

PENNSYLVANIA BULLETIN

Volume 28
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Number 35
Pages 4233—4498

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Environmental Quality Board
Municipal Waste

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Environmental Quality Board's
Water Quality

Part I

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Central Pennsylvania
Department of Banking
Department of Education
Department of Environmental Protection
Department of General Services
Department of Labor and Industry
Department of Revenue
Department of Transportation
Environmental Quality Board
Fish and Boat Commission
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority

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

No. 285, August 1998

PENNSYLVANIA



BULLETIN

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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

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Water Quality

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THE COURTS

Title 255—LOCAL COURT RULES

Schuylkill County

Amendments to Orphans' Court Rules

Order of Court

And Now, this 13th day of August, 1998, at 9:10 a.m., the Court hereby amends Schuylkill County Orphans' Court Rules 6.3A; 6.4A; 6.6A; 6.9A; 6.9B; 6.9C; 6.10A; 6.10B; 6.10C; and 6.10D. The rules are amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District) and shall be effective for all accounts filed for audit on or after January 1, 1999.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

1. File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, together with a diskette reflecting the text in the hard copy version.
3. File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.
4. Forward one (1) copy to the Schuylkill County Bar Association for publication in the *Schuylkill Legal Record*.
5. Keep continuously available for public inspection copies of this Order and Rules.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 6.3A. Notice. Return. Failure to Give. Penalty.

(a) An accountant shall serve written notice of the filing of an account upon each claimant and party in interest by first-class mail, at least thirty (30) days prior to the date for submission of accounts to the Court for adjudication and confirmation.

(1) A copy of the Account and Statement of Proposed Distribution shall be attached to any notice to a party in interest. For the purposes of this rule, "Party in Interest" is defined as follows:

- (i) when decedent dies intestate, as all intestate heirs;
- (ii) when decedent dies testate, as all residuary legatees.

(2) Every notice to a claimant shall contain the date for submission to the Court and shall advise whether the claim, interest, or obligation of the person notified is admitted or denied; whether it will be paid in full or in part, and, if not paid in full what amount if any will be paid. The notice shall advise that an objection to such unpaid claim must be filed with the Clerk prior to the date for submission to the Court and that the Account

and Statement of Proposed Distribution are available for examination at the office of the Register of Wills.

(b) On or before the date for submission to the Court of the account for adjudication and confirmation, the accountant, or his counsel, shall file with the Court a return of notice and certification as prescribed in Rule 6.9A(b) hereof.

(c) Failure by the accountant or his counsel to give all required notices and to file returns thereof in accordance with this rule shall result in the Court denying confirmation of the account until all of the provisions of all of the aforementioned rules have been satisfied.

(d) The form of notice shall be in substantially the following form:

COURT OF COMMON PLEAS OF SCHUYLKILL
COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

IN THE MATTER OF _____ ESTATE
FIRST ACCOUNT OF _____ (EXECUTOR)
UNDER THE WILL OF _____

NUMBER _____

NOTICE

Notice is hereby given that the (_____) of the above-captioned Estate has filed (_____) Account and Statement of Proposed Distribution with the Clerk of the Orphans' Court of Schuylkill County, Pennsylvania. The account will be transmitted by the Clerk to the Court for adjudication and confirmation on Wednesday, _____, _____ and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

If you have any objection to any transaction or matter involving the Estate, you must file written objections with the Clerk of the Orphans' Court prior to Wednesday, _____, _____.

If you fail to present objections, the Court may assume you have no objection to the Account and Statement of Proposed Distribution. You are not required to take any action if you have no objections.

A copy of the Account and Statement of Proposed Distribution is attached hereto; and if not attached, it is available for your examination at the Register of Wills office, Schuylkill County Courthouse.

Rule 6.4A. Accounts. Time for Filing. Confirmation.

(a) Accounts to appear on a particular confirmation list must be filed not later than 4 P.M. of the third Wednesday immediately preceding the Wednesday on which it is desired the account shall be presented to the Court for adjudication and confirmation.

(b) All accounts on the advertised confirmation list will be transmitted to the Court for adjudication and confirmation on the day set forth on the confirmation list; but, in cases requiring the taking of considerable testimony or the hearing of argument on legal questions or in which objections have been filed, a special day for conference or hearing may be fixed.

Rule 6.6A. Advertisements of Accounts. Form of Advertisements.

(a)(1) *Advertisement of Account.* The Clerk shall give notice of all accounts filed and of the date of submission

to the Court for adjudication and confirmation. The notice shall be published once a week during two (2) consecutive weeks immediately before the day on which the Accounts, with accompanying Statement of Proposed Distribution, shall be presented for adjudication and confirmation in the legal publication designated by these rules and in one daily newspaper of general circulation published within Schuylkill County, and the Clerk shall also post copies of the confirmation list in his office.

(2) *Form of Advertisement.* The form of advertisement of Accounts and Statements of Proposed Distribution that have been filed for adjudication and confirmation and adjudication by the Court shall be as follows:

NOTICE OF CONFIRMATION OF FIDUCIARIES'
ACCOUNTS

To all claimants, beneficiaries, heirs, next-of-kin, and all other parties in interest:

The following accounts have been filed and may be examined in the Office of the Register of Wills or Clerk of the Court. If you desire to object, you must file that objection in writing with the Clerk prior to Wednesday, _____, _____. The account will be transmitted by the Clerk to the Court for adjudication and confirmation on Wednesday, _____, _____ and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

Estate	Fiduciary	Attorney
x	x	x

Clerk of the Orphans' Court

Rule 6.9A. Accounts. Statements of Proposed Distribution. Submission Certification.

(a)(1) A Statement of Proposed Distribution, signed by each accountant and verified by at least one of them, shall be filed with each Account at the same time the Account is filed, except in Accounts of Guardians of the Estates of Minors and Settlement of Small Estates (See Sch. Co. O.C. Rule 6.9C).

(2) Except by special leave of Court, printed forms of the Statement of Proposed Distribution provided by the Clerk or a substantially similar form shall be used.

(b) Prior to the date for submission of accounts to the Court for adjudication and confirmation, a Certificate shall be filed by counsel for the accountant containing:

- (1) A statement of additional items of debit and credit not appearing in the account;
- (2) A statement identifying any unresolved legal or factual issues with copies of any additional documents which the accountant believes necessary or relevant for the court's consideration; and
- (3) A return of service of notice to all claimants and parties in interest in accordance with Rule 6.3A.

Rule 6.9B. Accounts. Papers to be Submitted.

(a) *All Accounts.* Counsel for all fiduciaries shall submit:

- (1) Orphans' Court Account Checklist executed by counsel of record;
- (2) Copies of all agreements with respect to settlements and compromises;
- (3) Accurate description of all real property to be awarded in kind described by metes and bounds in the

manner appearing in the last deed of record, together with recital of title into the decedent.

(b) *Accounts of Personal Representatives.* Counsel for personal representatives shall also attach:

- (1) the original proofs of advertisement of grant of letters;
- (2) a copy of letters, inventory, and inheritance tax appraisalment;
- (3) a copy of the Will and codicils;
- (4) the official receipt for any inheritance tax paid;
- (5) the official receipt for any federal estate tax paid; and
- (6) a Statement of Proposed Distribution.

(c) *Accounts of Trustees.* Counsel for Trustees shall also submit:

- (1) a copy of the letters, and of the will and codicils, if any, creating the testamentary trust, or a copy of the trust instrument and any amendments thereto, creating the inter vivos trust;
- (2) a waiver of an income accounting executed by all of the income beneficiaries, if the account does not contain a complete income accounting;
- (3) the official receipt for any inheritance tax paid during the period of the accounting;
- (4) the official receipt for any federal estate tax paid during the period of the accounting; and
- (5) a Statement of Proposed Distribution.

(d) *Accounts of Guardians of the Estates of Minors.* Counsel for a Guardian of the estate of a minor shall also submit:

- (1) a copy of the appointment of the guardian or of the Will or other instrument by which the guardian was appointed;
- (2) where the former minor has attained the age of eighteen (18) years, his written stipulation setting forth that he attained the age of eighteen (18) years on a certain designated date; that he has examined the account and has found it correct; and that he has received the balance or balances shown in the account and requests that the guardian be discharged;
- (3) where the former minor has attained the age of eighteen (18) years but has not executed the stipulation referred to in paragraph (d)(2) of this Rule, then in place thereof a Statement of Proposed Distribution shall be filed;
- (4) where the minor is deceased, or has been adjudged an incapacitated person under the P.E.F. Code, or is an absentee or presumed decedent, or the guardian has resigned or has been removed, a Statement of Proposed Distribution shall be filed.

(e) *Accounts of Guardians of Estates of Incapacitated Persons.* Counsel for a Guardian of the Estate of an Incapacitated Person shall also submit:

- (1) a copy of the appointment of the guardian;
- (2) a copy of the original inventory filed; and
- (3) a Statement of Proposed Distribution.

Rule 6.9C. Submission to the Court.

The Clerk on the first Wednesday of each month shall transmit to the Court all accounts which have been filed and duly advertised for submission to the Court on that

date. The Clerk shall also on that date deliver to the Court a list of all accounts to which any objections have been filed. The Court shall audit those accounts and may then confirm the account finally, order a hearing, or enter any adjudication, decree, order or award directing distribution as law and justice may require.

Rule 6.10A. Objections. Form and Content.

(a) Objections to an account, inventory, and statement of proposed distribution shall be in writing; shall be numbered consecutively; shall be signed by the objector or his attorney; and where they contain allegations of fact, shall be properly verified in the same manner as a petition.

(b) Each objection shall be specific as to description and amount, shall raise but one issue of law or fact, and shall set forth briefly the reason or reasons in support thereof.

Rule 6.10B. Objections. Time for Filing.

(a) Written objections to an account, inventory, and statement of proposed distribution may be filed as of course with the Clerk at any time prior to the date for submission of accounts to the Court for adjudication and confirmation.

(b) No objections shall be made or filed except as provided in (a) hereof unless leave of Court is first obtained.

Rule 6.10C. Objections. Service. Return.

A copy of objections to an account, inventory, or statement of proposed distribution shall be served upon the accountant and all other parties in interest or their attorney of record, immediately after the objections have been filed with the Clerk. Proof of such service shall be filed forthwith with the Clerk. Any unreasonable delay in serving objections shall constitute grounds for dismissal of the same by the Court.

Rule 6.10D. Objections. Disposition.

When objections to an account, inventory, or statement of proposed distribution have been filed and presented to the Court by the Clerk, the adjudication and confirmation of the account shall be continued to a day fixed by the Court for disposition of the objections and the adjudication and confirmation of the account.

[Pa.B. Doc. No. 98-1392. Filed for public inspection August 28, 1998, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated July 16, 1998, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective August 15, 1998 for Compliance Group 3 due December 31, 1997.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Richard P. Abbott
Towson, MD

Hiram Edward Andrews III
Baltimore, MD

Dennis Andrew Augelli
Audubon, NJ

William L. Autman, Jr.
Wilmington, DE

Thomas Darren Baldwin
Short Hills, NJ

Robert David Balin
New York, NY

Rachel L. Bell
Wheaton, MD

Elizabeth Ann Berney
Great Neck, NY

Cornell William Brooks
Washington, DC

Kathleen Fought Brown
Polson, MT

Leila Carter Brown
Fairfax, VA

Wallace L. Butler
Herndon, VA

Thomas A. Clark, III
Mt. Laurel, NJ

Jeffrey Michael Daitz
River Edge, NJ

Brian P. Dart
Jacksonville, FL

Mary Elizabeth Davis
Ft. Lauderdale, FL

Phoebe Leslie Deak
Washington, DC

Robert John DeMers, Jr.
Paterson, NJ

Frank DiDomenico
Vineland, NJ

Joseph J. D'Onofrio, Jr.
Sparta, NJ

Keith E. Durst
New York, NY

Kenneth Dwyer
Moose, WY

Linda W. Eynon
Camden, NJ

Regina Grace Ferrara
Cherry Hill, NJ

Mary H. Finlayson
Waverly, NY

Lysle S. Follette III
Washington, DC

James Francis Forster
Palenville, NY

Maryann P. Gallagher
Woodland Hills, CA

Peter Albert Garcia
Mt. Ephraim, NJ

Michael V. Gilberti, Jr.
Red Bank, NJ

Jeffrey Bruce Gordon
Bethesda, MD

Daniel E. Green
Greenbelt, MD

Deidre Ann Grossman
New York, NY

Raymond Stephen Gurak
Pennington, NJ

Carla Nadine Hinton
Secaucus, NJ

Daniel Simon Hunczak
Morristown, NJ

David L. Isabel
Totowa, NJ

Seth D. Josephson
Hightstown, NJ

Lisa E. Kabel-Barmat
Cherry Hill, NJ

Jeffrey David Kotler
Metuchen, NJ

Stephanie A. Kubis
Red Bank, NJ

Dennis Robert Lansdowne
Lakewood, OH

Robert W. Lees
Moorestown, NJ

Martin Lessner
Wilmington, DE

Richard C. Lewis
Endicott, NY

Fernando E. Linhares
Edison, NJ

LaJuan Frederick Martin
Bowie, MD

Theodore J. Martineau
Oak Brook, IL

Julie Ann Marzano
Woodbury, NJ

James Gerard McGuire
San Pablo, CA

Philip T. Medico, Jr.
Coral Springs, FL

Saad Mered
Brooklyn, NY

Robert Telfair Murphy, Jr.
Arlington, VA

Crandall G. Nyweide
Clymer, NY

Joseph Peter Paranac, Jr.
Newark, NJ

Randee Barbara Pavalow
Toronto, Ontario Canada

Johnnie Leon Peace, Jr.
Washington, DC

Susan M. Penway
Chicago, IL

Jennifer Lynn Peper
Washington, DC

Susan M. Ponce
Houston, TX

Navron Ponds
Washington, DC

Peter T. Poulos
Willimantic, CT

Allan C. Preziosi
Lynn Haven, FL

Susan Joy Rabinowitz
Norwich, NY

Lisa A. Redaelli
Morristown, NJ

Verna Faye Robinson
Manassas, VA

Susan F. Shapiro
Princeton, NJ

John A. Shughart, Jr.
Orlando, FL

David Alan Storm
Gaithersburg, MD

William D. Sullivan
Wilmington, DE

James Augustus Tamburro
Marlton, NJ

Mary-Ann Thompson
Vincentown, NJ

Samuel H. Turner
Silver Spring, MD

Roseann B. Verrecchio
Brigantine, NJ

Carl W. von Bernuth
Dallas, TX

Robert Phillip Welsh
Charleston, WV

Donna Renee Williams
Bethesda, MD

Kyung-Don Yu
Hong Kong

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

[Pa.B. Doc. No. 98-1393. Filed for public inspection August 28, 1998, 9:00 a.m.]

NOTICES

AREA TRANSPORTATION AUTHORITY OF NORTH CENTRAL PENNSYLVANIA

Pennsylvania Statewide Transit Marketing Initiative Phase I; Request for Proposals

The Area Transportation Authority of North Central Pennsylvania (ATA) on behalf of the Pennsylvania Public Transportation Association (PPTA), in anticipation of a State grant, is soliciting proposals from qualified individuals/firms to successfully complete a Statewide public transportation marketing project.

The project and instructions are described in a document titled PA Statewide Transit Marketing Initiative Phase I.

The Request for Proposals (RFP) packet can be obtained by regular mail or electronically by requesting, in

writing, a copy of the RFP from the Director of Marketing, Area Transportation Authority, 523 Market Street, Johnsonburg, PA 15845. E-mail requests will be received by sending an e-mail request to ATA@ncentral.com. A return e-mail address, contact and organization's name must be provided with the request.

Requests for copies of the RFP packet should be made by September 21, 1998, to be able to comply with the proposals submission dates included in the RFP.

A mandatory Prebid Conference will be conducted on September 21, 1998, at 1 p.m. at the Offices of the PPTA located at the Pennsylvania East Gate Center, 1010 North 7th Street Suite 307, Harrisburg, PA 17102. We are an Affirmative Action Equal Opportunity M/F Employer.

JERRY CARIBARDI,
Marketing Director

[Pa.B. Doc. No. 98-1394. Filed for public inspection August 28, 1998, 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 August 18, 1998.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-13-98	Mentor Trust Company, Philadelphia, Pennsylvania, and First Union National Bank, Charlotte, North Carolina Surviving Institution— First Union National Bank, Charlotte, North Carolina	Philadelphia, PA	Effective

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-10-98	Laurel Trust Company Johnstown Cambria County	41 North Main Street Suite 100 Greensburg Westmoreland County	Opened
8-12-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market Country Square Shopping Center 1045 Bustleton Pike Feasterville Bucks County	Approved
8-12-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market 2850 Audubon Village Dr. Audubon Montgomery County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-13-98	Farmers First Bank Lititz Lancaster County	Weis Market Rte. 30 & Fruitville Pike Manheim Township Lancaster County	Filed
8-17-98	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	Five Points Plaza Shopping Center 640 Cowpath Road Montgomeryville Montgomery County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-13-98	Greater Delaware Valley Savings Bank Broomall Delaware County	<i>To:</i> 500 East Township Line Road Havertown Delaware County <i>From:</i> 2-6 Brookline Blvd. Havertown Delaware County	Approved
8-13-98	Pennview Savings Bank Souderton Montgomery County	<i>To:</i> 503 Harleysville Pike Franconia Township Montgomery County <i>From:</i> 500 Harleysville Pike Franconia Township Montgomery County	Filed
8-14-98	Laurel Bank Johnstown Cambria County	<i>To:</i> 200 Weldon Street Latrobe Westmoreland County <i>From:</i> 1001 Ligonier Street Latrobe Westmoreland County	Approved
8-14-98	Jefferson Bank Haverford Montgomery County	<i>To:</i> 1607 Walnut Street Philadelphia Philadelphia County <i>From:</i> 1430 Walnut Street Philadelphia Philadelphia County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-17-98	Jersey Shore State Bank Jersey Shore Lycoming County	<i>To:</i> Hogan Boulevard and Country Club Lane Mill Hall Clinton County <i>From:</i> Millbrook Plaza Hogan Boulevard Mill Hall Clinton County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
8-13-98	Mentor Trust Company Philadelphia Philadelphia County	To change the purpose of the trust company to that of a bank and trust company in order to facilitate the merger of the trust company with and into First Union National Bank, Charlotte, North Carolina	Approved and Effective

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-14-98	Diamond Credit Union, Pottstown, and Mrs. Smith's Pie Company Federal Credit Union, Pottstown Surviving Institution— Diamond Credit Union, Pottstown	Pottstown	Approved

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 98-1395. Filed for public inspection August 28, 1998, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of York College of Pennsylvania for Approval of Amendment of Articles of Incorporation; Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of York College of Pennsylvania for a Certificate of Authority approving the institution's request for amendment of its Articles of Incorporation that will delete the last paragraph of Article III and add a new paragraph as required by Act 55 of 1997, The Institutions of Purely Public Charity Act.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

All petitions to intervene, protest and request for hearing shall be filed with Dr. Warren D. Evans, Chartering/Governance/Accreditation Specialist, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-6576 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Suzanne B. Markowicz at (717) 787-6576 to discuss how the Department may best accommodate their needs.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 98-1396. Filed for public inspection August 28, 1998, 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 standard 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 Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Responses should include the

name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

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

PA 0051772. Sewage, **St. Gabriel's Hall**, P. O. Box 7280, Audubon, PA 19407.

