**IFB 97-004** Statewide auditing of campaign expense reports and statements of candidates and their political committees who are supervised by the Department of State after each primary, general and municipal election.

**Department:** State

**Location:** Operations and Contract Management, 124 Pine Street, 6th Floor, Harrisburg, PA 17101

**Duration:** July 1, 1997 to June 30, 1999, 2 year contract

**Contact:** Toniann D. Noss, (717) 783-7202

**RFP No. 12-97** The purpose of this Request for Proposal (RFP) is to ensure that Attendant Care Program (ACP) services continue to be available Statewide to eligible persons. The Attendant Care Program (ACP) provides for personal care and ancillary services for persons who are mentally alert and have physical disabilities that limit them in the activities of daily living. Attendant Care Program services allow persons to remain in the community and direct their own lives and services to the highest degree possible.

**Department:** Public Welfare

**Location:** Services will be available in all 67 counties of the Commonwealth

**Duration:** The RFP provides for a 5 year contract—July 1, 1998—June 20, 2003

**Contact:** Polly Hahn, (717) 787-7585

**RFP No. 1997-03** The Department of Aging is seeking to secure a contractor to provide clerical, logistical, subcontracting and onsite staffing for a series of 1-day training sessions at locations across the State. Sealed proposals will be received by the Department until 3 p.m. on January 8, 1998. A preproposal conference will be held on December 11, 1997 in the 5th floor conference room, at 555 Walnut Street, Harrisburg, PA 17101-1919. Interested bidders must request a copy of the RFP by calling (717) 783-3126.

**Department:** Aging

**Location:** Statewide

**Duration:** April 1, 1998 through December 31, 1998

**Contact:** Patricia Lingle, (717) 783-3126

[Pa.B. Doc. No. 97-1938. Filed for public inspection November 28, 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:

Requisition or Contract #	Awarded On	To	In the Amount Of
0096-08	11/21/97	BSC Litho, Inc.	848,532.80
1074117-01	11/12/97	The Baase Company	21,432.00
1086147-01	11/14/97	Westwood Computer Corp.	94,104.36
1269117-01	11/18/97	Fox Rich Textiles, Inc.	57,850.00
1285117-01	11/18/97	O. C. Cluss Lumber Co.	18,195.00
1340217-01	11/18/97	Bellco Drug Corporation	32,767.70
1341157-01	11/18/97	Moore Business Forms, Inc.	10,195.20
1342217-01	11/18/97	Abbott Laboratories	26,955.60
1344117-01	11/18/97	Hayes Mfg. Group, Container Division	34,004.96
1349217-01	11/18/97	Novartis Pharm Corp.	14,795.95
1352217-01	11/18/97	Bellco Drug Corporation	30,912.00
1353187-01	11/13/97	Standard Register Co.	37,940.00
1359217-01	11/18/97	Bellco Drug Corporation	35,560.00
1360217-01	11/18/97	Bellco Drug Corporation	79,024.20
1370217-01	11/18/97	Bellco Drug Corporation	33,131.53
1377217-01	11/18/97	Abbott Laboratories	14,913.20
1384217-01	11/18/97	Bellco Drug Corporation	16,478.49
1408217-01	11/18/97	Bellco Drug Corp.	38,213.60

Requisition or Contract #	Awarded On	To	In the Amount Of
1415217-01	11/18/97	Bellco Drug Corp.	27,496.00
1420217-01	11/18/97	Bellco Drug Corporation	30,912.00
1421207-01	11/18/97	Clearview Printing Co.	4,357.50
6850-03	11/21/97	Dacar Chemical Company	140,853.30
7110-06 Supplement No. 2	11/21/97	Dowcraft Corp.	10,000.00
7110-06 Supplement No. 2	11/21/97	Hickory Leather Co.	10,000.00
7110-06 Supplement No. 2	11/21/97	Highmark	10,000.00
7110-06 Supplement No. 2	11/21/97	PA Office Service Group	10,000.00
7110-06 Supplement No. 2	11/21/97	Officenter	10,000.00
7313920-01	11/18/97	Tri-State Envelope Corp.	1,368.75
8217290-01	11/18/97	Kurt J. Lesker Co.	9,792.00
8504090-01	11/18/97	Midland Lithographic Co.	4,260.00
8970730-01	11/12/97	Manheim Chrysler Plymouth GMC Truck	52,922.00
8970740-01	11/18/97	Diedrich Drill, Inc.	99,467.00
8970820-01	11/18/97	Five Star International Trucks, Inc.	144,258.00
8970970-01	11/13/97	Winner Group, Inc.	52,995.00

GARY CROWELL,  
Secretary

[Pa.B. Doc. No. 97-1939. Filed for public inspection November 28, 1997, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

### New Motor Vehicle Emissions Control Program

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 126 (relating to general provisions and standards; for mobile standards) to read as set forth in Annex A.

The proposed rulemaking establishes a new motor vehicle emissions control program designed to primarily reduce emissions of carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs) from new passenger cars and light duty trucks. These proposed amendments create the mechanism to meet the requirements of the State opt-in provisions of the National Low Emission Vehicle (NLEV) program. The proposed amendments also adopt and incorporate by reference certain requirements of the low-emissions vehicle program authorized under section 177 of the Clean Air Act 5 (42 U.S.C.A. § 7507) (CAA). The proposed amendment will allow automobile manufacturers to voluntarily comply with the NLEV program as an alternative to complying with the Clean Vehicles Program requirements.

This proposal was adopted by the Board at its meeting of September 16, 1997.

#### A. Effective Date

These proposed amendments will be effective immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. Contact Persons

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Compliance and Enforcement, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-1663, or Joyce E. Epps, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

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). This proposal is available through the DEP Web site (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

The proposed rulemaking is being made under the authority of section 5(a)(1) of the Air Pollution Control Act (act) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The Board is also expressly authorized by section 5(a)(7) of the act to adopt regulations designed to reduce emissions from motor vehicles.