This application is for renewal of an NPDES permit to discharge treated sewage from St. Gabriel's sewage treatment plant in Lower Providence Township, **Montgomery County**. This is an existing discharge to dry swale tributary to Schuylkill River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 40,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	5.0	10.0
(11-1 to 4-30)	15.0	30.0
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	
Total Residual Chlorine		
(issuance—year 2)	monitor/report	monitor/report
(year 3—expiration)	0.8	2.0

Other Conditions:

The EPA waiver is not in effect.

Conditions for future permit modification.

Effective disinfection.

PA 0027987. Sewage, **Sun Company, Inc.**, 10 Penn Center, 1801 Market Street, Philadelphia, PA 19103.

This application is for renewal of an NPDES permit to discharge treated sewage from the Peter J. Camiel Service Plaza in Wallace Township, **Chester County**. This is an existing discharge to an unnamed tributary to Marsh 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 50,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	20	40
Ammonia (as N)		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorus (as P)		
(4-1 to 10-31)	1.0	2.0

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine (years 1 and 2)	1.0	2.0
(years 3, 4 and 5)	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0055816. Sewage, **Walter W. Holmes**, 138 Kirk Road, Boothwyn, PA 19061.

This application is for renewal of an NPDES permit to discharge treated sewage from a single residence sewage treatment plant in Concord Township, **Delaware County**. This is an existing discharge to an unnamed tributary to Green 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 400 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N) (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

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

PA 0090140. Sewage, **Clymer Borough Municipal Authority**, Box 1, R. D. 1, Clymer, PA 15728.

This application is for renewal of an NPDES permit to discharge treated sewage from the Clymer Sewage Treatment Plant in Clymer Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick Creek, which are classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania-American Water Company—Indiana.

Outfall 001: existing discharge, design flow of 0.24 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31)	7	10.5		14
(11-1 to 4-30)		monitor and report		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	9,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	1			3.3
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions:

The EPA waiver is in effect.

PA 0090719. Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701.

This application is for renewal of an NPDES permit to discharge treated sewage from Robindale Heights Sewage Treatment Plant in East Wheatfield Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Conemaugh River, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Water Works located on the Conemaugh River.

Outfall 001: existing discharge, design flow of 0.019 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	5.5			11.0
(11-1 to 4-30)	16.5			33.0
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			
Total Residual Chlorine	0.9			2.1
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0206016. Sewage, **Clearview Mobile Home Park**, c/o Donald Gardner, 213 Pine Run Road, Amity, PA 15311.

This application is for renewal of an NPDES permit to discharge treated sewage from the Clearview Mobile Home Park Sewage Treatment Plant in South Franklin Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Chartiers Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the West View Municipal Authority on the Ohio River.

Outfall 001: new discharge, design flow of 0.0035 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	2.8			5.6
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			
Total Residual Chlorine				
(1st month—36th month)	monitor and report			
(37th month—expiration)	0.08			0.18
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0217956. Sewage, **Raymond Bell**, R. D. 2, Box 394, Saltsburg, PA 15681.

This application is for issuance of an NPDES permit to discharge treated sewage from the Hill's Mobile Home Park Sewage Treatment Plant in Bell Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Wolford Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority located on the Allegheny River.

Outfall 001: new discharge, design flow of 0.0046 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	15			30
(11-1 to 4-30)	monitor and report			
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	15,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA 0044288. Industrial waste. **General Authority of the City of Franklin, Barrett's Flats Water Filtration Plant**, 430 13th Street, Franklin, PA 16323.

This application is for renewal of an NPDES permit to discharge treated industrial waste to French Creek in the City of Franklin, **Venango County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Allegheny River and the Emlenton Water Company located at Emlenton, approximately 30 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.269 mgd, are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)		monitoring only	
TSS	30	60	75
Aluminum	4	8	10
Total Iron	2	4	5
Manganese	1	2	2.5
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager; Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 327-3670.

PA 0111970. Sewerage, SIC: 4952, **Bruce and Maretta Rosenbaum**, R. R. 1, Box 10A, Catawissa, PA 17820.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to Roaring Creek in Locust Township, **Columbia County**.

The receiving stream is classified for the following uses: trout stocking, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Municipal Authority located at Danville.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0026 mgd, are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25		50
TSS	30		60
Total Cl ₂ Residual	2.0		4.7
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

PA 0209694. Sewerage, SIC: 4952, **James V. and Karen E. Sherwood**, R. D. 2, Box 2, Canton, PA 17724.

This proposed action is for issuance of an NPDES permit for a new discharge of treated sewage wastewater to Alba Creek in Canton Township, **Bradford County**.

The receiving stream is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is assumed to be the PA/NY border.

The proposed effluent limits for Outfall 001 based on a design flow of 0.003 mgd, are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25		50
TSS	30		60
Total Cl ₂ Residual	2.0		4.7
Fecal Coliforms (5-1 to 9-30)		200 col/100 ml as a geometric mean	
(10-1 to 4-30)		2,000 col/100 ml as a geometric mean	
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PA 0087904. Industrial waste, SIC: 2086, **Roaring Spring Bottling Company, Inc.**, Apple Packers Road, Martinsburg, PA 16662.

This application is for issuance of an NPDES permit for a new discharge of untreated industrial waste to a storm sewer to Halter Creek, in Roaring Spring Borough, **Blair 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, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was United Water Company located near Harrisburg. The discharge is not expected to impact any potable water supply. The proposed effluent limits for Outfall 001 for a design flow of .015 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XXX	XXX	XXX
pH (s. u.)		from 6.0—9.0 inclusive	
CBOD ₅	XXX	monitor and report	XXX

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA 0087866. Industrial waste, SIC: 4422, **Texas Eastern Transmission Corporation (Entriiken)**, 5444 Westheimer Court, WT-716, Houston, TX 77056-5388.

This application is for issuance of an NPDES permit for an existing discharge of treated industrial waste to an unnamed tributary of the Great Trough Creek, in Todd Township, **Huntingdon County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Corps of Engineers located in Penn Township, Huntingdon County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.005 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
pH		6—9	
Total PCBs	0.00000014	0.00000028	0.00000035

The EPA waiver is in effect.

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval

of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to

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

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

Applications received for industrial waste and sewage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

WQM Permit No. 4698426. Sewerage. **William J. Irvin**, 6 Juniper Court East, Harleysville, PA 19438. This project is for the construction of a small flow treatment facility for a single residence located in Upper Salford Township, **Montgomery County**.

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

WQM Permit No. 6298407. Sewerage. **Glade Township**, 99 Cobham Park Road, Warren, PA 16365. This project is for a proposed sewer extension located along Front Street in Glade Township to convey sewage to the Warren State Hospital Wastewater Treatment Plant in Conewango Township, **Warren County**.

Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review any of these applications should contact Mary DiSanto at (717) 705-4732.

A. 3898403. Sewerage, submitted by **Northern Lebanon County Authority**, P. O. Box 434, Jonestown, PA 17035 in Union Township, **Lebanon County** to construct the Northport Industries Pumping Station was received in the Southcentral Region on August 6, 1998.

A. 6798409. Sewerage, submitted by **Kenneth L. Beaton**, 1042 Grahams Woods Road, Newville, PA 17241 in Upper Frankford Township, **Cumberland County** to construct a small flow sewage treatment plant to serve his residence was received in the Southcentral Region on August 10, 1998.

A. 3698407. Sewerage, submitted by **Black Rock Retreat Association**, 1345 Kirkwood Drive, Quarryville, PA 17566 in Colerain Township, **Lancaster County** to construct a denitrification package treatment system to serve a 28 room motel addition was received in the Southcentral Region on August 12, 1998.

INDIVIDUAL PERMITS

(PAS)

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Common-

wealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above the application.

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

NPDES Permit PAS10W069. Stormwater. **Pennsylvania Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676 has applied to discharge from a construction activity located in Carroll, Union and Nottingham Townships, **Washington County** to Mingo Park and Froman Run.

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

Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

NPDES Permit PAS10Q160. Stormwater. **Hale Trailer, Brake & Wheel, Gerald Palguta**, P. O. Box 3305, Allentown, PA 18106-0305, has applied to discharge stormwater from a construction activity located in Upper Macungie Township, **Lehigh County**, to Little Lehigh Creek.

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

NPDES Permit PAS102511. Stormwater. **Byzantine, Inc.**, 1198 Mulberry Street, Bridgewater, PA 15009, has applied to discharge stormwater from a construction activity located in St. Marys, **Elk County**, to UNT to S. Fork/W. Creek/UNT to Elk Creek.

NPDES Permit PAS102512. Stormwater. **Jones Township Supervisors**, P. O. Box 374, Wilcox, PA 15870, has applied to discharge stormwater from a construction activity located in Jones Township, **Elk County**, to Wilson Run, W. Branch Clarion River.

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

NPDES Permit PAS10-D107. Stormwater. **Crestmont Ltd. Partnership**, P. O. Box 778, Philadelphia, PA 19101, has applied to discharge stormwater from a construction activity located in Buckingham Township, **Bucks County**, to Tributary to Paunacussing Creek.

NPDES Permit PAS10-D108. Stormwater. **Richard D. Zeveta, Jr.**, 4030 Skyron Drive, Suite H, Doylestown, PA 18901, has applied to discharge stormwater from a construction activity located in Solebury Township, **Bucks County**, to Tributary to Aquetong Creek.

NPDES Permit PAS10-G335. Stormwater. **Allen Envelope**, 55 Country Club Drive, Suite 201, Downingtown, PA 19355, has applied to discharge stormwater from a construction activity located in Uwchlan Township, **Chester County**, to Shamona Creek.

NPDES Permit PAS10-G336. Stormwater. **Woodridge Construction Co. of PA, Inc.**, 1500 Green Hill Road, West Chester, PA 19380, has applied to discharge stormwater from a construction activity located in East Goshen Township, **Chester County**, to West Branch Ridley Creek.

SAFE DRINKING WATER

Applications issued for Construction Permit issued under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

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

A.M.A. The Department issued a construction permit application to **Mahoning Township Authority** (1101 Bloom Road, Danville, PA 17821; Mahoning Township, **Montour County**) for modification by replacing the existing booster pump at Well No. 8.

Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

A. 5098502. Public water supply. **Bloomfield Borough Water Authority**, New Bloomfield Borough, **Perry County**. *Responsible Official:* David A. Ulsh, Authority Chairperson, P. O. Box 293, New Bloomfield, PA 17068. *Type of Facility:* Application for use of well no. 2 as a source of supply. Well no. 2 will be pumped at a rate not to exceed 120 gallons per minute. Ancillary facilities will include chlorine disinfection, a well house and a transmission main. *Consulting Engineer:* Julia Schiefer, P.E., Herbert, Rowland and Grubic, Inc., 369 E. Park Drive, Harrisburg, PA 17111.

A. 5098503. Public water supply. **Robert Brunner, Carroll Township, Perry County**. *Responsible Official:* Brian L. Fischbach, Sr., Project Manager, Walter N. Heine Associates Inc.; 144 South Hanover Street, Carlisle, PA 17013. *Type of Facility:* Construction of a new Community Water System to serve condominium complex. The water system will consist of one well with hypochlorite disinfection, storage and a distribution system. *Consulting Engi-*

ner: Walter N. Heine, P.E., Walter N. Heine Associates, Inc., 144 South Hanover Street, Carlisle, PA 17013.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Prompt Interim Response

**Abandoned Garnier Furniture Finishing Site
Sunbury, Northumberland County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), has initiated a prompt interim response at the abandoned Garnier Furniture Finishing Facility. This response has been undertaken under section 505(b) of HSCA (35 P. S. § 6020.505(b)). The abandoned Garnier Furniture Finishing Facility is located at 303 North Second Street, in the city of Sunbury.

The site was used to refurbish and manufacture furniture from approximately August of 1994 until August of 1997, at which time the facility was abandoned. Approximately 514 containers/drums of flammable material, paints, adhesives and other unknown material was left at the site. The Department's emergency response team overpacked the leaking drums on August 8, 1997, and an order was issued August 21, 1997, to the site owner to perform a hazardous waste determination, and properly dispose of the material, or to transfer useable product to a person or facility that would use it for its originally intended purpose. The site owner did not comply with the order. The site is located in a mixed commercial and residential neighborhood and is adjacent to a community playground. The site posed a human health threat due to the potential for fire. There was also an environmental threat due to the possibility that the material could have leaked onto the ground surface.

The analysis of remedial alternatives for this particular site was straightforward; either conduct no action or initiate a drum removal action. For the reasons mentioned above, the Department determined that a drum removal action, performed by a qualified contractor with experience in similar cases, was the preferred remedy.

This notice is being provided under sections 505(b) and 506(b) of HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the John R. Kauffman Jr. Library located at 228 Arch Street in Sunbury, and is available for review Mondays from 1 p.m. until 9 p.m., Tuesdays from 10 a.m. until 6 p.m., Thursdays from 10 a.m. until 9 p.m. and Fridays from 10 a.m. until 6 p.m.

The administrative record will be open for comment from August 27th until November 27th, 1998. Persons may submit written comments into the record during this time only, by sending them to Kevin Kroclicik, PADEP, 208 West Third Street, Suite 101, Williamsport, PA 17701 or by delivering them to this office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing on September 23, 1998, at 7 p.m. The hearing will be conducted on the second floor of Sunbury Municipal Building located at 225 Market Street. Persons wishing to present comments must register with Kevin Kroclicik before September 10, 1998, by calling (717) 327-3728 or writing to 208 West Third Street, Suite 101, Williamsport,

PA 17701. If no person registers to present oral comments, by the date specified above, the hearing will not be held. Persons interested in finding out if anyone has registered, and if the hearing will be held, should contact Kevin Kroculick.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings, should contact Kevin Kroculick or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

**Settlement under the Hazardous Sites Cleanup Act
Heleva Landfill Superfund Site
North Whitehall Township, Lehigh County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), has entered into a proposed consent decree regarding the Department's costs incurred for response activities at the Heleva Landfill Superfund Site (Site). This proposed consent decree has been entered into with Lucent Technologies, Inc. for and in place of AT&T, Howmet Cercast (U.S.A.), Inc., Pennsylvania Power and Light, Robert J. McAuliffe, Inc. and Robert J. McAuliffe, defendants in *Pennsylvania Department of Environmental Protection v. Lucent Technologies, Inc. for and in place of AT&T, et al.*, 98-CV-3987 (E. D. Pa.) and has been lodged with the court during the 60-day comment period required by section 1113 of HSCA (35 P. S. § 6020.1113).

The Site consists of an approximately 25-acre landfill and adjacent land located on a 93-acre tract between Ironton and Ormrod in North Whitehall Township, Lehigh County. The EPA placed the Heleva Site on the National Priorities List in 1983 under section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. § 9605). The Commonwealth and the EPA entered into a Superfund State Contract in 1989 to address their respective obligations for activities undertaken by the EPA, including the construction of a landfill cap, to address the threat to human health and environment posed by hazardous substances present at the Site. The Department has incurred in excess of \$850,000 in response costs through payment of its 10% share for EPA-lead response actions, as well as through its role as support agency in overseeing response actions. The Department will continue to incur response costs through its role as support agency in overseeing additional response actions implemented by potentially responsible parties.

The proposed consent decree with defendants was lodged with the Federal District Court for the Eastern District of Pennsylvania on July 30, 1998. Under the terms of the consent decree, defendants will pay the Department \$750,000 for response costs incurred prior to July 3, 1996, and will upon notice from the Department, reimburse the Department for response costs incurred after that date on an annual basis.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). The Department will respond to any significant written comments and request that the Court take appropriate action regarding the proposed consent decree. The proposed consent decree containing the specific terms of the proposed settlement is available for public review and comment. The proposed consent decree can be examined from 8 a.m. to 4 p.m. at the Department's office at 2 Public Square, Wilkes-Barre, PA 18711-0790, by contacting Woodrow Cole at (717) 826-2511 or

through the PA AT&T Relay Service at (800) 654-5984 (TDD). A public comment period on the proposed consent decree will extend for 60 days from today's date. Persons may submit written comments regarding the proposed consent decree to the Department by October 28, 1998, by submitting them to Woodrow Cole at the above address.

**Prompt Interim Response Action under the
Hazardous Sites Cleanup Act
Twin Peaks HSCP Site
323-409 West County Line Road
Horsham Township, Montgomery County**

The Department of Environmental Protection (Department) under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1305) intends to implement a prompt interim response action at the Twin Peaks HSCP Site, in Horsham Township, Montgomery County. The site is the affected residences and businesses that have demonstrated tetrachloroethene and trichloroethene contamination of their drinking water well or have the potential for contamination of their well. The affected residences have been determined to be 409, 405, 331, 329, 327, 325 and 323 West County Line Road.

In deciding the appropriate response, the Department reviewed a number of alternatives for the remediation of the site. One option was to take no action at the site. This option was rejected because it did not satisfy the Department's policy of being protective of the health of the public and the environment. A second option was to provide whole-house filtration systems for treatment of the contaminated groundwater. This option was determined not to be cost efficient or protective of human health for addressing the long-term groundwater contamination.

To fully address the problems that are occurring at the site, the Department provided Horsham Township with a grant for the purposes of installing a waterline extension to the affected residences and businesses. This will include the installation of the waterline main, lateral extensions from the main to the affected properties and restoration of any areas affected by the waterline project.

The Administrative Record contains information related to the site and the Department's decision to perform this prompt interim response action. The Administrative Record is available for public inspection from 9 a.m. to 4 p.m., Monday through Friday, at the Department's Southeast Regional Office at Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-6192. An additional copy of the Administrative Record will also be available for public inspection at the Horsham Township Municipal Building, 1025 Horsham Road, between 8:30 a.m. to 4:30 p.m., Monday through Friday.

Written comments concerning the prompt interim response action and information in the Administrative Record will be accepted in person or by mail, if post-marked on or before November 27, 1998, to the attention of Matthew T. Miller, HSCP Project Officer at the Southeast Regional Office address.

Additionally, the public will have the opportunity to present oral comments at a public hearing scheduled for 7:30 p.m., Wednesday, October 28, 1998, at the Horsham Township Municipal Building, 1025 Horsham Road, Horsham. Persons wishing to present oral comments must register on or before October 15, 1998 by calling John Gerdemann at (610) 832-6228. Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to partici-

pate in the proceedings should contact Paul Rettinger at (610) 832-6300 to discuss how the Department may best accommodate their needs.

The Department is providing this notice under section 506(b) of HSCA. The date of publication of this notice in the *Pennsylvania Bulletin* initiates the minimum 90-day public comment period on the Administrative Record, as provided under HSCA. Questions concerning the site may be directed to Matthew T. Miller, Project Officer, at (610) 832-6192, or Paul Rettinger, Assistant Counsel, at (610) 832-6300.

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 (800) 654-5984.

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

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

The Korman Company, West Norriton Township and Norristown Borough, **Montgomery County**. Darryl D. Borrelli, Manko Gold & Katcher, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remedi-

ate the site to meet Statewide health standards. A final report was simultaneously submitted.

Dodge Steel Castings, City of Philadelphia, **Philadelphia County**, Jeffrey E. Sobel, American Realty Corp., 30800 Northwestern Highway, 2nd Floor, Farmington Hills, MI 48334, has submitted a Notice of Intent to Remediate site soil contaminated with lead and BTEX. The applicant proposes to remediate the site to meet Statewide health standards. A final report was simultaneously submitted.

Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.

Shenango Valley Industrial Development Corporation, Church Street, Wheatland, PA, location of Henry Evans Industrial Park site, **Mercer County**, City of Farrell, has submitted a Notice of Intent to Remediate Soil. The site has been found to be contaminated with lead and heavy metals. The applicant proposes to remediate the site to meet the Statewide health standard. The Notice of Intent to Remediate will be published in the *Sharon Herald* in August 1998.

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 Steve Curcio at (814) 332-6816. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.

Pontillo Landfill, W. 16th St. and Pittsburgh Avenue, **Erie County**, City of Erie, has submitted a Notice of Intent to Remediate groundwater and soil. The site has been found to be contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PaHs. The applicant proposes to remediate the site to meet the Special Industrial Area Standard. The Notice of Intent was published in the *Erie Daily Times* on July 31, 1998.

GPU Energy (Parcel A, Grain Elevator Site), North of Holland Street, **Erie County**, City of Erie has submitted a Notice of Intent to Remediate Soil. The site has been found to be contaminated with heavy metals. The applicant proposes to remediate the site to meet the site specific standard. The Notice of Intent was published in the *Erie Daily Times* on August 4, 1998.

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

Childers Products Company, Bristol Township, **Bucks County**. Randy L. Shuler, Project Manager, Environmental Resources Management, Princeton Crossroads Corporate Center, 250 Phillips Boulevard, Suite 280, Ewing, NJ 08618, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with solvents and BTEX. The applicant proposes to remediate the site to meet site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Bucks County Courier Times* on July 29, 1998.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Regional Office: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

A. 1011100. Mountain View Reclamation, Waste Management PA, Inc. (9760 Letzberg Road, Greencastle, PA 17225). Application for use of autofluff as an alternative daily cover for a site in Montgomery and Antrim Townships, **Franklin County**. Application determined to be administratively complete in the Regional Office August 7, 1998.

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.

Cole Care, Inc., 1001 East Second Street, Coudersport, PA 16915; Fred Hershey, Director; License No. **PA-HC 0178**; renewal application received on July 30, 1998.

AIR QUALITY

OPERATING PERMITS

Notice of Intent to Issue Title V Operating Permits

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

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management at the regional office telephone number noted. For additional information, contact the regional office noted.

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

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

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.

26-00405: Consolidated Natural Gas Transmission Inc. (625 Liberty Avenue, Pittsburgh, PA 15222) for their North Summit Compressor Station located in **Fayette County**. The facility's major sources include natural gas compressor engines which emit major quantities of NO_x.

Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

01-317-007A: Cooperative Milling, Inc. (1892 York Road, Gettysburg, PA 17325) for operation of a feed manufacturing facility in Straban Township, **Adams County**.

07-309-005B: A. P. Green Industries, Inc. (One Green Boulevard, Mexico, MO 65265) for operation of a crushing, wet mortar mixing and fluopacker system for a refractory material operation in Greenfield Township, **Blair County**.

PLAN APPROVALS

Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

21-03031: Prepared Millwork, Inc. (P. O. Box 427, New Kingstown, PA 17072) for installation of a spray machine and spray booth for applying stain, clear laquer and primer to wood products in Silver Springs Township, **Cumberland County**.

36-05019: Grinnell Corp. (1411 Lancaster Avenue, Columbia, PA 17512) for construction of a molding line located at their iron foundry in Columbia Borough, **Lancaster County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

30-096A: Kyowa America Corp. (1000 E. Roy Furman Highway, Waynesburg, PA 15370) for operation of a rotary concentrator and thermal oxidizer at the Pennsylvania Plant in Franklin Township, **Greene County**.

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

10-302A: Allegheny Metalworking Corp. (17 Leonburg Road, Cranberry Township, PA 16066) for construction of a paint finishing system in Cranberry Township, **Butler County**. Emissions from this system are estimated at 16 tpy.

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

11960104. Permit Revision, **L & J Energy Company, Inc.** (P. O. Box I, Grampian, PA 16838) stream variance to conduct mining operations within 100 feet, but no closer than 50 feet of an unnamed tributary to West Branch of Susquehanna River in Susquehanna Township, **Cambria County**, affecting 108.2 acres, receiving streams—West Branch Susquehanna River; unnamed tributaries to West Branch Susquehanna River. Application received August 7, 1998.

11920103. Permit Renewal, **T. J. Mining, Inc.** (P. O. Box 370, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine in Jackson Township, **Cambria County**, affecting 61.0 acres, receiving stream unnamed tributaries to South Branch Blacklick Creek. Application received August 7, 1998.

32813007. Permit Renewal, **Cloe Mining Company, Inc.** (P. O. Box I, Grampian, PA 16838), commencement, operation and restoration of bituminous strip mine for reclamation, only in Rayne and East Mahoning Town-

ships, **Indiana County**, affecting 323.7 acres, receiving stream unnamed tributaries to Pine Run and to Pine Run. Application received August 6, 1998.

56930108. Permit Renewal, Zubek, Inc. (173 House Coal Road, Berlin, PA 15530), commencement, operation and restoration of bituminous strip mine in Stonycreek Township, **Somerset County**, affecting 86.0 acres, receiving stream unnamed tributary to Schrock Run and Schrock Run. Application received August 7, 1998.

32980108. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001), commencement, operation and restoration of bituminous strip mine in Young Township, **Indiana County**, affecting 149.8 acres, receiving stream unnamed tributaries to Reeds Run and Coal Run to Aultmans Run to Conemaugh River. Application received August 5, 1998.

11980103. Laurel Land Development, Inc. (P. O. Box 629, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip and beneficial use of circulating fluidized bed ash mine in Blacklick Township, **Cambria County**, affecting 148.6 acres, receiving stream two unnamed tributaries to South Branch Blacklick Creek, and South Branch of Blacklick Creek. Application received August 5, 1998.

56980105. Dunamis Resources, Inc. (One Energy Place, Suite 4000, Latrobe, PA 15650), commencement, operation and restoration of bituminous strip mine in Lincoln Township, **Somerset County**, affecting 96.9 acres, receiving stream—North Branch of Quemahoning Creek and tributaries, and Horner Run and tributaries. Application received August 3, 1998.

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

63980104. Twilight Industries (Division of U. S. Natural Resources, Inc., 212 State Street, Belle Vernon, PA 15012). Application received for commencement, operation and reclamation of a bituminous surface mine located in Hopewell Township, **Washington County**, proposed to affect 240.0 acres. Receiving streams: unnamed run to Hanen Run to Dunkle Run to Brush Run to Buffalo Creek to the Ohio River; and Hanen Run to Dunkle Run. Application received August 4, 1998.

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

24980102. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830) Commencement, operation and restoration of a bituminous strip and auger operation in Fox Township, **Elk County** affecting 196.0 acres. Receiving streams: Limestone Run and Little Toby Creek. Application received July 29, 1998.

100472-24980102-E-1. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830) Application for a stream encroachment to conduct mining activities within 100 feet of Limestone Run in Fox Township, **Elk County**. Receiving streams: Limestone Run and Little Toby Creek. Application received July 29, 1998.

33930110. McKay Coal Co., Inc. (R. D. 2, Templeton, PA 16259) Renewal of an existing bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 93.5 acres. Receiving streams: Two unnamed tributaries to Foundry Run. Application received July 31, 1998.

33980106. R & L Coal Corp. (P. O. Box 26, Punxsutawney, PA 15767) Commencement, operation and restoration of a bituminous strip operation in Pinecreek Township, **Jefferson County** affecting 34.0 acres. Re-

ceiving streams: Two unnamed tributaries to Sandy Lick Creek. Application received August 4, 1998.

16830104. C & K Coal Company (P. O. Box 69, Clarion, PA 16214) Renewal of an existing bituminous strip operation in Madison Township, **Clarion County** affecting 29.0 acres. Receiving streams: Two unnamed tributaries of Redbank Creek. Application received August 6, 1998.

33900115. Maud Mining Company (P. O. Box 729, Indiana, PA 15701) Renewal of an existing bituminous strip and auger operation in McCalmont Township, **Jefferson County** affecting 172.0 acres. This renewal is for reclamation only. Receiving streams: Unnamed tributaries to Big Run and Big Run. Application received: August 10, 1998.

33813020. John R. Yenzi, Jr. (P. O. Box 287, Anita, PA 15711) Revision to an existing bituminous surface strip operation in Winslow Township, **Jefferson County**, affecting 270.0 acres. Receiving streams: Two unnamed tributaries to Front Run; unnamed tributary to Trout Run. Revision to add auger mining. Application received August 12, 1998.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

17921602. King Coal Sales, Inc. (P. O. Box 712, Philipsburg, PA 16830), to renew the permit for the Cunard Coal Prep in Morris Township, **Clearfield County**, no additional discharges. Application received July 29, 1998.

63921301. UMC Energy, Inc. (981 Route 917, Bentleyville, PA 15314), to revise the permit for the New Century Mine in Fallowfield Township, **Washington County**, new portal facility and mine name change, unnamed tributary to Taylors Run. Application received August 7, 1998.

30841313. Consolidation Coal Co. (P. O. Box 100, Osage, WV 26543), to revise the permit for the Dilworth Mine in Jefferson Township, **Greene County**, new airshaft No. 11, tributary to South Fork of Tenmile Creek. Application received August 12, 1998.

Knox District Office, P. O. Box 669, Knox, PA 16232. Noncoal Applications Received

24980303. Glenn O. Hawbaker, Inc. (P. O. Box 135, 325 West Aaron Drive, State College, PA 16804) Commencement, operation and restoration of a sandstone operation in Horton Township, **Elk County** and Sandy Township, **Clearfield County** affecting 90.72 acres. Receiving streams: Pete Buck Hollow Run to Mountain Run to the Bennett Branch of Sinnemahoning Creek to Sinnemahoning Creek to the West Branch Susquehanna River to the Susquehanna River. Application received August 4, 1998.

302391-24980303-E-1. Glenn O. Hawbaker, Jr. (325 West Aaron Drive, State College, PA 16804). Application for a stream encroachment to mine within 100 feet of Pete Buck Hollow Run to construct a conveyor across the stream, to construct an access road across the stream and to construct erosion and sedimentation controls in Horton Township, **Elk County** and Sandy Township, **Clearfield County**. Receiving stream: Pete Buck Hollow Run. Application received August 4, 1998.

37870301. A. Medure Sand & Gravel Co., Inc. (438 Rear Line Avenue, Ellwood City, PA 16117) Renewal of an existing sand and gravel operation in Wayne Township, **Lawrence County** affecting 103.7 acres. Receiving

streams: Unnamed tributary to Duck Run and Duck Run, unnamed tributary to Connoquenessing Creek and Connoquenessing Creek. Application received August 12, 1998.

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

6577SM1A1C. National Limestone Quarry, Inc. (P. O. Box 397, Middleburg, PA 17842), renewal of NPDES Permit No. PA0613819 in Franklin and Beaver Townships, **Snyder County**, receiving stream—unnamed tributary to Middlecreek. Application received July 31, 1998.

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 (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.

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1244. Encroachment. **Allegheny County Department of Public Works**, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2904. To remove the existing bridge (Wible Run Road Bridge No. 5) and to construct and maintain a culvert having a span of 12.0 feet with an underclearance of 60 feet in Wible Run (WWF). The bridge is located on Wible Run Road, near the intersection of Wible Run Road and Soose Road (Glenshaw, PA Quadrangle N: 0.8 inch; W: 13.25 inches) in Shaler Township, **Allegheny County**.

E65-707. Encroachment. **PA Department of Transportation**, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To remove the existing bridge and to construct and maintain twin cell, elliptical concrete pipes having normal spans of 6.33 feet each and underclearances of 4.0 feet each in an unnamed tributary to Sewickley Creek (WWF). The pipes will be depressed

1.0 foot. The project is located along S. R. 2017 at its intersection with Township Road 834 at (Latrobe, PA Quadrangle N: 3.9 inches; W: 13.2 inches) in Unity Township, **Westmoreland County**.

E02-1243. Encroachment. **Pittsburgh Indoor Sports, L. P.**, 5180 Mamont Road, Murrysville, PA 15668. To place and maintain fill in approximately 0.129 acre of wetlands (PEM) adjacent to Deer Creek (WWF) for the purpose of constructing the Pittsburgh Sports Indoor Facility. The project is located on the east side of Rich Hill Road, just northeast from the intersection of the PA Turnpike and Rich Hill Road (New Kensington West, PA Quadrangle N: 10.0 inches; W: 12.3 inches) in Harmar Township, **Allegheny County**.

E03-376. Encroachment. **William R. Schall**, 10 Florida Avenue, Apollo, PA 15613. To construct and maintain a single span bridge having a normal span of 30 feet and an underclearance of 5.0 feet across Cherry Run (CWF, Stocked) for the purpose of providing access to a private residence. The project is located off of S. R. 2005, approximately 5 miles south of its intersection with U. S. Route 422 (Whitesburg, PA Quadrangle N: 11.38 inches; W: 6.43 inches) in Plumcreek Township, **Armstrong County**.

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

E40-505. Encroachment. **Pennsylvania Department of General Services**, Bureau of Engineering & Architecture, 18th and Herr Streets, Harrisburg, PA 17125. To construct and maintain a flood protection project (DGS 181-11), consisting of 1,400 linear feet of earthen levy and concrete floodwall and 1,300 linear feet of channel excavation, in and along Mill Creek (CWF) and in 0.5 acre of associated PFO wetland. The project extends from the end of Pelza Street downstream to East Main Street (Pittston, PA Quadrangle N: 3.9 inches; W: 12.7 inches), in the City of Wilkes-Barre and Plains Township, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers). This project was previously authorized by Permit No. E40-365, and was previously referenced as Project DGS-184-25.

E48-272. Encroachment. **Bethlehem Steel Corporation**, 4th and Emery Streets, Bethlehem, PA 18016-7599. To remove an approximate 275 cu. yd. tar and sediment deposit from the Lehigh River (WWF) below Bethlehem Steel Corporation's Outfall 015. The project is located at the confluence of the Lehigh River and Saucon Creek approximately 0.15 mile upstream of S. R. 3005 bridge (Hellertown, PA Quadrangle N: 21.8 inches; W: 11.9 inches), in the City of Bethlehem, **Northampton County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E46-796A. Encroachment. **Abington Township**, 1176 Old York Rd., Abington, PA 19001. To amend permit E46-796, which gave authorization to the township to excavate and maintain fill within the 100-year floodway of an unnamed tributary to Sandy Run (TSF) and relocate approximately 100 feet of this stream through a proposed stormwater management facility (Detention Basin 1), to place and maintain fill along an unnamed tributary to Sandy Run (TSF) and to relocate approximately 580 feet of this stream through a proposed stormwater management facility (Detention Basin 1B). Permit E46-796 also granted approval for two onstream

nonjurisdictional dams to be constructed as stormwater management facilities. This permit amendment requests an additional environmental assessment approval for an onstream nonjurisdictional dam to be constructed as an additional stormwater management facility. The site is located within the Ardsley Burial Park approximately 3,200 feet north of the intersection of Easton Road and Jenkintown Road and is associated with the Susquehanna Woods Stormwater Management Control Project (Germantown USGS Quadrangle N: 21.6 inches; W: 2.7 inches) in Abington Township, **Montgomery County**.

E46-818. Encroachment. **Towamencin Township**, P. O. Box 303, Kulpsville, PA 19443. To excavate in 0.14 acre of wetlands to provide storage for a stormwater detention facility associated with the proposed Towamencin Township Municipal Complex. The project is located immediately northwest of the intersection of Troxell Road (SR 46047) and Keeler Road (Lansdale, PA Quadrangle N: 21.0 inches; W: 10.00 inches) in Towamencin Township, **Montgomery County**. The applicant proposes to create 0.20 acre of wetlands replacement on the site.

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

E14-329. Encroachment. **Wayne Herr**, 574 Cinder Rd., New Providence, PA 17560-9632. To remove the existing structure and to construct and maintain a steel beam bridge with a span of 14 feet and underclearance of 6 feet across Galbraith Gap Run off Bear Meadows Road approximately 2.4 miles south of RT 322 (Centre Hall, PA Quadrangle N: 2.4 inches; W: 15.4 inches) in Harris Township, **Centre County**. Estimated stream disturbance is 20 feet of stream with no wetland impact; stream classification is HQ-CWF.

E19-178. Encroachment. **North Centre Township Supervisors**, R. R. 2, Box 2603, Berwick, PA 18603. To remove an existing structure and to construct, operate and maintain a road crossing that will carry T-651 across West Branch, Briar Creek. It shall be constructed with a single cell aluminum arch culvert that will have a minimum span of 19.7 feet, minimum rise of 5.75 feet and a skew of 75 degrees. The project is located along the western right-of-way of SR 0093 approximately 1,600 feet north of the intersection of T-481 and T-651 (Mifflinville, PA Quadrangle N: 9.9 inches; W: 12.6 inches) in North Centre Township, **Columbia County**. Estimated stream disturbance is 1,135 square feet of wetland and 42.5 feet of waterway; stream classification is Cold Water Fishery.

E19-179. Encroachment. **Centre Investment Corp.**, 6009 New Berwick Highway, Bloomsburg, PA 17815. To reclaim an abandoned quarry containing 60 feet of water located of US Rt. 11, just east of Keefers Lane (Mifflinville, PA Quadrangle N: 5.25 inches; W: 14.37 inches) in South Centre Township, **Columbia County**.

E41-431. Encroachment. **Old Growth Timber, Inc.**, 43 Smith St., Neconset, NY 11767. To remove old growth timber logs, not including the log cribs, from the West Branch Susquehanna River bed within a 6.5 mile bank-to-bank reach immediately upstream of the Hepburn Street Dam (Williamsport, PA Quadrangle N: 19.6 inches; W: 0.9 inch to 18.5 inches; W: 17.1 inches) in Loyalsock Township, City of Williamsport, S. Williamsport Borough and Woodward Township, **Lycoming County**. Estimated stream disturbance is 6.5 miles; stream classification is Warm Water Fishery.

E53-319. Encroachment. **DCNR**, Bureau of Facility Design, P. O. Box 8451, Harrisburg, PA 17105-8451. To

remove the existing timber decking and under structure and to construct and maintain a timber planked deck, steel under structure bridge with a clear span of 28 feet and a minimum underclearance of 5.167 feet across Sunken Branch located 0.75 mile north of Sunken Branch Road from the intersection of SR 2002 (West Branch Road) (Cherry Springs, PA Quadrangle N: 11.5 inches; W: 7.0 inches) in West Branch Township, **Potter County**. Estimated stream disturbance is 15 linear feet with no wetland impact; stream classification is High Quality-Cold Water Fishery.

Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

E05-268. Encroachment. **Ivan Corle**, 1297 Burnt House Road, Imler, PA 16655. To remove a 250-foot long vegetated gravel bar to be used in constructing and maintaining a dike to divert the flow of water to the original channel of Bob Creek located about 2.3 miles northeast of Weyant (Alum Bank, PA Quadrangle N: 21.5 inches; W: 10.5 inches) in Lincoln Township, **Bedford County**.

E05-269. Encroachment. **Pa Dept. of Transportation**, Engineering District 9-0, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a 4-span prestressed concrete I-beam bridge across the Raystown Branch Juniata River on SR 0030, Section 009, Segment 0630, Offset 0000 (Mench, PA Quadrangle N: 21.73 inches; W: 2.75 inches) in East Providence Township, **Bedford County**.

E07-299. Encroachment. **Daniel Campbell**, 160 McDonald Road, Duncansville, PA 16635. To authorize previously placed unpermitted fill material in the floodway of an unnamed tributary to McDonald Run for the purpose of constructing a parking area for a commercial business located about 0.9 mile west of the village of Leamersville (Hollidaysburg, PA Quadrangle N: 0.61 inch; W: 10.4 inches) in Freedom Township, **Blair County**.

E21-283. Encroachment. **Kurt Williams**, 3830 Lisburn Road, Mechanicsburg, PA 17055. To construct and maintain a 10-inch diameter by 125 feet poly vinyl chloride (PVC) pipe intake along the left bank floodway of Yellow Breeches Creek to serve as an irrigation system of a proposed golf course located just upstream of LR 21057 Bridge (Lemoyne, PA Quadrangle N: 9.5 inches; W: 6.9 inches) in Lower Allen Township, **Cumberland County**.