#### D. Background and Purpose

The most persistent air pollution problem in this Commonwealth is ground level ozone. Ozone causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. Scientific evidence indicates that high ambient levels of

ozone not only affect asthmatics and others with impaired respiratory systems, but also healthy adults and children, especially those who exercise or work outside. Exposure to ozone for several hours at relatively low concentrations has been found to significantly reduce lung function and induce respiratory inflammation in normal, healthy people during exercise. This decrease in lung function generally is accompanied by symptoms including chest pain, coughing, sneezing and pulmonary congestion.

In March 1996, the Commonwealth initiated a process by which two stakeholder groups, one in Southeastern and one in Southwestern Pennsylvania, would recommend strategies for ozone attainment and maintenance. The groups consisted of about 25 people representing a wide range of interests. Their recommendations presented to Governor Ridge in mid-January 1997 include strategies affecting industrial and area source emissions and highway vehicles.

Both stakeholder groups recognized the continuing importance in reducing emissions from automobiles in emission reduction strategies. The Southeast Ozone Stakeholders group recommended that the Commonwealth adopt a National low emission vehicle (NLEV) program because of its National focus and cost-effectiveness. The stakeholders also recommended that a State low emission vehicle (LEV) be implemented in the absence of NLEV. The Southwest Ozone Stakeholders did not consider a clean vehicle program because their mission was to achieve the ozone standard well before a program could be phased in. This group did, however, include a number of recommendations affecting highway emissions.

The Southeast Ozone Stakeholder group was provided estimates of emission reductions of Clean Vehicles Programs by its consultant, EH Pechan Associates, Inc. for strategies it was considering. Using data compiled for National regulatory analyses purposes, modeling demonstrated that NLEV could achieve emission reductions of 11.5 tons of VOCs and 13.5 tons of NO<sub>x</sub> per day in the Philadelphia area by 2005, the year in which attainment of the ozone standard is required. NLEV provided the greatest reductions in Philadelphia of any single control measure.

Reductions would be realized across this Commonwealth, since highway emissions could decrease by as much as 40%. Nationwide, the NLEV program should achieve NO<sub>x</sub> emission reductions of 400 tons/day in 2005 and 1,250 tons/day in 2015. Implementation of the National program would also result in nonmethane organic gas (similar to VOCs) emission reductions of 279 tons/day in 2005 and 778 tons/day in 2015. These reductions will help the Commonwealth meet the current ozone standard as well as the more stringent ozone standard recently promulgated by the United States Environmental Protection Agency (EPA).

This proposed rulemaking establishes an alternative low emissions vehicle program consistent with the requirements of section 177 of the CAA (Section 177) and will serve as the basic framework for the Commonwealth's program to control emissions from new motor vehicles. The proposed rule recognizes the voluntary National Low Emissions Vehicle (NLEV) program as an acceptable compliance alternative to the Clean Vehicles Program requirements established under this subchapter.

The CAA was amended in 1977 to allow states to adopt emission standards for motor vehicles. Section 177 of the

CAA authorizes states to adopt and enforce new motor vehicle or new motor vehicle engine standards for any model year if the standards are identical to the California standards and the state adopts the standards at least 2 years before the commencement of the model year. California's standards must also have been granted a waiver of the Act's prohibition against state emission standards. 42 U.S.C.A. § 7507.

Congress amended Section 177 in 1990 to prohibit states from taking any action that would have the effect of creating a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards or otherwise create a third vehicle. Shortly thereafter, many states began to consider clean vehicle or "low emission vehicle" programs as a control strategy to achieve and maintain the ozone standard.

Because of the uncertainties concerning the necessity and benefits of low emission vehicle (LEV) programs, Pennsylvania's General Assembly enacted legislation, Act 1992-166, creating a 13-member Low Emission Vehicle Commission (Commission). Act 1992-166 mandated that the Commission complete a study which addressed whether adoption of LEV would result in significant net air quality improvements; and whether adoption of LEV would result in a more cost-effective reduction in ozone precursors than other alternative control strategies. The Commission completed and submitted a LEV Study to the Governor and General Assembly on August 13, 1993. The Commission's findings indicated the "[i]mplementation of the mandatory and discretionary control strategies adopted by the Commonwealth for VOCs and NO<sub>x</sub> will result in substantial reductions in these ozone precursors." The Commission also found that "these control strategies may result in attainment of the National Ambient Air Quality Standard for ozone throughout the Commonwealth." In addition, the "available data regarding the emissions reductions and cost-effectiveness of such reductions attributable to LEV" were inconclusive.

Based on its 1993 findings, the Commission recommended that the Commonwealth not adopt a California LEV Program before January 1, 1995. The study also recommended that the Department of Transportation and the Department of Environmental Protection (Department) prepare a report to the Senate Transportation Committee, the Senate Environmental Resources and Energy Committee, the House Transportation Committee and the House Conservation Committee containing information regarding the Commonwealth's attainment status for ozone prior to proposing a LEV program in this Commonwealth after January 1, 1995. The Commission also rejected the implementation of a regional (substate) LEV program vis-a-vis a Statewide LEV program because of concerns about administration and emission credits.

On February 10, 1994, the Ozone Transport Commission (OTC) petitioned the EPA to require states in the Northeast Ozone Transport Region (OTR) to adopt and implement low emission vehicle (LEV) programs. The OTC-LEV petition recommended that all new passenger cars and light-duty trucks, sold or offered for sale or lease in the OTR, be certified to California low emission vehicle standards beginning in the 1999 model year. The petition also recommended that auto manufacturers comply with the nonmethane organic gases (NMOG) fleet average requirement for the California LEV program and that the zero-emission vehicle (ZEV) production mandate be optional for OTR states and that no special fuels (for example, California reformulated fuels) be required.

Subsequently, the EPA approved the OTC recommendation and adopted the OTC-LEV rule. (60 F.R. 4712, January 24, 1995). The OTC-LEV rule included a SIP call which required states to submit SIP revisions to EPA by February 15, 1996 for the OTC-LEV program or an acceptable "LEV-equivalent program." The "LEV equivalent program" was defined as "an alternative voluntary nationwide program that would achieve emission reductions from new motor vehicles in the OTR equivalent to or greater than would be achieved by the OTC-LEV program and that would advance motor vehicle emission control technology."