E28-255. Encroachment. **PA Department of Transportation**, District 8-0, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To remove the existing culvert and to construct and maintain: (1) a 12-foot × 5-foot concrete box culvert in the channel of an unnamed tributary to the Narrows Branch Tuscarora Creek on SR 4007, Segment 0160, Offset 1303, Station 62+93 located about 1.1 miles east from its intersection with PA 75 and (2) a 16-foot × 3-foot concrete box culvert located about 3,400 feet upstream of Item I on SR 4007, Segment 0180, Offset 007, Station 100+50 (Blairs Mills, PA Quadrangle N: 2.98 inches; W: 8.08 inches) in Fannett Township, **Franklin County**.

E28-258. Encroachment. **Henry Guarriello**, 373 Craig Road, Greencastle, PA 17225. To construct and maintain: (1) a 128-inch by 83-inch corrugated metal pipe arch culvert at the channel of Muddy Run to serve as an access; (2) to replace an existing culvert at the channel of an unnamed tributary to Muddy Run; and (3) to widen an existing pond and rehabilitate its berm at the left bank of

Muddy Run (Greencastle, PA Quadrangle N: 11.72 inches; W: 15.0 inches) in Antrim Township, **Franklin County**.

E36-657. Encroachment. **East Donegal Township**, Barbara Stoner, 190 Rock Point Road, Marietta, PA 17547. To remove the existing structure and to construct and maintain a precast reinforced concrete box culvert having a 12-foot span with a 5.5-rise on Tributary No. 16 to the Susquehanna River on Old Colebrook Road (Columbia West, PA Quadrangle N: 11.2 inches; W: 8.3 inches) in East Donegal Township, **Lancaster County**.

E36-658. Encroachment. **Manheim Township**, Philip Mellott, 1840 Municipal Drive, Lancaster, PA 17601. To demolish and remove the existing Shreiner Station Road bridge across the Little Conestoga Creek, including both roadway approaches, and to stabilize the channel banks with rock riprap. The permit also authorizes construction of approximately 450 feet of new Shreiner Station Road roadway located within the 100-year floodplain of the Little Conestoga Creek for access from an existing apartment complex to McGovernsville Road (SR 0741) (Lancaster, PA Quadrangle N: 13.3 inches; W: 13.5 inches) in Manheim Township, **Lancaster County**.

E38-121. Encroachment. **East Hanover Township**, William Duggan, R. D. 1, Box 6250, Grantville, PA 17028. To remove the existing bridge and to construct and maintain a bridge of reinforced concrete having a clear span of 15 feet on a 64 degree skew with an underclearance of 5 feet across Raccoon Creek on Zion Church Road (Indiantown Gap, PA Quadrangle N: 3.9 inches; W: 15.9 inches) in East Hanover Township, **Lebanon County**.

E38-122. Encroachment. **Milan Lipensky**, 1750 Fieldcrest Drive, Lebanon, PA 17042. To construct and maintain 265 lineal feet of a 36-inch diameter pipe culvert for enclosure of a tributary to the Quittaphilla Creek for the development of a three lot subdivision located at the northwest corner of the intersection of East Maple Street and Weaber Street (Lebanon, PA Quadrangle N: 15.3 inches; W: 17.3 inches) in the City of Annville, **Lebanon County**.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

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

WA63-200D. Water Allocation. **Pennsylvania-American Water Company, Washington County**.

Amended

To extend service to Paris-Florence, Cedar Grove Water Association, Village of Independence, West Middletown, Hickory, Franklin Manor/Claysville; and into the following municipalities: Hanover and Independence in **Beaver County**; Amwell, Canton, Chartiers, Cross Creek, Hanover, Hopewell, Independence, Jefferson, Morris, Mt. Pleasant, Nottingham, Robinson, Smith, Somerset and South Franklin in **Washington County**.

ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

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

Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

NPDES Permit No. PA-0035271. Sewerage. **Tall Timbers Village Mobile Home Park**, 1559 Main Street, Peckville, PA 18452 is authorized to discharge from a facility located in La Plume Township, **Lackawanna County**.

NPDES Permit No. PA-0061671. Sewerage. **Greenfield Township Sewer Authority**, P. O. Box 501, Carbondale, PA 18407 is authorized to discharge from a facility located in Greenfield Township, **Lackawanna County**.

NPDES Permit No. PA-0062952. Industrial waste. **Laminations, Inc.**, 1350 Von Storch Avenue, Scranton, PA 18509 is authorized to discharge from a facility located in the City of Scranton, **Lackawanna County**.

NPDES Permit No. PA-0029050. Sewerage. **Pine Forest Camps, Inc.**, 151 Washington Lane, Jenkintown, PA 19046 is authorized to discharge from a facility located in Lackawaxen Township, **Pike County**.

NPDES Permit No. PA-0029157. Sewerage. **Keystone College**, P. O. Box 50, La Plume, PA 18440 is authorized to discharge from a facility located in Factoryville Borough, **Schuylkill County**.

NPDES Permit No. PA-0031917. Sewerage. **Blue Mountain School District**, Red Dale Road, P. O. Box 279, Orwigsburg, PA 17961 is authorized to discharge from a facility located in North Manheim Township, **Schuylkill County**.

NPDES Permit No. PA-0042170. Sewerage. **Deer Lake Municipal Authority**, P. O. Box 30, Auburn, PA 17922 is authorized to discharge from a facility located in West Brunswick Township, **Schuylkill County**.

NPDES Permit No. PA-0036765. Sewerage. **Tyler Memorial Hospital**, R. R. 1, Box 273, Tunkhannock, PA 18657 is authorized to discharge from a facility located in Tunkhannock Township, **Wyoming County**.

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

NPDES Permit No. PA0220965. Sewage, **Jeffrey P. Leri**, 21160 Phelps Rd., Meadville, PA 16335 is authorized to discharge from a facility located in West Mead Township, **Crawford County** to an Unnamed Tributary to Tamarack Lake.

WQM Permit No. 2498403. Sewage. **Jones Township Municipal Authority**, P. O. Box 374, Wilcox, PA 15870. This project is for the construction and operation of sewer line service along the West Branch Clarion River in Johnsonburg Borough, Jones and Ridgway Townships, **Elk County**.

WQM Permit No. 2098409. Sewerage, **Allen W. and Linda S. Dreisbach**, SRSTP, 11312 State Highway 198, Conneautville, PA 16406-3214. Construction of Allen W. and Linda S. Dreisbach SRSTP located in Summerhill Township, **Crawford County**.

WQM Permit No. 4398415. Sewerage, **William G. Schellenger, Jr.**, SRSTP, 11238 Saeger Lane, Meadville, PA 16335. Construction of William G. Schellenger, Jr. SRSTP located in West Salem Township, **Mercer County**.

WQM Permit No. 1098406. Sewerage, **Roy Crawford**, SRSTP, 638 Perry Way, Zelienople, PA 16063. Construction of Roy Crawford SRSTP located in Jackson Township, **Butler County**.

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

WQM Permit No. 4698419. Sewerage. **Upper Gwynedd-Towamencin Municipal Authority**, 2225 Kriebel Road, Lansdale, PA 19446. Construction and operation of a sanitary sewer to serve future development along Towamencin Avenue located in Towamencin Township, **Montgomery County**.

WQM Permit No. 4698424. Sewage. **Lower Merion Township**, 75 East Lancaster Avenue, Ardmore, PA 19003. Construction of a lower pressure force main along Panorama Road in Lower Merion Township, **Montgomery County**.

WQM Permit No. 4698423. Sewage. **Limerick Township Municipal Authority**, 529 King Road, Royersford, PA 19468. Construction and operation to the Mingo Creek Interceptor and to upgrade the Southeast Pump Station located in Limerick Township, **Montgomery County**.

NPDES Permit No. PA0021741. Sewerage. **Borough of Dublin**, 517 Stonebridge Road, Bedminster, PA 18910 is authorized to discharge from a facility located in Bedminster Township, **Bucks County** into Deep Run.

NPDES Permit No. PA0051730. Sewage. **Philadelphia Country Club**, 1601 Spring Mill Road, Gladwyne, PA 19035 is authorized to discharge from a facility located in Lower Merion Township, **Montgomery County** into Sawmill Run.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

NPDES Permit No. PA0085405. Sewerage. **The Baladerry Inn**, 40 Hospital Road, Gettysburg, PA 17325, is authorized to discharge from a facility located in Cumberland Township, **Adams County** to the unnamed tributary of Rock Creek.

NPDES Permit No. PA0081141. Sewerage. **Locust Wood Mobile Home Park**, 286 South Reading Road, Ephrata, PA is authorized to discharge from a facility located in East Cocalico Township, **Lancaster County** to the unnamed tributary to Little Cocalico Creek.

NPDES Permit No. PA0010201. Industrial waste. **Columbia Water Company**, 220 Locust Street, P. O. Box 350, Columbia, PA 17512 is authorized to discharge from a facility located in Columbia Borough, **Lancaster County** to the receiving waters named Susquehanna River.

NPDES Permit No. PA0055328. Industrial waste. **New Morgan Landfill Co., Inc.**, P. O. Box 128, Morgantown, PA 19543 is authorized to discharge from a facility located in New Morgan Borough, **Berks County** to the receiving waters named Conestoga River.

NPDES Permit No. PA0007536. Industrial waste. **Wilbur Chocolate Company, Inc.**, 20 North Broad Street, Lititz, PA 17543 is authorized to discharge from a facility located in Lititz Borough, **Lancaster County** to the receiving waters named Lititz Run.

Permit No. 0698404. Sewerage. **Lower Heidelberg Township Municipal Authority**, 720 Brownsville Road, Sinking Spring, PA 19608-9727. This permit approves construction of a pump station in Lower Heidelberg Township, **Berks County**.

Permit No. 2198405. Sewerage. **Carlisle Suburban Authority**, 240 Clearwater Drive, Carlisle, PA 17013-1100. This permit approves the construction of a pump station in North Middleton Township, **Cumberland County**.

Permit No. 2898403. Sewerage. **Antrim Township Board of Supervisors**, 10655 Antrim Church Road, P. O. Box 130, Greencastle, PA 17225. This permit approves the construction of sewage treatment facilities and modifications to the construction of a pump station in Antrim Township, **Franklin County**.

Permit No. 0698405. Sewerage. **Amity Township**, 2004 Weavertown Road, Douglassville, PA 19518. This permit approves the construction of sewers and appurtenances and pump station in Amity Township, **Berks County**.

Permit No. 3698404. Sewerage. **Mount Joy Borough Authority**, 121 East Main Street, Mount Joy, PA 17552. This permit approves the construction of a pump station in Mount Joy Borough, **Lancaster County**.

Permit No. 0686404, Amendment No. 98- 1. Sewerage. **City of Reading**, 815 Washington Street, Reading, PA 19601. This permit approves the modifications to the plant located in Reading City, **Berks County**.

Permit No. 0697202. Industrial waste. **New Morgan Landfill Co., Inc.**, P. O. Box 128, Morgantown, PA 19543. This permit approves the construction of industrial waste treatment facilities located in New Morgan Borough, **Berks County**.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0112615, Amendment. Industrial waste. **Viking Energy**, P. O. Box 482D, R. D. 2, Cannery Rd., Northumberland, PA 17857. Approval has been granted to reformulate Chemco 2164 facility located at Point Township, **Northumberland County**.

WQM Permit No. 1793407, Amendment. Sewerage. **Grampian Borough**, P. O. Box 57, Grampian, PA 16838. Approval granted to replace existing gas chlorination system to sewage treatment plant located at Penn Township, **Clearfield County**.

WQM Permit No. 5996201-T1. Industrial waste. **Dietrich's Milk Products LLC**, P. O. Box 102, Route

287, Middlebury Center, PA 16935-0102. Transfer is for name change only facility located at Middlebury Township, **Tioga County**.

**INDIVIDUAL PERMITS
(PAS)**

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

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>
PAS10F070	PA Dept. of Transportation Eng. Dist. 2-0 1924-30 Daisy St. Clearfield, PA 16830	Centre County Benner, College, Spring Townships	Spring Creek

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-D093	Woodhill Associates c/o Trueblood Associates 904 Sunneytown Pike Spring House, PA 19477	Upper Makefield Township Bucks County	Tributary to Jericho Creek
PAS10-G011-R	The Hankin Group 717 Constitution Drive P. O. Box 562 Exton, PA 19341	Uwchlan Township Chester County	Shamona Creek

**INDIVIDUAL PERMITS
(PAR)**

Approvals to Use NPDES and/or Other General Permits

The following parties have submitted Notice 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 specifies 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

*List of NPDES and/or other
General Permit Type*

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 Quality Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contract 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

County and

Municipality

<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>
Allegheny County Glassport Borough	PAR10A241	Glassport Borough Fifth and Monongahela Aves. Glassport, PA 15045	Monongahela River	Allegheny County CD (412) 241-7645
Allegheny County West Deer Township	PAR10A256	Metropolitan Builders, Inc. P. O. Box 1051 Gibsonia, PA 15044	UNT Deer Creek	Allegheny County CD (412) 241-7645
Allegheny County Ross Township	PAR10A259	Joseph Vaccarello, Jr., Inc. 50 Arch Street P. O. Box 663 Carnegie, PA 15106	UNT Girty's Run	Allegheny County CD (412) 241-7645
Allegheny County Marshall Township	PAR10A260	The Registry Group 7500 Brooktree Road Suite 300 Wexford, PA 15090	By Sewickley Creek	Allegheny County CD (412) 241-7645
Allegheny County Moon Township	PAR10A266	Zaremba Group LLC 14600 Detroit Avenue Lakewood, OH 44107	UNT Flaugherty Run	Allegheny County CD (412) 241-7645
Allegheny County Findlay Township North Fayette Township	PAR10A268	PA Dept. of Transportation 45 Thoms Run Road Bridgeville, PA 15017	Robinson Run	Allegheny County CD (412) 241-7645
Allegheny County Neville Township	PAR10A284	Neville Island Associates 734 Washington Avenue Carnegie, PA 15106	Ohio River	Allegheny County CD (412) 241-7645
Beaver County Center Township	PAR100248	JDN Development Co., Inc. 359 E. Paces Ferry Road Suite 450 Atlanta, GA 30305	UNT Ohio River	Beaver County CD (724) 774-7090
Beaver County Brighton Township Chippewa Township Vanport Borough	PAR100250	PA Dept. of Transportation 45 Thoms Run Road Bridgeville, PA 15017	Two Mile Run	Beaver County CD (724) 774-7090
Fayette County North Union Township	PAR10L038	Dynamic Materials Corp. 1301 Courtesy Road Louisville, CO 80027	Gist Run	SE Regional Office (412) 442-4315
Fayette County North Union Township	PAR10L039	Texas Eastern Transmission Corporation 5444 Westheimer Street Suite 483 Houston, TX 77056	UNT Redstone Creek	SW Regional Office (412) 442-4315
Fayette County Nicholson Township	PAR10L040	Dept. of Environmental Protection Bureau of Abandoned Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105-8476	Jacobs Creek	SW Regional Office (412) 442-4315

<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>
Indiana County Conemaugh Township	PAR103141	Bureau of Abandoned Mine Reclamation	UNT Blacklegs Creek	Indiana County CD (724) 463-7702
Somerset County Somerset Township	PAR106128	Somerset Realty Partners 357 North Craig Street Pittsburgh, PA 15213	East Branch of Coxes Creek	Somerset County CD (814) 445-4652
Washington County Canonsburg Borough	PAR10W107	A. R. Building Company 5541 Walnut Street Pittsburgh, PA 15232	UNT Chartiers Creek	Washington County CD (724) 228-6774
Washington County Chartiers Township North Strabane Township South Strabane Township	PAR10W116	PA Dept. of Transportation P. O. Box 459 Uniontown, PA 15401	Chartiers Creek	Washington County CD (724) 228-6774
Washington County Chartiers Township	PAR10W118	Park Rankin 317 Hawthorne Street Canonsburg, PA 15317	UNT Chartiers Creek	Washington County CD (724) 228-6774
Washington County Peters Township	PAR10W119	Robert G. Macin Springbrooke Estates 116 Cider Lane McMurray, PA 15317	Brush Run	Washington County CD (724) 228-6774
Washington County Union Township	PAR10W121	Carnegie Interstate Pipeline Corporation 500 Regis Avenue Pittsburgh, PA 15236	Peters Creek	Washington County CD (724) 228-6774
Lackawanna County Ransom Township	PAR10N071	Peter Sabia 400 Calvin Street Dunmore, PA 18512	Lindy Creek	(717) 281-9495
Northampton County Moore Township	PAR10U087	James Leuthe Barry Manor, Inc. 3906 Mountain View Drive Danielsville, PA 18038	Hokendauqua Creek	(610) 746-1971
Lehigh County Coopersburg Borough	PAR10Q109	Southern Lehigh School District Paula Fantaski 5775 Main Street Center Valley, PA 18034	Saucon Creek	Lehigh CD (610) 391-9583
Erie County Fairview Township	PAR10K110	Health Care Facilities 2615 Ft. Amanda Road Lima, OH 45804	UNT to Walnut Creek	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Columbia County Town of Bloomsburg	PAR102135	Bloomsburg University Colin Reitmeyer 400 East 2nd St. Bloomsburg, PA 17815	Fishing Creek	Columbia County CD 702 Sawmill Road, Suite 105 Bloomsburg, PA 17815 (717) 784-1310
Northumberland County Milton Borough	PAR104923	Milton Area Industrial Development Association One South Arch Street Milton, PA 17847	W. Branch of Susquehanna River	Northumberland County CD R. R. 3, Box 238C Sunbury, PA 17801 (717) 988-4224
Union County White Deer Township	PAR106826	Ronald Hoffman Whitetail Acres R. R. 1, Box 1492 New Columbia, PA 17856	Unt. Little Buffalo Creek	Union County CD 60 Bull Run Crossing Lewisburg, PA 17837

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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>
Buckingham Township Bucks County	PAR10-D055-R	John and Della Enders P. O. Box 1509 Doylestown, PA 18901		Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Buckingham Township Bucks County	PAR10-D080-R-R	Raymond E. Kelly 99 Pickwick Dr. Doylestown, PA 18901	Pine Run Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Newtown Township Bucks County	PAR10-D107-R	Realen Homes 725 Talamore Drive Ambler, PA 19002	Unnamed Tributary to Neshaminy Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Solebury and Upper Makefield Townships Bucks County	PAR10-D126-R	PA Bureau of State Parks P. O. Box 8551 Harrisburg, PA 17105	Neshaminy Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Doylestown Township Bucks County	PAR10-D135-R	Robert Todd Homes, Inc. 1150 Old York Road Abington, PA		Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Hilltown Township Bucks County	PAR10-D136-R	Realen Homes Developers, Inc. 725 Talamore Drive Ambler, PA 19002	Neshaminy Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Plumstead Township Bucks County	PAR10-D172-R	Paul Auerback/Lillian Barber 1705 Longhorn-Newtown Roads Longhorn, PA 19047	Perkiomen Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Bensalem Township Bucks County	PAR10-D235-R	Betz Dearborn, Inc. 4636 Somerton Road Trevose, PA 19053	Unnamed Tributary to Cabin Run to Tohickon Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Warrington Township Bucks County	PAR10-D243-R	United Artists Theater Circuit, Inc. 9110 East Nicholas Avenue Suite 200 Englewood, CO 80112	Poquessing Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
East Rockhill Township Bucks County	PAR10-D254-R	Cedar Brook Crossing Limited Partnership P. O. Box 397 Souderton, PA 18464	Tributary to Neshaminy Creek	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131

<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>
Newtown Township Bucks County	PAR10-D261-R	Orleans Corporation 1 Greenwood Square Suite 101 3333 Street Road Bensalem, PA 19020	East Branch Perkiomen Township	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Solebury Township Bucks County	PAR10-D268-R	Zelowitz Box 448 Solebury, PA 18963	Newtown Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Milford Township Bucks County	PAR10-D284-R	Milford Acquisitions, Inc. 1600 Canary Rd. Quakertown, PA 18957	East Branch Perkiomen Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832- 6131
Falls Township Bucks County	PAR10-D287-R	Avenrowe, GP 222 Manor Road, Suite 250 Havertown, PA 19083	Molasses Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Middletown Township Bucks County	PAR10-D297-R	Bridgetown Grant 2421 Bristol Rd. Warrington, PA 18976	Tributary No. 3 Martins Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Richland Township Bucks County	PAR10-D302-R	Warren and Wanda E. Baringer 166 Mine Rd. Quakertown, PA 18951	Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Milford Township Trumbauersville Borough Bucks County	PAR10-D310-R	Quakertown School District District Office, 600 Park Avenue Quakertown, PA 18951	Tohickon Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Buckingham Township Bucks County	PAR10-D319-R	Buckingham Group 883 Sumneytown Pike Lansdale, PA	Barrel Run Creek Tributary to Unami Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Hilltown Township Bucks County	PAR10-123-R	Hilltown Woods Associates 731 Skippack Pike Blue Bell, PA 19422	Unnamed Tributary to Watson Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Hilltown Township Bucks County	PAR10-D053-R	Hilltown Associates 1922 Spruce Street Philadelphia, PA	Pleasant Spring Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131

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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>
Perkasie Borough Bucks County	PAR10-D174-R	Sal Lapio, Inc. 104 Mill Road Sellersville, PA 18900	Unnamed Tributary to Mill Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Tinicum Township Bucks County	PAR10-D182-D	Pennfield Realty and Development 649 Headquarters Rd. Ottsville, PA 18942	Unnamed Tributary to East Branch Perkiomen Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Upper Makefield Township Bucks County	PAR10-D198-R	Westrum Orchards Ltd, Partnership 794 Pennllyn Pike Suite 101 Blue Bell, PA 19442	Tinicum Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Milford Township Bucks County	PAR10-D218-R	Quakertown Interchange Associates 1030 West Germantown Pike P. O. Box 287 Fairview Village, PA 19409	Tributary to Jericho Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Hilltown Township Bucks County	PAR10-D222-R	Orchard Glenn Associates 3326 Old York Road Suite B Furlong, PA 18925	Molasses Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
East Rockhill Township Bucks County	PAR10-D229-R	East Rockhill Township 1622 Ridge Road Perkasie, PA 18944	Pleasant Spring Creek/ East Branch Perkiomen Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Bensalem Township Bucks County	PAR-10-D029-R	PA Department of Transportation 200 Radnor-Chester Road St. Davids, PA	Three Mile Run Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warwick Township Bucks County	PAR10-D294-R	John Paxton Heritage Bldg. Group, Inc. 3326 Old York Road, Suite B Furlong, PA 18925	Poquessing Creek/ Mill Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Durham Township Bucks County	PAR10-D328	Security Lock Storage 1559 Oak Hollow Drive Maple Glen, PA	Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warwick Township Bucks County	PAR-D330	Toll Brothers, Inc. 3103 Philmont Avenue Huntington Valley, PA 19006	Unnamed Tributary to Iron Works Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131

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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>
Solebury Township Bucks County	PAR10-D332	Andrea and Jeffrey Weiner P. O. Box 134 Carversville, PA 18913	Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Bensalem Township Bucks County	PAR10-D333	Orix Wilkinson, c/o Orix Realty 100 North Riverside Plaza, Suite 400 Chicago, IL 60606	Mill Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warrington Township Bucks County	PAR10-D335	David Cutler 5 Sentry Parkway West, Suite 100 Blue Bell, PA 19422	Unnamed Tributary to Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Upper Makefield Township Bucks County	PAR10-D339	Geopedior Associates P. O. Box 736 Ft. Washington, PA 19034	Little Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Richland Township Bucks County	PAR10-D340	James H. McAndrew 1025 N. Westside Blvd. Bensalem, PA	Stoney Brook Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Wrightstown Township Bucks County	PAR10-D343	Select Properties 2312 North Broad St. Colmar, PA 18915	Unnamed Tributary to Delaware River Basin	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Bensalem Township Bucks County	PAR10-D344	Joseph B. Atkinson, Jr. 2950 State Road Bensalem, PA 19020	Unnamed Tributary to Mill Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Lower Makefield Township Bucks County	PAR10-D345	Newtown Development Partners 842 Durham Road, Suite 200 Newtown, PA	Unnamed Tributary to Delaware River	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warrington Township Bucks County	PAR10-D349	Harvey Street 180 Harvey Avenue Doylestown, PA	Core Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Plumstead Township Bucks County	PAR10-D350	Heritage Steeple Chase, LP 3326 Old York Road Suite B Furlong, PA	Tributary to Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131

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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>
Bristol Borough and Bristol Township Bucks County	PAR10-D352	Redevelopment Authority of Bucks Co. 410 Floral Vale Boulevard Yardley, PA 19067	Pine Run Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Newtown Township Bucks County	PAR10-D56	Chandler Hall 99 Barclay St. Newtown, PA 18940	Delaware River	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Solebury Township Bucks County	PAR10-D363	William Mulligan 3450 Sungan Road New Hope, PA 18938	Newtown Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Plumstead Township Bucks County	PAR10-D364	Anthony Carkonetti 602 Crumb Creek Road Broomall, PA	Delaware River	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Lower Makefield Township Bucks County	PAR10-D373	Congregation Kol Emet Ltd. 19 South Main Street Yardley, PA 19067	Pine Run Creek Neshaminy Creek Basin	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warwick Township Bucks County	PAR10-D377	Philadelphia Suburban Water Company 762 Lancaster Avenue Bryn Mawr, PA	Brock Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Plumstead Township Bucks County	PAR10-D382	Central Bucks School District 320 West Swamp Road Doylestown, PA	Little Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Falls Township Bucks County	PAR10-D347	USX Realty Development 20 Steel Road South Morrisville, PA	Tributary to Biles Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Plumstead Township Bucks County	PAR10-D379	Bucks County Country Gardens, Ltd. 1057 North Easton Road Doylestown, PA	Tributary to North Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warwick Township Bucks County	PAR10-D380	Mearns Road Business Campus 1840 Country Line Road, Building S Huntingdon Valley, PA 19006	Tributary to Little Neshaminy Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131

<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>
Newtown Township Bucks County	PAR10-D390	Newtown Township Board of Supervisors 100 Municipal Drive Newtown, PA	Tributary to Mill Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Warwick Township Bucks County	PAR10-D391	Warwick Square Ltd. Partnership 585 Skippack Pike Suite 200 Blue Bell, PA 19422	Core Creek	Southeast Regional Office 555 North Lane Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6131
Mt. Pleasant Township Adams County	PAR-10-0068	Golf Cart Services Inc. 4425 York Road New Oxford, PA 17350	Brush Run	Adams County CD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Muhlenberg Township Berks County	PAR-10-C222	Premium Business Center Group Three Properties Inc. Cross Roads Corporate Center 4641 Pottsville Pike Suite E Reading, PA 19605	Schuylkill River	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Oley Township Berks County	PAR-10-C223	Meadow Springs Donald F. Specht 275 East Moyer Road Pottstown, PA 19464	Little Manatawny Creek	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Caernarvon Township Berks County	PAR-10-C226	Twin Valley High School and Field Realignment Twin Valley School District R. D. 3, Box 52 Elverson, PA 19520	East Branch Conestoga River	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Lower Heidelberg Township Berks County	PAR-10-C224	Summer Hill Subdivision Mark C. Powell 6 St. Andrew Court Reading, PA 19606	Unt. Little Cacoosing Creek	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Monroe Township Cumberland County	PAR-10-H179	Ascombe Products Company Ascombe West Subdivision 1065 Box Hill Lane York, PA 17403	Yellow Breeches	Cumberland County CD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAR-10-H172	Hampden Elementary School Cumberland Valley School District 6746 Carlisle Pike Mechanicsburg, PA 17055	Conodoguinet Creek	Cumberland County CD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Londonderry Township Dauphin County	PAR-10-I158	Frank A. Leshner 1505 Landwater Road Hummelstown, PA 17036	Swatara Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Susquehanna Township Dauphin County	PAR-10-I156	UD Properties P. O. Box 4153 Harrisburg, PA 17111	Paxton Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100

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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>
East Earl Township Lancaster County	PAR-10-O-329	Conestoga Partners P. O. Box 75 Blue Ball, PA 17506	UNT Conestoga Creek	Lancaster County CD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Clay Township Lancaster County	PAR-10-O-333	Barry Ober 3918 Furnace Hill Pike Lititz, PA 17543	Middle Creek	Lancaster County CD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Quarryville Borough Lancaster County	PAR-10-O-335	M V Partners 1505 Oregon Pike Suite 1202 Lancaster, PA 17601	Unt. South Fork Creek	Lancaster County CD 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
<i>General Permit Type—PAG 3</i>				
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
City of St. Marys Elk County	PAR808329	City Transfer, Inc. 641 S. St. Marys Street St. Marys, PA 15857	Elk Creek	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of New Castle Lawrence County	PAR208337	New Castle Foundry Co. 400 Hobart St. New Castle, PA 16102-1328	Shenango River	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Zelienople Borough Butler County	PAR808367	MHF, Inc. 300 W. Grandview Avenue Zelienople, PA 16063	Connoquenessing Creek	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Lycoming County Armstrong Township	PAR804846	Pickelner Fuel Company Inc. P. O. Box 1537 Williamsport, PA 17701	West Branch of Susquehanna	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
Lycoming County Loyalsock Township	PAR804845	Montour Oil Service Company 112 Broad Street Montoursville, PA 17777	Loyalsock Creek	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
<i>General Permit Type—PAG 4</i>				
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Centre County Taylor Township	PAG045017	Joyce S. Frye 1508 Plaza Drive State College, PA 16801	UNT to Fowler Hollow	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
Clearfield County Burnside Township	PAG045020	Robert G. and Janet E. Leslie R. R. 2, Box 16A Cherry Tree, PA 15724	Kings Run	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Columbia County Main Township	PAG045008	Joan Wench R. R. 3, Box 203 Bloomsburg, PA 17815	Scotch Run	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
Tioga County Delmar Township	PAG045023	Benjamin L. and Karen T. Hall R. R. 5, Box 11 Wellsboro, PA 16901	East Branch Stony Fork Creek	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
Tioga County Delmar Township	PAG045022	Charles R. Groff P. O. Box 172 Earlville, PA 19519	Unt. to Marsh Creek	Northcentral 208 W. Third Street Williamsport, PA 17701 (717) 327-3664
Jackson Township Butler County	PAG048531	Roy Crawford 638 Perry Way	Glade Run Tributary to Connoquenessing Creek	Northwest Region Water Management 230 Water Street Meadville, PA 16335-3481 (814) 332-6942
West Salem Township Mercer County	PAG049528	William G. Schellenger, Jr. 11238 Saeger Lane	Tributary Booth Run	Northwest Region Water Management 230 Water Street Meadville, PA 16335-3481 (814) 332-6942
Summerhill Township Crawford County	PAG048524	Allen W. and Linda S. Dreisbach 11312 State Highway 198 Conneautville, PA 16406-3214	Unnamed Tributary to Rundeltown Creek	Northwest Region Water Management 230 Water Street Meadville, PA 16335-3481 (814) 332-6942
Cumberland County Upper Frankford Township	PAG043596	Kenneth L. Beaston 1042 Grahams Woods Road Newville, PA 17241	UNT to Locust Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

SEWAGE FACILITIES ACT PLAN APPROVAL

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, 400 Market Street Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure 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.

Plan Approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

*Northeast Regional Office: Water Management Program
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790,
(717) 826-2553.*

White Haven Borough, Luzerne County

The Department of Environmental Protection (Department) has completed reviewing an Act 537 Official Sewage Plan Update for White Haven Borough (Plan Update). The Plan Update was prepared on behalf of White Haven Borough by White Haven Borough Municipal Authority and is entitled "Act 537 Plan Amendment, White Haven Municipal Authority," dated May 1998.

The Department's review has found that the Plan Update is acceptable and planning approval is hereby granted. The review has also not identified any significant environmental impacts resulting from this proposal. The Plan Update provides for re-rating the design capacity of the White Haven Municipal Authority's (WHMA) treatment plant from 0.340 million gallons per day (mgd) to 0.450 mgd and allocating capacity to treat sewage from East Side Borough, Carbon County (0.050 mgd) and the Route 940 Corridor in Kidder Township, Carbon County (0.193 mgd). The project will not require any construction

at the WHMA treatment plant. The Plan Update also provides for the WHMA to enter into an agreement with Kidder Township to have the WHMA design, construct, own and operate a sewage collection and conveyance system within the Route 940 corridor area. The conveyance system will include a main pump station and force main crossing the Lehigh River. The pump station and force main will convey sewage from East Side Borough and Kidder Township to the WHMA treatment plant.

In order to complete the process of re-rating the capacity of the treatment plant, the WHMA must obtain both a National Pollutant Discharge System (NPDES) Permit and a Water Quality Management Permit for the 0.450 mgd design flow. Since the Lehigh River is classified as a high quality stream, the Department's Special Protection Waters Implementation Handbook will be applied in developing the NPDES Permit effluent limitations. As explained in the Department's November 7, 1997, letter (copy enclosed) to the WHMA, the Department's preliminary assessment indicated that no social and/or economic justification would be required if the WHMA proposes to meet the preliminary effluent limits provided therein. The WHMA should submit its NPDES application so that the Department can provide final effluent limitations as soon as possible.

East Side Borough, Carbon County

The Department of Environmental Protection (Department) has completed reviewing an Act 537 Official Sewage Plan Update for East Side Borough (Plan Update), dated March 1998 (received by the Department on May 21, 1998), as prepared by BCM Engineers, Inc.

The Department has found that the Plan Update is acceptable and planning approval is hereby granted. The approval of this Plan Update is conditioned upon the ultimate compliance with the provisions of the History Code (Section 507, Title 37 of Pa. Consolidated Statutes). The cost of conducting any required survey work related to compliance with the History Code must be included in the cost of the proposed sewerage facilities project. If recovery work or system redesign is required in order to comply with the requirements of the Pa. Historical and Museum Commission, notify the Department immediately. Compliance with the History Code will need to be demonstrated when applying for any Federal funding or permits required for this project.

Aside from the need to address the potential impact upon historical or archeological resources, the Department's review has not identified any other significant environmental impacts associated with the proposed project.

The Plan proposes construction of a central sewage collection system to serve developed portions of East Side Borough and conveying the sewage to the White Haven Municipal Authority's Wastewater Treatment Facility by way of a pump station and force main crossing the Lehigh River. The pump station and force main will also serve the Route 940 corridor in Kidder Township, Carbon County.

This project will eliminate the Department's permitted effluent discharge from Bishling Creek Protective Association (NPDES Permit No. PA-0060585) to Bishling Creek.

Kidder Township, Carbon County

The Department of Environmental Protection (Department) has completed reviewing the above-referenced study, dated February 1998, with additional documentation dated June 5 and June 30, 1998, as prepared by R. K. R. Hess Associates.

The Department's review has found the Special Study is acceptable and planning approval is hereby granted. This review has also not identified any significant environmental impacts resulting from this proposal. The Special Study proposes construction of a sewage collection and conveyance system to serve properties along the Route 940 corridor, from East Side Borough to the Ramada Inn at Interchange No. 35 of the Pennsylvania Turnpike. The sewage from this area will be conveyed to the White Haven Municipal Authority's Sewage Treatment Plant by way of a connection with the proposed East Side Borough sewer collection system and a pump station with a force main crossing the Lehigh River. The Study calls for the proposed project to be implemented by Kidder Township entering into an agreement with the White Haven Municipal Authority (WHMA) to have the WHMA design, construct, own and operate the collection and conveyance system within the Route 940 corridor service area.

This project will eliminate the Department's permitted effluent discharges from: (1) Four Diamonds, Inc., Mount Laurel Resorts (NPDES Permit No. PA-0032972); (2) Pocono Mountain Lodge (NPDES Permit No. PA-0070475); and Golden Oak Village, Inc. (NPDES Permit No. PA-0061930) to Black Creek.

Dickson City Borough, Lackawanna County

The Department of Environmental Protection (Department) has completed its review of the Official Wastewater Facilities Plan Update for Dickson City Borough, Lackawanna County, revised July 1997, and received by the Department on June 8, 1998. The Plan was prepared by Acker Associates, Inc. The Department's review has found the Plan acceptable and planning approval is hereby granted.

The Plan summary is as follows:

- Bell Mountain Residential Area—Extend central sewer service west from Route 6 to High Street and north from Ravine Street to McClean Street, utilizing Community Development Block Grant funding and, if necessary, tax revenue.
- Morgan and Bowman Streets—Replace existing sewers utilizing Community Development Block Grant funding.
- Commercial/Manufacturing Area near Lackawanna River—Extend central sewers into the area located east of the Borough and bordered by the Lackawanna River, utilizing developer funding.
- Viewmont Mall Sewer Extension—This sewer extension has been completed; however, no sewer planning modules were ever completed for it. It is the intent of this document to bring sewage planning up to date for the Viewmont Mall.
- Siniawa Development—This development currently has central sewer service; however, no sewer planning modules were ever completed for it. It is the intent of this document to bring sewage planning up to date for this development.
- Bell Mountain Village—The central sewer system is already extended to this area. It is the intent of this document to bring sewage planning up to date for this area.

The Department reminds the Borough that no building permits should be issued prior to completion of Act 537 sewage planning and issuance by the Department of any necessary Water Quality Management Permits. Failure to

obtain the approvals in the future may subject the Borough to enforcement actions by the Department.

SAFE DRINKING WATER

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

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

Permit No. 6597502. Public water supply. **Municipal Authority of Westmoreland County**, Lincoln Highway West, Greensburg, PA 15601.

Type of Facility: Truxall Storage Tank.

Permit to Operate Issued: August 7, 1998.

Permit No. 1197503. Public water supply. **Spangler Municipal Authority**, P. O. Box 489, Spangler, PA 15775.

Type of Facility: Brown's Run Water Storage Tank.

Permit to Operate Issued: August 7, 1998.

Permit No. 1195502. Public water supply. **Spangler Municipal Authority**, P. O. Box 489, Spangler, PA 15775.

Type of Facility: Wells No. 1 and No. 3, Spangler Water System.

Permit to Operate Issued: August 7, 1998.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Reopening of an Administrative Record under the Hazardous Sites Cleanup Act

Sigma Electroplating, Inc. Site Whitpain Township, Montgomery County

The Department of Environmental Protection (Department), under the authority of Act 108 of 1988, the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA), completed a Prompt Interim Response at the facility which formerly housed the electroplating operations of Sigma Electroplating, Inc., SKF Plating, Ltd. and HMS Finishing, Inc. This response was completed in January 1995, and has been followed-up by ongoing investigations of the groundwater and soils. The facility is located at 1950 Skippack Pike, Whitpain Township, Montgomery County. In March 1998, the Department completed additional sampling of the onsite soils. This sampling revealed the presence of trichloroethylene (TCE) in the soils of one area of the property, at levels in excess of the Medium Specific Concentration (MSC), established under the Land Recycling and Environmental Remediation Standards Act (Act 2) (35 P. S. §§ 6026.101—6026.909).