This statement recognized that several years ago, the automakers, OTR states and the EPA had begun negotiations for a voluntary alternative LEV program described as the "49-State LEV Program" or National Low Emission Vehicle (NLEV) program. Under this alternative LEV program, automakers would voluntarily agree to manufacture LEVs for 49 states as an alternative to the California LEV program. Section 202(b)(1)(C) of the CAA precludes the EPA from mandating new exhaust emission standards before the 2004 model year. Therefore, states and the auto manufacturers must agree voluntarily to accept the NLEV program as an alternative to complying with Section 177 state low emission vehicle programs.

In its OTC-LEV rulemaking, the EPA described various reasons why a LEV-equivalent (NLEV) program offered significant advantages over the OTC-LEV program including, but not limited to the following: (1) the same or greater emission reductions for the OTR; (2) significant health and environmental benefits Nationwide; (3) if vehicles meet the same tailpipe standards in both California and the rest of the country, harmonizing California and Federal emission standards could streamline the process for certifying a vehicle for sale, and auto manufacturers testing and design costs could be reduced Nationwide. (60 F.R. 4713, January 24, 1995). The SIP call did not, however, include a zero-emission vehicle production mandate based on a determination by the EPA that section 177 of the CAA allows states to adopt California emission standards without adopting the ZEV production mandate. The EPA's approval of the OTC-LEV petition was based on a determination under sections 184(c) and 110(a)(2)(D) of the CAA that the LEV program was needed throughout the OTR to bring certain ozone nonattainment areas into attainment by the applicable attainment deadlines.

In October 1995, the EPA proposed a National Low Emission Vehicle (NLEV) program that would provide greater emission reductions than a regional LEV program. The NLEV proposal was endorsed by the OTC Memorandum of Understanding (MOU) concerning the "Implementation of the 49 State Low Emission Vehicle Program" (initialed by the OTC on August 21, 1996 and ratified on September 5, 1996).

Six states in the OTR have adopted California LEV or OTC-LEV programs and submitted SIP revisions to the EPA for approval. LEV programs are currently in effect in New York, Massachusetts and Connecticut which include a zero-emission vehicle mandate. The states of New Jersey, Rhode Island and Vermont submitted OTC-LEV programs to the EPA as "backstop" programs. Manufacturers would not have to comply with LEV programs in those states if the NLEV program comes into effect.

On March 11, 1997, the U.S. Circuit Court of Appeals (D.C. Circuit) vacated the OTC-LEV Rule and SIP call. (*Virginia v. EPA*, CAD, No 95-1163, March 11, 1997). The Court held that section 110 of the CAA does not

authorize the EPA to impose specific control measures on states. The Court also ruled that sections 177 and 202 of the CAA prevent the EPA from mandating that states adopt motor vehicle emission standards even if the standards are identical to the California emission standards prior to the 2004 model year. Although the EPA cannot mandate that states adopt LEV programs, the Court specifically held that states may adopt and implement LEV programs identical to the California program.

On June 6, 1997, the EPA promulgated the NLEV final rule establishing the basic framework for the voluntary program which allows auto manufacturers to comply with tailpipe standards modeled after the California program while providing less stringent fleet average NMOG standards and Federal implementation. The NLEV program allows manufacturers to certify light-duty vehicles and light-light duty trucks certified by the California Air Resources Board (CARB) to either of the following certification standards: Tier 1, transitional low emission vehicle (TLEV), low emission vehicle (LEV), ultra-low emission vehicle (ULEV) or zero-emission vehicle (ZEV). These certification categories contain tailpipe emission standards for CO, formaldehyde (HCHO), NO<sub>x</sub>, NMOG and particulate matter (PM).

The NLEV program requirements will not become effective unless all of the auto manufacturers opt into the program. Once the program becomes effective, the auto manufacturers would have to comply with the tailpipe emission standards and annual fleet average NMOG value. Should NLEV come into effect, tailpipe emission standards and NMOG fleet averages would be those established by the EPA's final NLEV rule. (62 F.R. 31192, June 6, 1997).

This proposed rulemaking establishes a new motor vehicle emissions control program which includes a clean vehicles program that adopts and incorporates by reference the low emission vehicle program of California as a backstop to the NLEV program. This program would only be implemented if NLEV does not become effective if automakers opt out of the NLEV program and/or at the conclusion of the NLEV program. The Department proposes to incorporate by reference new emission standards for passenger cars and light-duty trucks that are identical to the low emission standards adopted by California except for the ZEV production mandate and the emissions control warranty systems statement provisions.

The Commonwealth's proposed new motor vehicle emissions control program does not mandate the sale or use of reformulated motor fuels which comply with the specifications for reformulated motor fuels mandated by the State of California. The Courts have held that a state's failure to adopt California fuel requirements does not violate the Section 177 requirement that state emission standards be "identical to the California standards for which a waiver has been granted." (42 U.S.C.A. § 7507). *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 171 F.3d 521 (2nd Cir. 1994); *American Automobile Manufacturers Association v. Greenbaum*, No. 93-10799-MA (D. Mass. October 27, 1993).

This proposed rulemaking will allow the Department to revise the Commonwealth's State Implementation Plan to identify the NLEV program as an alternative to complying with the low emission vehicle standards of California specified in the Clean Vehicles Program requirements. If the NLEV program comes into effect, the proposal allows auto manufacturers to meet NLEV requirements as a compliance alternative for the Clean Vehicles Program for

light-duty vehicles, light-duty trucks rated at 6,000 pounds or less GVW, and medium duty trucks rated from 6,001 to 14,000 pounds GVW (if designed to operate on gasoline). If a manufacturer elects NLEV as a compliance alternative, the manufacturer would be subject to the NLEV program requirements until the 2006 model year or until the first model year that manufacturers must meet a more stringent mandatory Federal exhaust emissions program for light duty vehicles and light-light duty trucks than is currently in place. If a manufacturer opts out of NLEV according to opt-out procedures in the NLEV regulation, the manufacturer would then be subject to the requirements of the Commonwealth's Section 177 program.