Based on the above, the Department determined that a continued response, in the form of a soil removal operation, was necessary in the aforementioned area, in order to eliminate a continuing source of contamination to the groundwater. This additional response action will consist of the removal and proper disposal of the contaminated soils and subsequent stabilization and backfilling with clean fill. The Department has determined that this response, under the authority of sections 501(a) and 505(c) of HSCA is necessary to protect public health and the environment. This action will be taken as part of the continued response at the site, originally initiated in November 1994.

Furthermore, the Department, under the authority of section 506(h) of HSCA, is currently reopening the Administrative Record (AR) for the site, to document the total costs it has expended, to date, in addressing the immediate and ongoing environmental problems at the site.

The AR contains the information that forms the basis for and documents the selection of the completed response action. The Hazardous Sites Assessment Report (HSAR), which is part of the AR has also been revised to show the area of concern and the results of the analysis of the soil which prompted the decision to conduct a continued response at the site. The AR is available for public review and comment from 8:15 a.m. to 4:15 p.m. at the Department's offices located at 555 North Lane, Conshohocken, PA 19428. A mandatory appointment for reviewing the copy at the Department's offices can be obtained by calling the records management division at (610) 832-6003. A second copy of this AR will also be made available for public inspection at the Wissahickon Public Library, located at 650 Skippack Pike, Blue Bell, PA from 10 a.m. to 9 p.m., Monday through Thursday and from 10 a.m. to 5 p.m., Friday and Saturday. The library is also open from 1 p.m. to 4 p.m. on Sunday. For more information concerning the library, call (215) 643-1320.

Written comments concerning the Department's costs and the information contained in the AR will be accepted in person, if delivered, or by mail, if postmarked on or before October 29, 1998. Written comments should be directed to the attention of Michael Timcik, PA DEP Project Officer, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA 19428, (610) 832-6202.

Under the authority of section 506(h) of HSCA, the Department is currently waiving its option to conduct a public meeting relative to the AR reopening documenting costs. A public meeting will be held, only in the event that the Department receives a written request for same, within 30 days of the publication of this notice, or September 29, 1998.

The Department is providing this notice under section 506(b) of the HSCA. The date of publication of this notice in the *Pennsylvania Bulletin* initiates the 60-day public comment period on the reopened administrative record, as provided under the act.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of

contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

Dodge Steel Castings, City of Philadelphia, **Philadelphia County**. Jeffrey E. Sobel, American Realty Corp., 30800 Northwestern Highway, 2nd Floor, Farmington Hills, MI 48334, has submitted a Final Report concerning remediation of site soil contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

The Korman Company, West Norristown Township and Norristown Borough, **Montgomery County**. Darryl D. Borrelli, Manko, Gold & Katcher, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet site-specific standards.

ARCO/SAP, America Property, Newtown Township, **Delaware County**. Donald W. Blackert, P.G., Key Environmental, Inc., Suite 200, 200 Arch Street, Carnegie, PA 15106, has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet Statewide health standards.

SOLID AND HAZARDOUS WASTE

LICENSE TO TRANSPORT HAZARDOUS WASTE

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.

Eduardo Zappi Dermatopathology Laboratory, Inc. d/b/a Recycling Systems, 63-11 Queens Boulevard, Woodside, NY 11377; License No. **PA-AH 0594**; license issued July 20, 1998.

Electro Environmental Technologies, Inc., 21 Farber Drive, Bellport, NY 11713; License No. **PA-AH 0597**; license issued August 5, 1998.

Fisher Industrial Services, Inc., P.O. Box 5410, Glencoe, AL 35905; License No. **PA-AH 0595**; license issued August 4, 1998.

Glen W. Smith and Associates, Inc., 3408 52nd Avenue, Hyattsville, MD 20781; License No. **PA-AH 0596**; license issued August 4, 1998.

Op-Tech Environmental Services, Inc., 6392 Deere Road, Syracuse, NY 13206; License No. **PA-AH 0599**; license issued August 11, 1998.

Pioneer Tank Lines, Inc., 12501 Hudson Road South, Afton, MN 55001; License No. **PA-AH 0600**; license issued August 12, 1998.

Qualified Transport Corporation, P.O. Box 288, Port Allen, LA 70767; License No. **PA-AH 0598**; license issued August 5, 1998.

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.

Ahles Pump & Tank Company, Inc., 5302 Brown Road, Verona, NY 13478; License No. **PA-AH S234**; renewal license issued August 4, 1998.

Empire Wrecking Co. of Reading PA, 1420 Clarion Street, Reading, PA 19601; License No. **PA-AH 0255**; renewal license issued August 6, 1998.

General Battery Corporation, P.O. Box 14205, Reading, PA 19612-4205; License No. **PA-AH 0036**; renewal license issued August 10, 1998.

H.V.T.S., Inc., P.O. Box 2847, Chino, CA 91708-2847; License No. **PA-AH 0463**; renewal license issued August 6, 1998.

Keystone Petroleum Equipment, Ltd., 981-B Trindle Road West, Mechanicsburg, PA 17055; License No. **PA-AH 0540**; renewal license issued July 21, 1998.

National Waste Clean, Inc., 304 Pulaski Street, South Plainfield, NJ 07080; License No. **PA-AH 0528**; renewal license issued August 4, 1998.

Page E.T.C., Inc., P.O. Box 1290, Weedsport, NY 13166; License No. **PA-AH 0338**; renewal license issued July 14, 1998.

Race, Inc. d/b/a Envirocure, 665 William Pitt Way, Pittsburgh, PA 15238; License No. **PA-AH 0340**; renewal license issued August 6, 1998.

Shafer Commercial & Industrial Service, 4565 North Leavitt Road, Northwest, Warren, OH 44485; License No. **PA-AH 0529**; renewal license issued August 11, 1998.

Suttles Truck Leasing, Inc., P.O. Box 129, Demopolis, AL 36723; License No. **PA-AH 0332**; renewal license issued August 3, 1998.

T.A.G. Transport, Inc., P.O. Box 1180, Kingston, TN 37763-1180; License No. **PA-AH 0539**; renewal license issued August 6, 1998.

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.

S&M Management Incorporated, P. O. Box 1429, Milford, PA 18337; License No. **PA-AH 0412**; license expired on July 31, 1998.

RESIDUAL WASTE PROCESSING FACILITIES

Permit Modification (For Form S Type Waste) Approved to Accept Municipal-Like Residual Waste at Municipal Waste Transfer Facilities.

Regional Office: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2516.

Permit I.D. No. 101590. Beach Lake Transfer Station, Grand Central Sanitation, Inc., 1963 Pen Argyl Road, Pen Argyl, PA 18072. A permit authorizing the Acceptance of Form S Municipal-Like Residual Waste at this municipal waste transfer facility, located in Berlin Township, **Wayne County**. The permit also authorizes the acceptance and processing of municipal waste and/or Form S municipal-like residual waste on Saturdays. The permit was issued in the Regional Office on July 20, 1998.

HAZARDOUS WASTE, TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Regional Office: Regional Solid Waste Manager, 555 North Lane, Suite 6010, Lee Park, Conshohocken, PA 19428.

PAD085690592. Republic Environmental Systems (Pennsylvania), Inc., 2869 Sandstone Drive, Hatfield, PA 19440. This application was submitted for the renewal and modification of the commercial hazardous waste treatment and storage facility located in Hatfield Township, **Montgomery County**. Included in the renewal application are proposed modifications to the tank and drum storage areas. Application was received in the Southeast Regional Office on August 7, 1998.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428.

Permit No. 101264. Philadelphia Water Department Biosolids Recycling Center, 7800 Penrose Ferry Road, Philadelphia, PA 19153. This permit renewal was issued for the continuing operation of the Philadelphia Water Department composting facility and the sludge processing and distribution center sewage sludge dewatering facility located in the City of Philadelphia. Permit was issued in the Southeast Regional Office on August 12, 1998.

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

Permit ID No. 100620. BFI—Imperial Landfill, BFI Waste Systems of North America, Inc., 11 Boggs Road, P. O. Box 47, Imperial, PA 15126. Construction and operation of a landfill gas extraction system for Area 7 of the BFI—Imperial Landfill located in Findlay Township, **Allegheny County**. Permit application issued in Regional Office on August 11, 1998.

PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE

INFECTIOUS OR CHEMOTHERAPEUTIC WASTE

Infectious and Chemotherapeutic Waste Transporter License voluntarily terminated 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.

Longview Waste Systems of Ocean County, Inc., 1301 Route 37, West, Toms River, NJ 08755; License No. **PA-HC 0145**; license terminated June 1, 1998.

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.

Cowan Systems, Inc., 1910 Halethorpe Farms Road, Baltimore, MD 21227; License No. **PA-HC 0206**; license issued July 21, 1998.

Med-Flex, Inc., 105 High Street, Mt. Holly, NJ 08060; License No. **PA-HC 0207**; License issued July 28, 1998.

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.

Cole Care, Inc., 1001 East Second Street, Coudersport, PA 16915; License No. **PA-HC 0178**; license issued August 5, 1998.

Licenses expired 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 Waste Management: Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Nvision Works, Inc., One Trovillo Court, Navesink, NJ 07752; License No. **PA-HC 0193**; license expired July 31, 1998.

Kuprianov Co., 22 Northwest Drive, Bridgeton, NJ 08303; License No. **PA-HC 0149**; license expired on July 31, 1998.

AIR QUALITY OPERATING PERMITS

Administrative Amendment of 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.

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

15-301-078: Southern Chester County Medical Center (1011 West Baltimore Pike, West Grove, PA 19390) issued August 14, 1998, for a hospital waste incinerator in Penn Township, **Chester County**.

23-399-028: Stoney Creek Technologies, LLC (3300 West 4th Street, Trainer, PA 19061) issued August 17, 1998, for solids conveyance system in Trainer Borough, **Delaware County**.

23-313-011: Stoney Creek Technologies, LLC (3300 West 4th Street, Trainer, PA 19061) issued August 17, 1998, for an inert gas stripper in Trainer Borough, **Delaware County**.

23-313-002: Stoney Creek Technologies, LLC (3300 West 4th Street, Trainer, PA 19061) issued August 17, 1998, for hydrocarbon sulfonation proc. in Trainer Borough, **Delaware County**.

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.

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

46-318-044: Naval Air Station Joint Reserve Base (Naval Air Station, Route 611, Willow Grove, PA 19090) issued for operation of a paint spray booth in Horsham Township, **Montgomery County**.

09-399-038: Interstate Energy Co. (1145 Rich Hill Road, Sellersville, PA 18960) issued for operation of two natural gas pipeline heaters in West Rockhill Township, **Bucks County**.

15-310-016A: Valley Forge Stone Co. (199 Quarry Road, Honey Brook, PA 19344) issued for operation of a stone crushing plant in Honeybrook Township, **Chester County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.

12-399-009A: GKN Sinter Metals (R. R. 2, Box 47, Emporium, PA 15834) issued July 14, 1998, for operation of a sintered metal parts oil impregnation system and associated air cleaning device (an electrostatic precipitator) at Plant No. 1 in Shippen Township, **Cameron County**.

59-304-007A: Ward Mfg., Inc. (P. O. Box 9, Blossburg, PA 16912) issued July 14, 1998, for operation of five spin blast machines and associated air cleaning device (a fabric collector) at Plant No. 3 in Blossburg Borough, **Tioga County**.

18-0003A: CNG Transmission Corp. (CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15222) issued July 15, 1998, for operation of three natural gas-fired 1,100 horsepower reciprocating internal combustion engines (No. 1, 2 and 3) at the Finnefrock Compressor Station in Leidy Township, **Clinton County**.

49-318-028A: Truck Accessories Group, Inc. (200 Housels Run Road, Milton, PA 17847) issued July 24, 1998, for operation of a truck cap surface coating operation in the Milton Industrial Park in Milton Borough, **Northumberland County**.

41-00021: Carlos R. Leffler, Inc. (625 Linden Street, Richland, PA 17087) issued June 15, 1998, for storage and distribution of petroleum products in Armstrong Township, **Lycoming County**.

17-00003: CNG Transmission Corp., Luther Station (445 West Main Street, P. O. Box 2450, Clarksburg, WV 26302-2450) issued May 8, 1998, for transmission of natural gas to customers in Brady Township, **Clearfield County**.

17-00003: CNG Transmission Corp., State Line Station (445 West Main Street, P. O. Box 2450, Clarksburg, WV 26302-2450) issued July 31, 1998, for transmission of natural gas to customers in Brady Township, **Clearfield County**.

41-00007: Coastal Oil New York, Inc. (600 Route 46 West, P. O. Box 818, Hasbrouck Heights, NJ 07604) issued June 15, 1998, for storage and distribution of petroleum products in Williamsport, **Lycoming County**.

14-00004: Con-Lime, Inc. (P. O. Box 118, Bellefonte, PA 16823) issued April 1, 1998, for mineral processing operations in Benner Township, **Centre County**.

60-00006: Commonwealth of Pennsylvania, Dept. of Public Welfare (P. O. Box 300, Laurelton, PA 17835-0300) issued June 4, 1998, for coal fired boilers in Hartley Township, **Union County**.

49-00012: Eldorado Properties Corp. (3020 Columbia Avenue, Lancaster, PA 17603) issued June 15, 1998, for storage and distribution of petroleum products in Point Township, **Northumberland County**.

41-00017: Gulf Oil, L.P., (90 Everett Avenue, P. O. Box 9151, Chelsea, MA 02150-2337) issued June 15, 1998, for storage and distribution of petroleum products in South Williamsport, **Lycoming County**.

41-00008: Montour Oil Service Co. (1801 Market Street, 26/10 PC, Philadelphia, PA 19103-1699) issued June 15, 1998, for storage and distribution of petroleum products in Loyalsock Township, **Lycoming County**.

53-00003: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512) issued June 3, 1998, for transmission of natural gas to customers in Allegany Township, **Potter County**.

53-00008: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512) issued June 1, 1998, for transmission of natural gas to customers in Wharton Township, **Potter County**.

60-00002: National Gypsum Co. (P. O. Box 338, Milton, PA 17847-0338) issued July 31, 1998, for operation of two natural gas/No. 6 fuel-oil fired boilers in White Deer Township, **Union County**.

14-00005: Commonwealth of Pennsylvania, Dept. of Corrections (P. O. Box 598, Camp Hill, PA 17001-0599) issued June 4, 1998, for operation of coal fired boilers in Benner Township, **Centre County**.

47-00002: Strick Corp., Danville Plant (R. R. 8, Box 281, Danville, PA 17821) issued June 5, 1998, for surface coating of miscellaneous metal parts in Limestone Township, **Montour County**.

49-00019: Sun Company, Inc., Atlantic Refining and Marketing (1801 Market Street, 26/10 PC, Philadelphia, PA 19103-1699) issued June 15, 1998, for storage and distribution of petroleum products in Point Township, **Northumberland County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

04-00061: Calgon Corp. (P. O. Box 391, Chem Road, Ellwood City, PA 16117) issued July 31, 1998, for water treatment chemical manufacturing at Ellwood City North Plant in Franklin Township, **Beaver County**.

65-000-720: Carbide Corp. (Arona Road, P. O. Box 509, Irwin, PA 15642) issued September 18, 1997, for NO_x and VOC Sources at the Arona Plant in Hempfield Township, **Westmoreland County**.

PLAN APPROVALS

Administrative Amendment of 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.

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

09-302-065A: Rohm & Haas DVI (Route 413 and Old Route 13, Bristol, PA 19007) issued August 12, 1998, for two boilers to amend waste in Bristol Township, **Bucks County**.

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.

10-298C: ESM II, Inc. (955 Saxonburg Boulevard, Clinton Industrial Park, Saxonburg, PA 16056) issued August 9, 1998, for modification to the hammermill in Clinton Township, **Butler County**.

Plan Approval extensions 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.

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

46-318-046: Eye Designs LLC (1700 East Drive, Building Q, Oaks, PA 19456) issued August 14, 1998, for operation of two spray booths in Upper Providence Township, **Montgomery County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

56-263A: Penn Coal, Inc. (214 College Park Plaza, Johnstown, PA 15904) issued July 31, 1998, for installation of coal screening at Sarah Mine in Jenner Township, **Somerset County**.

65-078A: Hempfield Foundries Co. (P. O. Box 69, Greensburg, PA 15601) issued August 5, 1998, for operation of sand reclamation and shotblast Greensburg Borough, **Westmoreland County**.

03-000-180: CNG Transmission Corp. (625 Liberty Avenue, Pittsburgh, PA 15222) issued August 5, 1998, for operation of IC engines at South Bend Station in Southbend Township, **Armstrong County**.

30-072A: Consol Pennsylvania Coal Co. (1800 Washington Road, Pittsburgh, PA 15241) issued August 5, 1998, for installation of a coal preparation plant at Bailey Prep Plant in Richhill Township, **Greene County**.

65-307-054B: Teledyne, Inc. (P. O. Box 151, Latrobe, PA 15650) issued August 5, 1998, for operation of EAF oxygen lance and AOD vessel at Teledyne Allvac in Derry Township, **Westmoreland County**.

32-040A: GPU Generation, Inc. (1001 Broad Street, Johnstown, PA 15907) for operation of Boiler 15 at Seward Station in East Wheatfield Township, **Indiana County**.

65-881A: Innovative Carbide, Inc. (P. O. Box 389, 11099 Route 993, Irwin, PA 15642) for operation of metal powder mixing and drying in North Huntingdon Township, **Westmoreland County**.

26-316-004: Fay-Penn Fiber, Inc. (2079-A Lawrence Drive, DePere, WI 54115) for installation of building ventilation at Div. of R&K Development Co. in Georges Township, **Fayette County**.

26-316-001: Fay-Penn Fiber, Inc. (2079-A Lawrence Drive, DePere, WI 54115) for installation of raw material handling at Div. of R&K Development Co. in Georges Township, **Fayette County**.

26-316-002: Fay-Penn Fiber, Inc. (2079-A Lawrence Drive, DePere, WI 54115) for installation of drying systems and heating at Div. of R&K Development Co. in Georges Township, **Fayette County**.

PLAN APPROVALS/OPERATING PERMITS

General Plan Approval and Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.

GP5-17-09: American Refining and Exploration Co. (100 Four Falls Corporate Center, Suite 215, West Conshohocken, PA 19428) issued July 8, 1998, to construct and operate a 186 horsepower natural gas-fired reciprocating internal combustion engine and associated air cleaning devices (a catalytic converter and an air/fuel ratio controller) under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities at the Home Camp Compressor Station in Union Township, **Clearfield County**.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 127.450 for Reasonable Available Control Technology.

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

46-0052: Pottstown Memorial Medical Center (1600 East High Street, Pottstown, PA 19464) issued August 13, 1998, for Facility VOC/NO_x RACT in Pottstown Borough, **Montgomery 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 Permits Issued

32813001. Permit Renewal, **Twin Brook Coal Company** (R. R. 1, Box 686, Marion Center, PA 15759), commencement, operation and restoration of bituminous strip mine in Montgomery and Green Townships, **Indiana County**, affecting 244.0 acres, receiving stream Painters Run and unnamed tributaries of Cush Cushion Creek. Application received May 29, 1998. Application issued August 03, 1998.

32970113. **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16601), commencement, operation and restoration of a bituminous strip mine in West Wheatfield Township, **Indiana County**, affecting 100.7 acres, receiving streams unnamed tributaries to Ramsey Run and Blacklick Creek. Application received November 4, 1997. Application issued August 4, 1998.

56930105. **Transfer from Wesott, Inc. to Big J Mining, Inc.** (1842 Main Street, Hastings, PA 16646), commencement, operation and restoration of bituminous strip-auger mine in Jenner Township, **Somerset County**, affecting 58.0 acres, receiving stream unnamed tributary to/and Pine Run. Application received March 18, 1998. Application issued August 7, 1998.

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

30823036R. **Boyle Land & Fuel Company** (P. O. Box 576, Fredericktown, PA 15333). Renewal issued for reclamation only of a bituminous surface mine located in

Cumberland Township, **Greene County**, affecting 48.4 acres. Receiving streams: unnamed tributary to Muddy Run to the Monongahela River. Application received: May 13, 1998. Renewal issued: August 4, 1998.

03880110R. **McKay Coal Company, Inc.** (R. D. 2, Templeton, PA 16259). Renewal issued for continued operation and reclamation of a bituminous surface/auger mine located in Mahoning Township, **Armstrong County**, affecting 151 acres. Receiving streams: unnamed tributaries to Cathcart Run and Mudlick Creek. Application received: May 29, 1998. Renewal issued: August 4, 1998.

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

16970104. **MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801). Commencement, operation and restoration of a bituminous strip operation in Clarion Township, **Clarion County** affecting 97.5 acres. Receiving stream: Unnamed tributary of Brush Run to Brush Run to Piney Creek to the Clarion River. Application received: July 22, 1998.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

30841601. **Consolidation Coal Co.** (P. O. Box 100, Osage, WV 26545), to renew the permit for the Robena Prep Plant in Monongahela Township, **Greene County**, no additional discharges. Permit issued August 6, 1998.

17911603. **Al Hamilton Contracting Co.** (R. R. 1, Box 87, Woodland, PA 16881-9705), to renew the permit for the Little Beth Tipple in Bradford Township, **Clearfield County**, no additional discharges. Permit issued August 10, 1998.

30910701. **Chess Coal Co.** (R. R. 1, Box 151, Smithfield, PA 15478), to renew the permit for the Refuse Site No. 7 in Dunkard Township, **Greene County**, no additional discharges. Permit issued August 10, 1998.

56911302. **RoxCoal, Inc.** (2851 Stoystown Road, P. O. Box 149, Friedens, PA 15541), to renew the permit for the Long T in Stonycreek Township, **Somerset County**, no additional discharges. Permit issued August 10, 1998.

30841317. **Consol Pennsylvania Coal Co.** (Waynesburg Operation, P. O. Box 174, Graysville, PA 15337), to revise the permit for the Enlow Fork Mine in Richhill Township, **Greene County** to install the B-14 Vent Boreholes, no additional discharges. Permit issued August 12, 1998.

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

54830105R3. **Joe Kuperavage Coal Company** (916 Park Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation in Schuylkill Township, **Schuylkill County** affecting 412.66 acres (167.0 ha), receiving stream—none. Renewal issued August 11, 1998.

54830206R3. **Meadowbrook Coal Co., Inc.** (P. O. Box 477, Lykens, PA 17048), renewal of an existing coal refuse reprocessing operation in Tremont Township, **Schuylkill County** affecting 11.1 acres (4.49 ha), receiving stream—Stumps Run. Renewal issued August 11, 1998.

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

Noncoal Permits Issued

26970401. **Laurel Aggregates, Inc.** (P. O. Box 23, Gans, PA 15439). Permit issued for commencement, operation and reclamation of a noncoal surface mine located

in Springhill Township, **Fayette County**, affecting 153.0 acres. Receiving streams: unnamed tributaries to Rubles Run and Rubles Run. Application received: December 3, 1997. Permit issued: August 4, 1998.

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

01970301T. Barre Granite Quarries, LLC (P. O. Box 9323, South Burlington, VT 05407-9323), transfer of an existing quarry operation in Mt. Joy Township, **Adams County** affecting 12.7 acres, receiving stream—none. Transfer issued August 14, 1998.

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

Noncoal Applications Withdrawn

0179301T. Barre Granite Quarries, Inc. (P. O. Box 9323, South Burlington, VT 05407-9323), transfer of an existing quarry operation in Mt. Joy Township, **Adams County** affecting 16.2 acres, receiving stream—Rock Creek. Application received January 2, 1998. Application withdrawn August 10, 1998.

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

General Small Noncoal Authorizations Granted

58980839. Donald R. Rood (P. O. Box I, Nicholson, PA 18446), commencement, operation and restoration of a small bluestone quarry operation in Springville Township, **Susquehanna County** affecting 1.0 acre, receiving stream—none. Authorization granted August 13, 1998.

58980835. Walter Konsur (R. R. 1, Box 481, Jackson, PA 18825), commencement, operation and restoration of a small bluestone quarry operation in Gibson Township, **Susquehanna County** affecting 1.0 acre, receiving stream—none. Authorization granted August 14, 1998.

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 Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 697.302) 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(s)). (Note: Permits issued for Small Projects do not include 401 certification, unless specifically stated in the description.)

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1236. Encroachment. County of Allegheny, Department of Public Works, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2951. To rehabilitate, operate and maintain the existing bridge (Montour Run Bridge No. 20) having a span of 17.0 feet with an underclearance of 11.2 feet across Montour Run (TSF) for the purpose of improving the existing bridge. The project is located on Enlow Road, just north of the intersection of Enlow Road, McNeese Lane, Cliff Mine Road, Grace Street and West Allegheny Road (Oakdale, PA Quadrangle N: 14.6 inches; W: 15.2 inches) in North Fayette and Findlay Townships, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E03-372. Encroachment. Armstrong County Commissioners, Administration Building, 450 Market Street, Kittanning, PA 16201. To remove the existing structure and to construct and maintain a 2-span bridge having a total normal span of 26.213 meters and an underclearance of 2.25 meters across Cowanshannock Creek (TSF—Trout Stocked) located on T-572 (Nulton Bridge) located at a point approximately 1,500 feet south of S. R. 85 (Mosgrove, PA Quadrangle N: 10.7 inches; W: 12.1 inches) in Rayburn Township, **Armstrong County**.

E11-261. Encroachment. East Carroll Township, 3350 Brick Road, Carrolltown, PA 15722. To operate and maintain a twin 42-inch diameter plastic pipe culvert, 48 feet long (invert depressed 6 inches) in an unnamed tributary to Little Chest Creek (CWF) located on T-527 at a point approximately 1,200 feet upstream of the confluence of said stream with Little Chest Creek, to construct and maintain 40 l.f. bank protection at the culvert's approaches (Hastings, PA Quadrangle N: 0.85 inch; W: 5.9 inches) in East Carroll Township, **Cambria County**. The work was authorized under the emergency Permit No. EP1198201 issued on June 9, 1998. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E26-244. Encroachment. PA Department of Transportation, District 12-0, P. O. Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain a 42-foot long reinforced concrete rigid frame structure having a normal clear span of 16.0 feet and an underclearance of 7.0 feet in an unnamed tributary to Jacobs Creek (CWF) located on S. R. 0031, Section 122, at the intersection of S. R. 0031 and S. R. 0982. The project includes construction and maintenance of an 81-inch by 59-inch elliptical CM pipe culvert for a temporary roadway and construction and maintenance of an outfall structure (Mammoth, PA Quadrangle N: 3.35 inches; W: 15.1 inches) in Bullskin Township, **Fayette**

County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E02-1229. Encroachment. **Allegheny County Commissioners**, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2951. To remove the existing gabion wall and construct and maintain a new 127 feet long by 13 feet high concrete crib wall along the left bank of Lick Run (TSF). The project is located on the west side of Broughton-Cochran Mill Road approximately 900 feet northwest of its intersection with Wilson Road (Glassport, PA Quadrangle N: 12.5 inches; W: 14.8 inches) in Jefferson Borough, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E65-694. Encroachment. **Westmoreland County Bureau of Parks**, R. D. 12, Box 203 Donohoe Road, Greensburg, PA 15601-9217. To construct and maintain an equestrian crossing (low flow crossing) consisting of four 24-inch diameter corrugated plastic pipes having a length of 21 feet (inverts depressed 6 inches) in an unnamed tributary to Pine Run (WWF) located at a point approximately 285 feet downstream of outlet structure of the Northmoreland Lake Dam (D65-164) (Vandergrift, PA Quadrangle N: 13.75 inches; W: 15.75 inches) in Allegheny Township, **Westmoreland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E63-457. Encroachment. **PA Department of Transportation, Engineering District 12-0**, P. O. Box 459, Uniontown, PA 15401. To rehabilitate and maintain the existing 15.0 feet x 13.0 oblong CMP culvert in an unnamed tributary to Chartiers Creek (WWF). The project will consist of paving the invert of the existing culvert for a distance of approximately 313.4 feet. This permit also authorizes the cleaning of the channel of said stream and the installation of rip rap bank protection (R-4 rock) for a distance of approximately 48.0 feet upstream of the existing culvert and R-6 rock for a distance of approximately 64.0 feet downstream from the existing culvert. The project is located under S. R. 0079 at the Meadowlands Interchange (Washington East, PA Quadrangle N: 17.9 inches; W: 12.4 inches) in North Strabane and South Strabane Townships, **Washington County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

E01-193. Encroachment. **Adams County Commission**, 111-117 Baltimore St., Gettysburg, PA 17325. To construct and maintain a 79-foot, 6-inch single span truss bridge having an underclearance of 7 feet over Willoughby Run on Waterworks Road to replace the John Eisenhower bridge destroyed in the 1996 flood located west of Red Rock Road (Fairfield, PA Quadrangle N: 8.8 inches; W: 2.7 inches) in Cumberland Township, **Adams County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E05-267. Encroachment. **PA Department of Transportation, District 9-0**, Dain Davis, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove the existing two span bridge and to construct and maintain a new single span prestressed concrete spread box beam bridge

having a 42 foot clear span on a 40 degree skew with a 5.8 feet minimum underclearance over Yellow Creek on SR 1005, Section 002, Segment 0230, Offset 0297, Station 25+79.19 located in Loysburg Village (New Enterprise, PA Quadrangle N: 6.55 inches; W: 0.1 inch) in South Woodbury Township, **Bedford County**. This permit also includes 401 Water Quality Certification.

E07-281. Encroachment. **Bryan Diehl**, 315 6th Street, Tyrone, PA 16686. To construct and maintain a single span bridge having a span of 23.0 feet and an underclearance of 4.5 feet in Hutchinson Run to provide access to a single family residence located on the southside of Hoover Lane about 0.7 mile west of SR 0220 (Tipton, PA Quadrangle N: 7.8 inches; W: 2.0 inches) in Snyder Township, **Blair County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E07-293. Encroachment. **PA Department of Transportation, District 9-0**, Robert Heim, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove an existing two span bridge and to construct and maintain a two span prestressed concrete spread box beam bridge having two normal clear spans of 27.71 feet and a minimum underclearance of 7.92 feet over Sinking Run and to temporarily place fill in a de minimis amount of associated wetlands for purposes of highway maintenance located on SR 1013, Section 010, Segment 0340, Offset 0000 about 0.7 mile west of its intersection with SR 0350 (Spruce Creek, PA Quadrangle N: 20.6 inches; W: 7.9 inches) in Tyrone Township, **Blair County**. This permit also includes 401 Water Quality Certification.

E28-251. Encroachment. **David George**, 13321 Midvale Road, Waynesboro, PA 17268. To construct and maintain a single span bridge having a span of 50 feet with an average underclearance of 8.5 feet across Red Run to provide access to home located about 1,700 feet south of the Washington Township High School (Smithsburg, MD-PA Quadrangle N: 20.06 inches, W: 5.38 inches) in Washington Township, **Franklin County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E36-653. Encroachment. **PA Department of Transportation, Engineering District 8-0**, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To remove the existing structure, construct and maintain a precast reinforced concrete box culvert having an 18.0 foot normal span on a 75 degree skew and a vertical underclearance of 4.0 feet over Coopers Run on SR 2014, Segment 0030, Offset 0000 (Maple Shade Road) (Kirkwood, PA Quadrangle N: 20.8 inches; W: 7.95 inches) in Colerain Township, **Lancaster County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E44-092. Encroachment. **Allen Peachey**, 49 Caxuga Road, Belleville, PA 17004. To maintain a 60-inch diameter, 24-foot long reinforced concrete pipe constructed in an unnamed tributary to Kishacoquillas Creek under General Permit No. 8 (Temporary Road Crossings) Permit No. GP08-44-97-102 and to construct and maintain a 24-inch diameter corrugated metal pipe culvert adjacent to the 60-inch concrete pipe for the purpose of maintaining a private access driveway onto private property located about 200 feet north of Hickory Lane (T-464) about 0.9 mile south of its intersection with Black Mountain Road (T-451) (Allensville, PA Quadrangle N: 17.2 inches; W: 1.8 inches) in Menno Township, **Mifflin County**. This

permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E13-111. Encroachment. **Bethlehem Authority**, City Center Administrative Building, 10 East Church Street, Bethlehem, PA 18018-6025. To remove the existing structure and to construct and maintain a single span precast modular concrete arch bridge having a span of 32 feet with an underclearance of 6 feet, 6 inches across Wild Creek. The project, associated with the Penn Forest Dam Replacement Project, is located approximately 0.26 mile downstream of the Penn Forest Dam (Pohopoco Mountain, PA Quadrangle N: 9.7 inches; W: 8.4 inches) in Penn Forest Township, **Carbon County**.

E39-343. Encroachment. **Pennsylvania Power & Light Company**, 2 North Ninth Street, Mail Stop N-4, Allentown, PA 18101-1179. To construct and maintain three separate ford crossings across Coplay Creek to be used for access along an electrical power line. The project is located along the Siegfried-Wescosville Part 4 Line approximately 150 feet, 360 feet and 520 feet northwest of Wood Street (T691) (Cementon, PA Quadrangle N: 7.4 inches; W: 12.6 inches) in North Whitehall Township, **Lehigh County**.

E40-485. Encroachment. **Hickory Hills Property Owners Association**, 155 Hickory Hills, White Haven, PA 18661. To remove the existing structure and to construct and maintain a road crossing of Pond Creek, consisting of a 12.0-foot by 7.0-foot and a 12.0-foot by 8.0-foot concrete box culvert. The 12.0-foot by 8.0-foot culvert will be depressed 1.0 foot below streambed elevation. The project is located on Hickory Hills Drive, approximately 0.5 mile south of the intersection of S. R. 0940 and T-404 (White Haven, PA Quadrangle N: 6.5 inches; W: 8.8 inches), in Foster Township, **Luzerne County**.

E64-189. Encroachment. **Frederick Peruzzi**, 165 Lincoln Highway, Fairless Hills, PA 19030. To maintain fill which was placed in 1.06 acres of wetlands, within the drainage basin of the West Branch Lackawaxen River, for the purpose of constructing a nonjurisdictional dam. The project is located along T-567, approximately 1 mile southeast of the intersection of S. R. 0670 and S. R. 0370 (Orson, PA Quadrangle N: 9.1 inches; W: 7.8 inches), in Preston Township, **Wayne County**. The permittee is required to provide 2.12 acres of replacement wetlands. Issuance of this permit also constitutes approval of the environmental assessment for a nonjurisdictional dam.

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

E46-805. Encroachment. **Montgomery County Board of Commissioners**, Swede and Airy Streets, Norristown, PA 19404. To perform repairs to a three span stone masonry arch bridge carrying Keller-Creamery Road over Indian Creek. The structural repairs include: 1. Installation of reinforced concrete footings at the springline of each arch. 2. Installation of corrugated steel arches under the stone masonry arches and grouting of the void area. 3. Construction of a spandrel support beam along the spandrel wall and the placement of necessary backfill. The site work includes: 1. Clearing accumulated debris from the channel. 2. Installation of guiderails at the bridge approaches. 3. Regrading and paving of the road-

way. 4. Installation of R-4 to R-6 rip-rap for scour protection in various locations. Montgomery County Bridge No. 98 is located approximately 2,200 feet southeast of the intersection of Hunsicker Road and Keller-Creamery Road (Perkiomenville, PA Quadrangle N: 10.3 inches; W: 3.5 inches) in Franconia Township, **Montgomery County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E57-082. Encroachment. **Pa. DCNR**, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing structure and to construct and maintain a 16 foot 2 inch by 5 foot 1 inch aluminum box culvert with R-6 riprap for inlet and outlet protection in Middle Branch of Mill Creek on Camels Road approximately 1.25 miles northwest of the confluence of Middle Branch with East Branch of Mill Creek (Barbours, PA Quadrangle N: 21.5 inches; W: 3.2 inches) in Fox Township, **Sullivan County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E61-214. Encroachment Permit. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a steel multiplate girder bridge having a clear, normal span of 133 feet and a minimum underclearance of 11 feet across Oil Creek on S. R. 1011 approximately 1,000 feet north of the Drake Well Museum (Titusville South, PA Quadrangle N: 20.9 inches; W: 4.5 inches) in Cherrytree Township, **Venango County**.

ENVIRONMENTAL ASSESSMENT

Environmental Assessment Approvals and Actions on 401 Certification.

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

EA22-009CO. Environmental Assessment. **Triple Crown Corporation** (5351 Jaycee Avenue, Harrisburg, PA 17112). To construct and maintain a nonjurisdictional dam across a tributary to Paxton Creek (WWF) impacting a de minimis area of wetlands (PEM) equal to 0.02 acre to control stormwater at the proposed Fieldstone Farm subdivision. The proposed dam will be located approximately 1,300 feet southeast of the intersection of Crooked Hill Road and Reichert Road (Harrisburg East, PA Quadrangle N: 12.1 inches; W: 16.3 inches) in Susquehanna Township, **Dauphin County**.

WATER ALLOCATIONS

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

Southcentral Regional Office: Water Supply Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. WA 36-574E. Water allocation. **East Petersburg Borough Water Authority, Lancaster**

County. The applicant was granted the right to increase its allocation from the City of Lancaster Authority to 500,000 gpd (30-day average flow) with a maximum daily flow of 700,000 gpd.

[Pa.B. Doc. No. 98-1397. Filed for public inspection August 28, 1998, 9:00 a.m.]

Date: July 27, 1998 Page Length: 10 pages Location: Vol 32, Tab 26 Contact: Tammey Young at (717) 772-5831.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1398. Filed for public inspection August 28, 1998, 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 "January 1998 Inventory" heading is the Governor's List of Non-regulatory 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 continue to revise its documents, as necessary, throughout 1998.

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: 293-2400-003 Title: Requirements for Low-Level Radioactive Waste Minimization Plans Description: Establishes guidelines and criteria that the Department personnel and generators of LLRW can use for designing and implementing voluntary waste minimization programs. Effective Date: July, 1998 Page Length: 13 pages Location: Vol 04, Tab 11 Contact: Rich Janati at (717) 787-2147

DEP ID: 393-0900-021 Title: UST/AST System Variances Description: The guidance is intended to provide staff and industry information necessary to implement this variance process for storage tanks. Effective Date: June 15, 1998 Page Length: 3 pages Location: Vol 32, Tab 25 Contact: Glenn Rider at (717) 772-5599.

DEP ID: 393-0900-022 Title: Verification of Emergency Containment Structures for Aboveground Storage Tanks Description: Provides information to assist tank owners and professional engineers when determining the adequacy of emergency containment structures. Effective

Initial Notice of Request for Certification under Section 401 of the Federal Clean Water Act and Coastal Zone Management Consistency Determination

This notice pertains to changes regarding United States Army Corps of Engineers (Corps) Nationwide Permits under section 404 of the Clean Water Act. At the present time, the changes proposed by the Corps do not alter Pennsylvania's existing wetland protection program. These proposed changes, when finalized, may impact citizens who are required to receive Federal authorization or permits for such activities.