Following promulgation of the proposed new motor vehicles emissions control regulation, amendments to Chapters 121 and 126 will be submitted to the EPA as a revision to the State Implementation Plan. This regulation will also be submitted to the EPA as a substitute for the Clean Fuel Fleet program required under sections 182(c)(4) and 246 of the Federal CAA.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking. On July 19, 1997, the AQTAC recommended that the proposed rulemaking be submitted to the Board for consideration. As required under section 5(a)(7) of the Air Pollution Control Act, the Department also consulted with the Department of Transportation during the development of the proposed amendments.

#### E. Summary of Regulatory Requirements

This proposal establishes the requirements for the implementation of a new motor vehicles emissions control program. The proposal allows auto manufacturers to comply with the provisions of the NLEV program as an alternative to complying with more stringent low emission vehicle standards established by CARB. A summary of the proposed rulemaking follows:

##### Chapter 121. General Provisions

The proposed amendments to § 121.1 (relating to definitions) includes terms and phrases applicable to the Clean Vehicles Program. The proposed definitions include the following terms: "ATV—advanced technology vehicle," "CARB—California Air Resources Board," "Clean Vehicles Program," "dealer," "emission standard," "fleet average," "GVWR—gross vehicle weight rating," "motor vehicle manufacturer," "model year," "motor vehicle," "NLEV—National Low Emission Vehicle," "NLEV Program," "new motor vehicle or new light-duty vehicle," "offset vehicle," "passenger car," "ultimate purchaser" and "ZEV—zero-emission vehicle."

The proposed definition of the term "emergency vehicle" is consistent with the statutory definition of "emergency vehicle" codified at 75 Pa.C.S. § 102 (relating to definitions).

The proposed rulemaking also amends the existing definition of "light-duty truck" to include a meaning in the "light-duty truck" definition that is consistent with Title 13, CCR § 1900(b)(8). For purposes of the new motor vehicle emissions control program requirements, a "light-duty truck" is a motor vehicle rated at 6,000 pounds gross vehicle weight (GVW) or less and loaded vehicle weight of 5,750 pounds or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

*Chapter 126. Mobile Sources**Subchapter D. New Motor Vehicle Emissions Control Program*

Subchapter D contains provisions which establish a new motor vehicle emissions control program in this Commonwealth to reduce the emissions of NOx and VOCs, ozone precursors, from passenger cars and light-duty trucks under section 177 of the CAA. The proposal provides the regulatory framework to allow auto manufacturers to comply with the NLEV program requirements as a compliance alternative to complying with California's more stringent LEV standards and to meet the requirements of the State opt-in provisions of the NLEV program.

Section 126.401 (relating to purpose) establishes an alternative low emissions vehicle program consistent with the requirements of section 177 of the CAA (Section 177). The proposed rule recognizes the voluntary NLEV program as an acceptable compliance alternative to the Clean Vehicles Program established under this subchapter. It adopts and incorporates by reference certain provisions of the California Low Emission Vehicles Program which serve as the basic framework for the Commonwealth's Clean Vehicles Program.

Section 126.402 (relating to NLEV scope and applicability) allows motor vehicle manufacturers to comply with the NLEV program requirements as an alternative to complying with Section 177 program requirements of the Commonwealth's Clean Vehicles Program. If the NLEV program becomes effective, the NLEV program requirements would be applicable as a compliance alternative for light-duty vehicles and light-duty trucks rated at or less than 6,000 pounds GVW, and medium duty trucks from 6,001 to 14,000 pounds GVW. The use of the NLEV as a compliance alternative for the automobile manufacturers would be triggered by an EPA finding that the NLEV program is in effect. Once effective, the duration of the NLEV program would continue in effect until the model year 2006 or until the EPA Administrator required Federal exhaust emission standards for light-duty vehicles and light-light-duty trucks that would be at least as stringent as the NMOG, NOx and CO emission standards for the NLEV program, whichever occurs first.

If the NLEV program does not become effective, or automakers opt out of the NLEV program, manufacturers no longer participating in the NLEV program would then be subject to the Section 177 program requirements of this subchapter in accordance with NLEV transitional provisions which the EPA intends to propose in a supplemental rulemaking. The new motor vehicle emission control requirements of this subchapter would not apply for any model year, motor vehicle or motor vehicle engine for which the EPA adopts more stringent emission standards.

Section 126.411 (relating to general requirements) contains the provisions for the implementation of a low emissions vehicle program consistent with the requirements of section 177 of the CAA. As proposed, this section adopts and incorporates by reference certain emission standards that are applicable in California. The rule adopts and incorporates by reference Title 13 CCR, Chapter 1 (relating to motor vehicle pollution control devices) and Chapter 2 (relating to enforcement of vehicle emission standards and surveillance testing). This incorporation by reference includes exhaust emission standards for light-duty, transition low emission vehicles, low emission vehicles and ultra-low emission vehicles. How-

ever, the Commonwealth's Clean Vehicles Program does not adopt and incorporate the reformulated fuels component of the California low emissions vehicle program.

The proposed Clean Vehicles Program does not mandate the sale of zero-emission vehicles. Therefore, the proposed rule does not incorporate the zero-emissions sales mandate provision specified in Title 13, CCR § 1960.1(g)(2) (footnote 9) and will not require manufacturers complying with the Clean Vehicles Program to include a specified percentage of ZEVs in the manufacturers sales fleet of passenger cars and light-duty trucks beginning in the 2003 model year.

The rule does not adopt and incorporate the Emission Control Warranty Statement provisions in Title 13 CCR § 2039 which describes a California warranty statement that is included along with the manufacturer's new motor vehicle warranty. The California statement includes references to California's SmogCheck vehicle emission inspection program.

As proposed, § 126.412 (relating to emission requirements) prescribes that no person shall sell, import, deliver, purchase, lease, rent, acquire, receive or register a new motor vehicle subject to the clean vehicle program requirements in this Commonwealth that has not received a CARB Executive Order beginning in the 2001 model year. All new passenger cars and light-duty trucks in the model year 2001 and subsequent model years would have to meet the California low emission vehicle standards.

Proposed § 126.412(d) provides that new motor vehicles subject to the emission standards for the Clean Vehicles Program must possess a valid emissions control label which meets the requirements of Title 13 CCR § 1965.

Proposed § 126.413 (relating to exemptions) provides an exemption from the Clean Vehicles Program for the following types of new motor vehicles: emergency vehicles and light-duty vehicles transferred by a dealer to another dealer, transferred for use exclusively off-highway or transferred for registration out of State. The proposal also provides an exemption for vehicles granted a National security or testing exemption under section 203(b)(1) of the CAA and motor vehicles defined as military tactical vehicles or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703.

The proposal includes exemptions for light-duty vehicles held for daily lease or rental to the general public as well as light-duty vehicles engaged in interstate commerce which are principally operated outside this Commonwealth.

An exemption from the clean vehicle program requirements is provided for light-duty vehicles acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth; provided that such replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

The proposed rule also provides exemptions for light-duty vehicles transferred by inheritance or court decree and light-duty vehicles transferred after the date on which this subchapter becomes applicable if the vehicles were registered in this Commonwealth before the effective date of the Clean Vehicles Program.

The proposal exempts light-duty vehicles having a certificate of conformity issued under the Federal CAA

and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth. Upon registration of the vehicle in this Commonwealth, the registrant must provide satisfactory evidence to the Department of Transportation concerning the previous out-of-State residence and motor vehicle registration.

In order to obtain the exemptions authorized under § 126.413, the person seeking registration must provide satisfactory evidence that the exemption is applicable, as determined by the Department of Transportation.

Proposed § 126.421 (relating to new motor vehicle certification testing) provides that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Clean Vehicles Program requirements must be certified by auto manufacturers to meet the requirements of Title 13 CCR § 1960.1 as determined by testing in accordance with Title 13 CCR Chapter 2, §§ 2101—2110, 2150 and 2151, which are incorporated by reference in this section. New Vehicle Compliance Testing determinations and findings made by CARB shall apply to testing conducted under this section.

Proposed § 126.422 (relating to new motor vehicle compliance testing) requires that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR § 1960.1, as determined by New Vehicle Compliance Testing, conducted under Title 13 CCR §§ 2101—2110, 2150 and 2151, incorporated by reference.

Proposed § 126.423 (relating to assembly line testing) provides that each manufacturer of new motor vehicles subject to the requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct Inspection Testing and Quality Audit Testing under Title 13 CCR §§ 2061, 2106 and 2107, incorporated by reference. Inspection Testing and Quality Audit Testing determinations and findings made by CARB shall apply to assembly line testing conducted under this section.

Subsection (c) provides that if a motor vehicle manufacturing facility which manufactures vehicles certified by CARB, for sale in this Commonwealth, is not subject to the Inspection Testing and Quality Audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing under Title 13 CCR §§ 2061, 2106, 2107 and 2150, incorporated by reference. An auto manufacturer may, upon written request and demonstration of need, substitute functional testing. With the written consent of the Department, the testing of a statistically significant sample conducted under the procedures incorporated in Title 13 CCR § 2061 can be substituted for the 100% testing rate in Title 13 CCR § 2061.

Proposed § 126.424 (relating to in-use motor vehicle enforcement testing) allows the Department to conduct in-use vehicle enforcement testing under the protocol and testing procedures in Title 13 CCR §§ 2136-2140, incorporated by reference, after consulting with CARB if motor vehicles subject to the Clean Vehicles Program requirements fail to meet the motor vehicle emission requirements of Title 13 CCR § 1960.1. In-use vehicle enforcement testing determinations and findings made by CARB shall apply to testing conducted under this section.

Proposed § 126.425 (relating to in-use surveillance testing) provides that for purposes of testing and monitoring the overall effectiveness of Pennsylvania's Clean

Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB. The in-use surveillance testing determinations and findings made by CARB shall be applicable.

Proposed § 126.431 (relating to warranty and recall) specifies that a manufacturer of new motor vehicles, subject to the requirements of this subchapter, shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with all requirements of Title 13 CCR §§ 2035—2038, 2040 and 2041, as amended and incorporated by reference. Failure of Emission-Related Components reports as defined in Title 13 CCR § 2144 for vehicles subject to this subchapter must be submitted to the Department. The Emission Related Components reports must comply with the procedures in Title 13 CCR §§ 2141—2149 and are incorporated by reference.

Subsection (c) provides that any voluntary or influenced emission-related recall campaign initiated by any automobile manufacturer under Title 13, CCR §§ 2113—2121 shall extend to all new motor vehicles subject to this subchapter, sold, leased, offered for sale or lease or registered in this Commonwealth.

Proposed § 126.432 (relating to reporting requirements) specifies that for purposes of determining compliance with the requirements of the clean vehicle program, commencing with the 2001 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year, in this Commonwealth.

Subsection (b) requires each motor vehicle manufacturer to annually submit to the Department, no later than March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each engine family for this Commonwealth for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG Exhaust Emission Average, must be prepared according to the procedures in Title 13, CCR § 1960.1(g)(2).

Subsection (c) specifies that the fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth and California, respectively, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth and California in relation to total fleet sales in the respective states.

Proposed § 126.441 (relating to responsibilities of motor vehicle dealers) provides that dealers may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the standards and requirements contained in Title 13, CCR § 2151 and incorporates those provisions by reference.

#### F. *Benefits and Costs*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

##### *Benefits*

The new motor vehicle emissions control program will contribute to the attainment and maintenance of the ozone health standard in this Commonwealth due to emission reductions from the operation of lower-emitting

passenger cars and light-duty trucks. Modeling data from the Philadelphia area indicate that daily emissions of NOx and VOCs will be reduced by 13.5 and 11.5 tons, respectively, in 2005.

Implementation of the NLEV program as an alternative compliance strategy will result in significant environmental and health benefits. The NLEV program will not only reduce ozone pollution but will also reduce emissions of particulate matter, nonmethane organic gases (NMOG), benzene and formaldehyde. The EPA estimates that in the year 2005, the NLEV program will reduce benzene emissions by 7 tons per day and formaldehyde by 4 tons per day Nationwide. If implemented, the NLEV program should achieve NOx emission reductions of 400 tons/day in 2005 and 1,250 tons/day in 2015 on a Nationwide basis. Implementation of the National program would also result in NMOG emission reductions of 279 tons/day in 2005 and 778 tons/day in 2015.

#### *Compliance Costs*

Implementation of the NLEV program should result in a reduction in compliance costs for automakers. Manufacturers currently design, test and produce new motor vehicles meeting Federal or California emission standards. Implementation of the NLEV program would streamline the new car certification requirements thereby reducing testing costs. The proposed amendments should reduce compliance costs for auto manufacturers by eliminating duplicative reporting and recordkeeping requirements.

Consumers in this Commonwealth could be required to pay an additional \$76 to \$120 per vehicle for the cost of the required control technology. If the NLEV program is implemented as an alternative compliance strategy, the additional cost associated with the purchase of a vehicle subject to the NLEV program would be approximately \$76 which would be less than 0.5% of the price of a new car. The EPA believes that the incremental cost for LEVs available Nationwide will be less than \$76 due to factors such as continued advancement in automotive pollution control technology and the demonstrated rapid price decreases in successive model years for technology newly introduced by the auto industry. The incremental estimated costs per car for LEVs in California is approximately \$120. However, the EPA believes that LEV price estimates provided by CARB are usually higher than actual price differences.

#### *Compliance Assistance Plan*

Compliance assistance will be provided to affected parties, primarily automobile dealers, by distributing pamphlets and conducting public meetings and workshops to explain the proposed regulatory requirements. The Department will involve appropriate State trade organizations in the distribution of information to their membership. Information concerning the program will also be provided to affected consumers.

#### *Paperwork Requirements*

Automobile manufacturers will be required to submit paperwork demonstrating compliance with the emission standards and other requirements of Pennsylvania's Clean Vehicles Program. Motor vehicle dealers, leasing and rental agencies and registrants of new motor vehicles must demonstrate to the Department of Transportation's Bureau of Motor Vehicles that new vehicles subject to the proposed amendments meet the emission standards.

If the NLEV program comes into effect, auto manufacturers would under certain circumstances have to stream-

line reporting requirements. Reporting of separate NMOG fleet averages for each trading region may not be required. In addition, the manufacturers could use production data to demonstrate compliance instead of providing sales data. The EPA has estimated that the testing, recordkeeping and reporting requirements should be approximately 241 hours annually for each manufacturer. However, the time allocated to paperwork may vary depending on factors such as the number of engine families certified, production changes or emission defects, and the like.

#### *G. Sunset Review*

The proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

#### *H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the Proposed Rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

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

#### *I. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by February 12, 1998. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by February 12, 1998. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by February 12, 1998.

#### *J. Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held at 1 p.m. on the following dates and locations:

January 5, 1998, Department of Environmental Protection, 1st Floor Meeting Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

January 7, 1998, Department of Environmental Protection, Southeast Regional Office, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA

January 13, 1998, Department of Environmental Protection, Southwest Regional Office, 500 Waterfront Drive, Pittsburgh, PA

Persons wishing to present testimony at a hearing are requested to contact Kate Coleman at the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation in order to participate should contact Kate Coleman at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Chairperson

(Editor's Note: Proposals to amend § 121.1 remain outstanding at 27 Pa.B. 1822, 4325 and 4340 (April 12, 1997 and August 23, 1997).

Fiscal Note: 7-330. (1) General Fund, Motor License Fund, Game Fund, Fish Fund, Boat Fund and Purchasing Fund;

Table with 3 columns: Description, NLEV Program, PCV Program. Rows include implementing year 1998-99, succeeding years 1999-00 through 2003-04, and fiscal years 1997-98, 1996-97, 1995-96.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

ATV—Advanced Technology Vehicle—A light-duty vehicle or light-duty truck as defined in 40 CFR 86.1702-97 (relating to definitions).

\* \* \* \* \*

CARB—California Air Resources Board—The board established and empowered to regulate sources of air pollution in California, including motor vehicles, under California Health & Safety Code Sections 39500 et seq.

CARB Executive Order—A document issued by CARB certifying that a specified engine family or model year vehicle has met applicable Title 13 CCR requirements for certification and sale in California.

CCR—California Code of Regulations.

Clean Vehicles Program—A low emissions vehicle program established under section 177 of the CAA (42 U.S.C.A. § 7507) which implements the low emission standards for new motor vehicles and motor vehicle engines adopted by California under a waiver obtained from the Administrator of the EPA under section 209(b) of the CAA (42 U.S.C.A. § 7543(b)).

\* \* \* \* \*

Dealer—A person who is engaged in the sale or distribution of new motor vehicles or new motor vehicles to the ultimate purchaser as defined in section 216(4) of the CAA (42 U.S.C.A. § 7550).

Debit—Fleet average NMOG debits as calculated from the amount that the manufacturer's applicable fleet average NMOG value is above the applicable fleet average NMOG standard, times the applicable production for a given model year.

\* \* \* \* \*

Emergency vehicle—A fire, police or sheriff department vehicle, ambulance, blood-delivery vehicle, hazardous material response vehicle, armed forces emergency vehicle, one vehicle operated by a coroner or chief deputy coroner or deputy chief county medical examiner used for answering emergency calls. The term includes motor vehicles designated as emergency vehicles by the Pennsylvania State Police under 75 Pa.C.S. § 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), or a privately owned vehicle specified in 75 Pa.C.S. § 102 (relating to definitions) which is used in answering an emergency call by any of the following:

- (i) A police chief and assistant chief.
(ii) A fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief.
(iii) A fire police captain and fire police lieutenant.
(iv) An ambulance corps commander and assistant commander.
(v) A river rescue commander and assistant commander.
(vi) A county emergency management coordinator.
(vii) A fire marshal.
(viii) A rescue service chief and assistant chief.

Emission standard—Specified limitations on the discharge of air contaminants into the atmosphere.

\* \* \* \* \*

Fleet average—For the purposes of motor vehicles subject to the Department's Clean Vehicle Program



requirements, a motor vehicle manufacturer's average vehicle emissions of all NMOG emissions from vehicles which are produced and delivered for sale in this Commonwealth in any model year.

\* \* \* \* \*

**GVWR—Gross Vehicle Weight Rating**—The total motor vehicle weight, including load, as designated by the manufacturer of the vehicle.

\* \* \* \* \*

**LDT—Light duty truck**—A motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation or major components of the vehicle, including, but not limited to chassis, frames, doors and engines. For purposes of Chapter 126, Subchapter D (relating to new motor vehicle emissions control program requirements, a light-duty truck is a motor vehicle, rated at 6,000 pounds gross vehicle weight or less which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

**LDV—Light duty vehicles**—A passenger car or light-duty truck.

\* \* \* \* \*

**Model year**—The manufacturer's annual production period (as determined under 40 CFR 85.2304 (relating to definition of production period) which includes January 1 of the calendar year. If the manufacturer has no annual production period, the term means the calendar year.

\* \* \* \* \*

**Motor vehicle**—A self-propelled vehicle designed for transporting persons or property on a street or highway.

**Motor vehicle manufacturer**—A person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines or importing these vehicles or engines for resale. The term includes a person who acts for and is under the control of any manufacturer in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines. The term does not include a dealer with respect to new motor vehicles or new motor vehicle engines received by the dealer in commerce.

\* \* \* \* \*

**NLEV—National Low Emission Vehicle.**

**NLEV Program**—A voluntary low emission vehicle program specified in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) for light-duty vehicles and light-duty trucks.

**NMOG—Non-methane organic gases.**

\* \* \* \* \*

**New motor vehicle or new light-duty vehicle**—A motor vehicle for which the equitable or legal title has never been transferred to the ultimate purchaser. For purposes of the Pennsylvania Clean Vehicles Program, the equitable or legal title to a

motor vehicle with an odometer reading of 7,500 miles or more shall be considered to be transferred to the ultimate purchaser. If the equitable or legal title to a motor vehicle with an odometer reading is less than 7,500 miles, the vehicle will not be considered to be transferred to the ultimate purchaser.

\* \* \* \* \*

**Offset vehicle**—A light-duty vehicle which has been certified by California as set forth in CCR, Title 13, Chapter 1, Section 1960.

\* \* \* \* \*

**Passenger car**—A motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.

\* \* \* \* \*

**Ultimate purchaser**—With respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

\* \* \* \* \*

**ZEV—Zero-Emission Vehicle**—A light-duty vehicle which is certified to produce zero emissions of any criteria pollutants under any possible operational modes and conditions. Incorporation of a fuel fired heater does not preclude a vehicle from being certified as a ZEV so long as the fuel fired heater cannot be operated at ambient temperatures above 40° F and the heater is demonstrated to have zero evaporative emissions under any operational modes and conditions.

**CHAPTER 126. MOBILE SOURCES**

(Editor's Note: Subchapter D is new and is printed in regular type to enhance readability.)

**Subchapter D. NEW MOTOR VEHICLE EMISSIONS CONTROL PROGRAM**

**GENERAL PROVISIONS**

- Sec. 126.401. Purpose
- 126.402. NLEV scope and applicability

**PENNSYLVANIA CLEAN VEHICLES PROGRAM**

- 126.411. General requirements
- 126.412. Emission requirements
- 126.413. Exemptions

**APPLICABLE NEW MOTOR VEHICLE TESTING**

- 126.421. New motor vehicle certification testing
- 126.422. New motor vehicle compliance testing
- 126.423. Assembly line testing
- 126.424. In-use motor vehicle enforcement testing
- 126.425. In-use surveillance testing

**MOTOR VEHICLE MANUFACTURERS OBLIGATIONS**

- 126.431. Warranty and recall
- 126.432. Reporting requirements

**MOTOR VEHICLE DEALER RESPONSIBILITIES**

- 126.441. Responsibilities of motor vehicle dealers

**GENERAL PROVISIONS**

**§ 126.401. Purpose.**

(a) This subchapter establishes a clean vehicles program under section 177 of the CAA (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone and other air pollutants from new motor vehicles.

(b) This subchapter allows motor vehicle manufacturers to comply with the voluntary NLEV program described in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), as a compliance alternative to the Pennsylvania Clean Vehicles Program requirements described in §§ 126.411—126.441.

(c) This subchapter recognizes the NLEV program as an acceptable alternative to the clean vehicles program established under section 177 of the CAA and creates the mechanism to meet the requirements of the state opt-in provisions of the NLEV program.

(d) The subchapter adopts and incorporates by reference certain provisions of the California Low Emission Vehicle Program.

(e) The subchapter also exempts certain new motor vehicles from the Pennsylvania Clean Vehicles Program.

**§ 126.402. NLEV scope and applicability.**

(a) Motor vehicle manufacturers may comply with the NLEV program requirements in 40 CFR Part 86 Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) as an alternative to complying with the Pennsylvania Clean Vehicles program requirements established in §§ 126.411—126.441. The calculation of the NLEV fleet average value shall exclude ATVs purchased by the Commonwealth.

(b) When a manufacturer chooses NLEV as an alternative to complying with the Pennsylvania Clean Vehicles Program, and if the NLEV program comes into effect, NLEV requirements apply as a compliance alternative for light-duty vehicles, light duty trucks rated at 6,000 pounds GVW or less, and medium duty trucks from 6,001 to 14,000 pounds GVW (if designed to operate on gasoline), until model year 2006 or the first model year for which a mandatory Federal exhaust emissions program for light-duty vehicles and light duty trucks is at least as stringent as the NLEV Program with respect to NMOG, NOx and CO emission standards determined by the Administrator of the EPA, whichever is earlier.

(c) For the purposes of this subchapter, the NLEV program has come into effect if EPA finds that the following conditions have been met and that finding is published in the *Federal Register*:

(1) Motor vehicle manufacturers listed in 40 CFR 86.1706-97(b) (relating to national LEV program in effect) have lawfully opted in to the NLEV program.

(2) No valid opt-out has become effective under 40 CFR 86.1705-97.

(d) If the NLEV program does not come into effect, the Pennsylvania Clean Vehicles Program applies to all new passenger cars, light-duty trucks and medium duty trucks (if designed to operate on gasoline) sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth for the 2001 model year and each model year thereafter.

(e) If NLEV is determined by rulemaking to no longer be in effect or an auto manufacturer exercises a valid opt-out from the NLEV program in accordance with 40 CFR 86.1705-97 (relating to general provisions; opt-in; opt-out), the manufacturer shall comply with the requirements in this subchapter. The transition from the NLEV program to the Pennsylvania Clean Vehicles Program will proceed in accordance with NLEV regulations promulgated under the CAA.

(f) This subchapter does not apply for any model year, motor vehicle, motor vehicle engine, or motor vehicle system for which EPA adopts Federal vehicle emission standards which are more stringent than the requirements of this subchapter.

**PENNSYLVANIA CLEAN VEHICLES PROGRAM**

**§ 126.411. General requirements.**

(a) If the NLEV program does not come into effect is no longer in effect, or an automobile manufacturer opts out of the NLEV program in accordance with the procedures in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), the provisions of the California Low Emission Vehicle Program, Title 13, CCR, Chapters 1 and 2, are adopted and incorporated herein by reference, and apply except for the following:

(1) The zero emissions vehicle sales mandate in Title 13 CCR Chapter 1, § 1960.1(g)(2) (footnote 9).

(2) The Emissions Control System Warranty Statement in Title 13 CCR Chapter 2, § 2039.

(b) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth for the 2001 model year and subsequent model years.

(c) This subchapter will be effective at least 2 model years before commencement of the Pennsylvania Clean Vehicles Program.

**§ 126.412. Emission requirements.**

(a) Effective model year 2001, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicle Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Effective model year 2001, compliance with the fleetwide average in Title 13 CCR Chapter 1, § 1960.1(g)(2), shall be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles delivered for sale in this Commonwealth. This requirement excludes the percentage requirement for zero emission vehicles included in footnote 9 of Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Credits and debits for calculating the fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(d) New motor vehicles subject to the emission standards of this subchapter shall possess a valid emissions control label which meets the requirements of Title 13 CCR Chapter 1, § 1965, incorporated herein by reference.

**§ 126.413. Exemptions.**

(a) The following new motor vehicles are exempt from the Pennsylvania Clean Vehicles Program requirements of this subchapter:

(1) Emergency vehicles.

(2) A light-duty vehicle transferred by a dealer to another dealer.

(3) A light-duty vehicle transferred for use exclusively off-highway.

(4) A light-duty vehicle transferred for registration out of state.

(5) A light-duty vehicle granted a National security or testing exemption under section 203(b)(1) of the CAA (42 U.S.C.A. § 7522(b)(1)).

(6) A light-duty vehicle held for daily lease or rental to the general public which is principally operated outside of this Commonwealth.

(7) A light-duty vehicle engaged in interstate commerce which is principally operated outside of this Commonwealth.

(8) A light-duty vehicle acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth if the replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(9) A light-duty vehicle transferred by inheritance or court decree.

(10) A light-duty vehicle defined as a military tactical vehicle or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to application of section 216(2)).

(11) A light-duty vehicle sold after \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) if the vehicle was registered in this Commonwealth before \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal).

(12) A light-duty vehicle having a certificate of conformity issued under the CAA and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth and upon registration of the vehicle provides satisfactory evidence to the Department of Transportation of the previous residence and registration.

(b) To register any exempted vehicle, the person seeking registration shall provide satisfactory evidence, as determined by the Department of Transportation, demonstrating that the exemption is applicable.

#### **APPLICABLE MOTOR VEHICLE TESTING**

##### **§ 126.421. New motor vehicle certification testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1 as determined by testing in accordance with Title 13 CCR Chapter 2, §§ 2101-2110, 2150 and 2151, incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable.

##### **§ 126.422. New motor vehicle compliance testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to Pennsylvania Clean Vehicles Program requirements of this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1, as

determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR Chapter 2, §§ 2101-2110, 2150 and 2151, and incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable.

##### **§ 126.423. Assembly line testing.**

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106, and 2107, incorporated herein by reference.

(b) For purposes of complying with subsection (a), inspection testing and quality audit testing determinations and findings made by CARB are applicable.

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106, 2107 and 2150, incorporated herein by reference. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR Chapter 2, § 2061 of a statistically significant sample may substitute for the 100% testing rate in Title 13 CCR Chapter 2, § 2061, with the written consent of the Department.

##### **§ 126.424. In-use motor vehicle enforcement testing.**

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR Chapter 1, § 1960.1, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR Chapter 2, §§ 2136-2140, incorporated herein by reference.

(b) For purposes of compliance with subsection (a), in-use vehicle enforcement testing determinations and findings made by CARB are applicable.

(c) The results of testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

##### **§ 126.425. In-use surveillance testing.**

(a) For purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB.

(b) For purposes of program planning, in-use surveillance testing determinations and findings made by CARB are applicable.

(c) The results of in-use surveillance testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

**VEHICLE MANUFACTURERS' OBLIGATIONS****§ 126.431. Warranty and recall.**

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or lease or registered in this Commonwealth, shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with the requirements of Title 13 CCR Chapter 2, §§ 2035-2038, 2040, and 2041, incorporated herein by reference.

(b) Each motor vehicle manufacturer shall submit to the Department failure of emission-related components reports, as defined at Title 13 CCR Chapter 2, § 2144, for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 Chapter 2, CCR §§ 2141-2149, incorporated herein by reference.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any automobile manufacturer under Title 13 CCR Chapter 2, §§ 2113-2121 shall extend to all new motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

**§ 126.432. Reporting requirements.**

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the 2001 model year, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed model year, a report of the fleet average

NMOG emissions of its total deliveries for sale of LDVs in each engine family for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth and California, respectively, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth and California in relation to total fleet sales in the respective states.

**MOTOR VEHICLE DEALER RESPONSIBILITIES****§ 126.441. Responsibilities of motor vehicle dealers.**

(a) A dealer may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the following standards and requirements contained in Title 13 CCR Chapter 2, § 2151 and incorporated herein by reference:

(1) Ignition timing is set to manufacturer's specification with an allowable tolerance of  $\pm 3$  degrees.

(2) Idle speed is set to manufacturer's specification with an allowable tolerance of  $\pm 100$  revolutions per minute.

(3) Required exhaust and evaporative emission controls including exhaust gas recirculation (EGR) valves, are operating properly.

(4) Vacuum hoses and electrical wiring for emission controls are correctly routed.

(5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

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