On Wednesday, July 1, 1998, the Corps published in the *Federal Register* (63 *Fed. Reg.* 36039) its application for certification under section 401(a) of the Federal Clean Water Act (33 U.S.C.A. § 1341(a)) (act) that the activities described in the *Federal Register* notice (and in more detail below) which may result in a discharge into waters of the United States will comply with the applicable provisions of sections 301—303, 306 and 307 of the act. That notice also served as a request for a State determination of coastal zone management consistency under section 307 of the Coastal Zone Management (CZM) Act, 16 U.S.C.A. § 1456, for activities within or affecting the coastal zone of the Commonwealth of Pennsylvania.

In its July 1, 1998 *Federal Register* Notice, the Army Corps of Engineers is proposing to issue six new Nationwide Permits (NWP), modify six existing NWPs, and amend six NWP conditions. The Corps is also proposing to extend NWP 26 until March 28, 1999. In addition, the Corps is suspending NWP 29 for single family housing activities that result in the loss of greater than 1/4 acre of non-tidal waters of the United States, and proposing to modify NWP 29 to change the acreage limit from 1/2 acre to 1/4 acre. A list of the proposed new NWPs, modified NWPs, and modified conditions follows. Anyone wishing to provide comments may obtain a full text copy of the NWPs through the Corps Home Page, access the *Federal Register* through the Government Printing Office (GPO) at http://www.access.gpo.gov/su_docs/aces/aaces002.html, or contact the United States Army Corps of Engineers, Baltimore District, Attn.: CENAB-OP-R, P. O. Box 1715, Baltimore, MD 21203-1715.

Persons wishing to comment on this application for 401 Water Quality Certification and CZM consistency are invited to submit comments by October 30, 1998. Prior to final action on this application, consideration will be given to any comments, suggestions or objections which are submitted in writing by October 30, 1998. Comments should be submitted to Kenneth Reisinger, Chief, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775. Requests should contain the name, address and telephone number of the person commenting, identification of the Certification request to which the comments are addressed, and a concise statement of comments, objections or suggestions. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800)

654-5788 (voice users). No comments submitted by facsimile transmission will be accepted. The Department may conduct a fact-finding hearing or an informal conference in response to any comments if deemed necessary.

Electronic Comments—Comments may be submitted electronically to the Department at Reisinger.Kenneth@a1.dep.state.pa.us. A subject heading of the proposal must be included in each transmission. Comments submitted electronically must also be received by the Department by October 30, 1998.

Proposed New Nationwide Permits

- A. Residential, Commercial and Institutional Activities.
- B. Master Planned Development Activities.
- C. Stormwater Management Facilities.
- D. Passive Recreational Facilities.
- E. Mining Activities.
- F. Reshaping Existing Drainage Ditches.

Nationwide Permits Proposed to be Modified

3. Maintenance.
7. Outfall Structures and Maintenance.
12. Utility Activities.
14. Linear Transportation Crossings.
27. Stream and Wetland Restoration Activities.
40. Agricultural Activities.

Nationwide Permit Conditions

General Conditions:

1. Navigation.
2. Proper Maintenance.
3. Soil Erosion and Sediment Controls.
4. Aquatic Life Movements.
5. Equipment.
6. Regional and Case-by-Case Conditions.
7. Wild and Scenic Rivers.
8. Tribal Rights.
9. Water Quality*
10. Coastal Zone Management.
11. Endangered Species.
12. Historic Properties.
13. Notification*
14. Compliance Certification.
15. Multiple Use of Nationwide Permits.
16. Subdivisions*
17. Water Supply Intakes.
18. Shellfish Production.
19. Suitable Material*
20. Mitigation*
21. Spawning Areas*
22. Management of Water Flows*
23. Adverse Effects from Impoundments.

24. Waterfowl Breeding Areas.
25. Removal of Temporary Fills.

(* Indicates conditions proposed to be changed for all Nationwide Permits.)

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1399. Filed for public inspection August 28, 1998, 9:00 a.m.]

Pennsylvania Wetland Replacement Project; Public Notice

The Department of Environmental Protection (Department) has approved the following wetland restoration projects for funding under the Pennsylvania Wetland Replacement Project (PWRP). The PWRP is a jointly managed fund between the Department and the National Fish and Wildlife Foundation established to offset wetland losses. Construction for both projects is anticipated to begin in early fall, 1998. Further information may be obtained by contacting Kelly Heffner, Department of Environmental Protection, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775; (717) 787-6827 or e-mail Heffner.Kelly@a1.dep.state.pa.us.

Project No. 016B62-001

The objective of the 4.2-acre wetland restoration, sponsored by Albert Carlisle in Subbasin 16, the Upper Allegheny River watershed, is to provide wetland habitat for waterfowl and other wildlife species. A secondary benefit of the project is to improve water quality to Spring Creek, classified as a high quality cold water fishery (HQ-CWF), by trapping nutrients and sediment from upslope agricultural operations. Additionally, large runoff flows have overtopped the dirt and gravel township road (T-336), causing not only continuing maintenance but also a public safety hazard. The project was designed to detain large runoff flows and piping these flows under the roadway. The project is located on the Carlisle property in Spring Creek Township, Warren County (Spring Creek, PA Quadrangle N: 20.5 inches, W: 4.75 inches).

Project No. SO7J36-001

The objective of the 2.6-acre wetland restoration, sponsored by Warwick Township, Lancaster County in Subbasin 7, the Lower Susquehanna River watershed, is to improve water quality of the Santo Domingo Creek by diverting water through a created wetland system that will capture and retain sediment and nutrients. The restored wetland will be part of the Warwick Township riparian park system and provide important wetland habitat and educational opportunities within a suburban setting. The project is located in Warwick Township, Lancaster County (Lititz, PA Quadrangle N: 7.5 inches; W: 7.5 inches).

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1400. Filed for public inspection August 28, 1998, 9:00 a.m.]

Pennsylvania's Proposed Certification under Section 401 of the Federal Clean Water Act of 1977 and Coastal Zone Management Consistency Determination Regional Permit for Recreational Boat Docks

The Department of Environmental Protection (Department), proposes to certify under Section 401 of the Clean Water Act (CWA), 33 U.S.C.A. § 1341, subject to the conditions listed, that the construction and maintenance of recreational boat docks authorized by the Pittsburgh District of the Army Corps of Engineers (Corps) and public notice on May 5, 1998 (Notice No. 98-R2), which may result in a discharge into waters of the United States in the Commonwealth will comply with the applicable provisions of sections 301—303, 306 and 307 of the CWA, 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, and are consistent with Pennsylvania's Coastal Zone Management Program. This Regional Permit is proposed to be applicable only in those areas of Pennsylvania which are under the jurisdiction of the Pittsburgh Corps District. In addition, the Commonwealth proposes to certify, subject to the conditions listed, that there is a reasonable assurance that the construction and maintenance of the activities referenced in the Regional permit set forth in the May 5, 1998 notice will comply with applicable Federal and State water quality standards.

The proposed certification is subject to the following conditions:

Conditions

1. Prior to commencing any activity covered by the Regional Permit, the applicant *must* obtain all necessary permits or approvals from the Pennsylvania Department of Environmental Protection, including, but not limited to, those required by the Pennsylvania Clean Streams Law, 35 P.S. § 691.1 *et. seq.*, the Dam Safety and Encroachments Act, 32 P.S. § 693.1 *et. seq.*, the Solid Waste Management Act, 35 P.S. § 6018.101 *et. seq.*, the Hazardous Sites Cleanup Act, 35 P.S. § 6020.101 *et. seq.*, and the regulations promulgated thereunder including 25 Pa. Code Chapters 75, 91—93, 95, 101, 102, 105 and 260—299. All environmental assessments required under these regulations, in addition to other regulatory requirements, must be complied with as a condition of Section 401 water quality certification for the Regional Permit.

2. The Department retains the right, on an individual activity basis, to withdraw or modify 401 water quality certification for an activity subject to a Regional Permit which it determines may adversely impact water quality.

Persons wishing to comment on this application for 401 water quality certification and coastal management consistency are invited to submit comments by October 21, 1998. Prior to final action on this application, consideration will be given to any comments, suggestions or objections which are submitted in writing by October 21, 1998. Comments should be submitted to Ken Reisinger, Chief, Bureau of Water Quality Protection, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775.

Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments are addressed and a concise statement of comments, objections or suggestions. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5788 (voice users). No comments submitted by facsimile transmission will be accepted. The

Department may conduct a fact-finding hearing or an informal conference in response to any given comments if deemed necessary.

Electronic Comments—Comments may be submitted electronically to the Department at Reisinger.Kenneth@al.dep.state.pa.us. A subject heading of the proposal must be included in each transmission. Comments submitted electronically must also be received by the Department by October 21, 1998.

For more information concerning the Proposed Regional Permit for Recreational Boat Docks within the Commonwealth of Pennsylvania, contact the U. S. Army Corps of Engineers, Pittsburgh District, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1401. Filed for public inspection August 28, 1998, 9:00 a.m.]

Proposed Amendments to Chapter 16 Statement of Policy Water Quality Toxics Management Strategy; Public Hearing

The Department of Environmental Protection (Department) will hold three public hearings to accept comments on proposed amendments to Pennsylvania's Water Quality Toxics Management Strategy which is found in Chapter 16, Statement of Policy. The proposed policy amendments were developed in conjunction with revisions to existing Chapters 92 (National Pollutant Discharge Elimination System (NPDES)), 93 (Water Quality Standards), 95 (Wastewater Treatment Requirements), and 97 (Industrial Wastes), and the proposal to add a new Chapter 96 (Water Quality Standards Implementation).

The amendments are proposed as a result of the Regulatory Basics Initiative (RBI). The RBI began in August 1995 with the Department's review of existing regulations to determine those that were more stringent than Federal law and regulations, those that lacked clarity, and those that imposed disproportionate costs on the regulated community.

Pennsylvania's water quality standards, which are set forth in part in 25 Pa. Code, Chapter 93, implement the provisions of sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards consist of the uses of the surface waters of this Commonwealth and the specific numeric and narrative criteria necessary to achieve and maintain those uses. Chapter 16 is a water quality policy for regulating toxic pollutants. It sets forth the guidelines for development of criteria for toxic substances, and lists the water quality criteria and the analytical methods and detection limits for toxic substances. Chapter 16 is directly referenced as a support policy document in the Department's toxic substances regulation at section 93.8a.

The Chapter 16 hearings will be held in conjunction with the Environmental Quality Board (EQB) public hearings on proposed water quality amendments (Chapters 92, 93, 95, 96 and 97). The Chapter 16 hearings will be held immediately following the conclusion of the EQB hearings. Each of the EQB hearings will include an afternoon session beginning at 3 p.m. and an evening session beginning at 7 p.m. The dates and locations are:

- October 15, 1998 Department of Environmental Protection
Southwest Regional Office
400 Waterfront Drive
Pittsburgh, Pa.
- October 20, 1998 Department of Environmental Protection
Southcentral Regional Office
Susquehanna River Conference Room
909 Elmerton Avenue
Harrisburg, Pa.
- October 22, 1998 Department of Environmental Protection
Southeast Regional Office
Suite 6010, Lee Park
555 North Lane
Conshohocken, Pa.

Persons wishing to present testimony at a Chapter 16 hearing are requested to contact Mary Houghton at (717) 787-9637 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 and one designated witness for each organization. Witnesses are requested to submit three written copies of their testimony to the hearing chairperson.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation in order to participate should contact Mary Houghton at the above telephone number or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how their needs may be accommodated.

In lieu of or in addition to presenting oral testimony at a hearing, interested persons may submit written comments, suggestions or objections regarding the proposed policy amendments to Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, P. O. Box 8555, Harrisburg, PA 17105-8555 (express mail: 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8555). Comments must be received by October 28, 1998. Comments received by facsimile will not be accepted. Electronic comments may be submitted to Brezina.Edward@A1.dep.state.pa.us.

Copies of the proposed amendments to Chapter 16 may be obtained from Mary Houghton, Division of Assessment and Standards, Bureau of Watershed Conservation, Department of Environmental Protection, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-9637, or e-mail at Houghton.Mary@A1.dep.state.pa.us. This proposal is also available on the Department's Website at <http://www.dep.state.pa.us> (choose Public Participation Center, Regulations Open for Comment).

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1402. Filed for public inspection August 28, 1998, 9:00 a.m.]

Technical Assistance Center for Small Water Systems Schedule of 1998 Meetings

The Technical Assistance Center for Small Water Systems announces a revised schedule for the remainder of 1998. The meetings will be held at 9:30 a.m., in the Rachel Carson State Office Building, 400 Market Street in Harrisburg, as listed below:

September 9	Delaware Room, 16 Floor Conference Room
September 25	10 Floor Conference Room
November 10	Room 105, 1st Floor

Questions concerning this schedule or agenda items can be directed to Donna Green at (717) 787-0122 or e-mail at Green.Donna@a1.dep.state.pa.us. This schedule, an agenda for each meeting, and notices of meeting changes will be available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Donna Green directly at (717) 787-0122 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. 98-1403. Filed for public inspection August 28, 1998, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

State Surplus Property Division

The Historical and Museum Commission will be auctioning items from its permanent collection. These items are being auctioned because they are duplicates and/or do not pertain to Pennsylvania history. The public auction will be held on September 30, 1998 by Ziegler's Auction House. Items being auctioned include a diversity of objects such as Oriental rugs, vases, elephant statues, blanket chests, sculptures and china, as well as a collection of rugs, looms, powder flasks, leather shot bags, sausage stuffers, chairs, quilts, coverlets, lace collars, wine glass, copper can, cruet, 18th Century pair of candlesticks and Ceremonial Pokal.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-1404. Filed for public inspection August 28, 1998, 9:00 a.m.]

State Surplus Property Bid Items

Under the provisions of section 510 of The Administrative Code of 1929 (P. L. 165, No. 67), the Department of General Services, State Surplus Property Program is offering for sale to counties, boroughs, incorporated towns, cities and townships the following items:

<i>Item</i>	<i>Make</i>	<i>Eq. #</i>	<i>Location</i>
1. Rubber Tire Roller	Brothers	095-2440	PA Dot-Meadville
2. Tractor/Backhoe	Case	181-6056	PA Dot-Waterford
3. 4-6 Ton Vibratory Roller	Dresser	012-1431	PA Dot-Waterford
4. Backhoe/Loader	Case	187-6056	PA Dot-Lock Haven
5. Tractor/Self-Propelled	International	344-4915	PA Dot-Cyclone
6. Tandem Roller	Galion	924-1435	PA Dot-Mifflintown
7. Backhoe/Loader	Case	216-6056	PA Dot-Selinsgrove
8. Road Grader	John Deere	054-6678	PA Dot-Towanda
9. Excavator	Gradall	065-6365	PA Dot-Clarks Summit
10. Rubber Tire Roller	Bros.	124-2440	PA Dot-Clarks Summit
11. Rigid Grader	Austin-Western	314-3671	PA Dot-Honesdale
12. Rigid Grader	Galion	538-6672	PA Dot-Schuylkill
13. Loader	John Deere	110-1385	PA Dot-Gettysburg
14. 3 Wheel Roller	Galion	596-3435	PA Dot-Harrisburg
15. 4-6 Ton Tandem Static Roller	Galion	878-9435	PA Dot-Bedford
16. 3 Wheel Hydrostatic Roller	Galion	702-3435	PA Dot-Bedford
17. 3 Wheel Hydrostatic Roller	Galion	641-3435	PA Dot-Bedford
18. 3 Wheel Hydrostatic Roller	Galion	589-3435	PA Dot-Bedford
19. 3 Wheel-10 Ton Roller	Galion	519-3435	PA Dot-Hollidaysburg
20. Articulated Bucket Loader	John Deere	087-1385	PA Dot-Hollidaysburg
21. 3-6 Ton Tandem Static Roller	Galion	866-9435	PA Dot-Ebensburg
22. Tandem Hydraulic Excavator	Bantam	014-6368	PA Dot-Ebensburg
23. Tractor Mower	International	304-4915	PA Dot-McConnellsburg
24. Tractor Sickle Mower	International	382-4915	PA Dot-McConnellsburg
25. Grader	Galion	543-6672	PA Dot-McConnellsburg
26. Roller	Galion	657-6435	PA Dot-McConnellsburg
27. Roller	Galion	651-6435	PA Dot-McConnellsburg
28. Excavator	Gradall	069-6365	PA Dot-McConnellsburg
29. Excavator	Gradall	054-6365	PA Dot-McConnellsburg
30. 3 Wheel Roller	Galion	590-3435	PA Dot-Huntingdon
31. 3 Wheel Roller	Galion	616-3435	PA Dot-Huntingdon
32. Backhoe/Loader	Case	200-6056	PA Dot-Somerset
33. Articulated Grader	Champion	008-1682	PA Dot-Somerset
34. Articulated Grader	Champion	005-1682	PA Dot-Somerset
35. 3 Wheel Static Roller	Galion	611-3435	PA Dot-Somerset
36. 3 Wheel Static Roller	Galion	520-3435	PA Dot-Somerset
37. 3 Wheel Static Roller	Galion	522-3435	PA Dot-Somerset
38. Backhoe/Loader	Case	178-6056	PA Dot-Butler
39. Tractor Rotary Mower	IH	324-4915	PA Dot-Butler
40. 3 Wheel Diesel Roller	Galion	565-3435	PA Dot-Butler
41. Para Plastic Kettle	Crafco	076-5621	PA Dot-Butler
42. Front End Loader	John Deere	075-2040	PA Dot-Indiana
43. Tandem 10 Ton Roller	Galion	722-6435	PA Dot-East Rochester
44. 3 Wheel Roller	Galion	646-3435	PA Dot-East Rochester
45. Articulated Loader	Case	323-2056	PA Dot-Waynesburg
46. Grader	Champion	003-1682	PA Dot-Waynesburg
47. 3-6 Ton Vibratory Patch Roller	Dresser	007-1431	PA Dot-Waynesburg

The equipment listed above will be sold to the highest responsible bidder by sealed bid. Those political subdivisions which are interested in procuring one or more of these items should contact the Department of General Services, State Surplus Property Division, P. O. Box 1365, Harrisburg, PA 17105 or call (717) 787-4085 prior to the bid opening on September 14, 1998 at 1 p.m. to receive a bid proposal.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-1405. Filed for public inspection August 28, 1998, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Job Creation Assistance on Behalf of Persons with Severe Disabilities in Allegheny County

The Department of Labor and Industry (Department), Office of Vocational Rehabilitation, under the Rehabilitation Act of 1973 as amended in 1986 (P. L. 99-506), announces that competing applications to provide job creation assistance on behalf of persons with severe disabilities in Allegheny County will be accepted. This competition is authorized under section 103(b) of the Rehabilitation Act of 1973, as amended.

Funding for these projects is under the auspices of the Pennsylvania State Board of Vocational Rehabilitation and the Office of Vocational Rehabilitation (OVR), which will serve as administrator and fiscal agent for grants awarded under this announced competition.

This competition may provide multi-year funding for up to 4 years. OVR will entertain applications which address the development of local "grants-to-business" programs designed to increase employment of OVR-eligible persons, and stimulate local economic growth, through the acquisition of equipment essential to production/accomplishment of the business' primary purpose.

Important: Equipment acquired by local employers as a result of this grant competition must be operated (throughout the life of the equipment) by persons with severe disabilities who are customers of OVR.

Application Information

Applications received by close of business 5 p.m., Monday, October 26, 1998, which are complete and conform to established specifications will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose. Grants will be awarded through this competition contingent upon the availability of funds and the receipt of acceptable applications. Grants will be awarded by January 1, 1999. Final awards made through this competition are subject to the approval of the Executive Director, Pennsylvania Office of Vocational Rehabilitation.

- Eligible applicants are recognized "Economic Development Groups" defined as follows:

Any nonprofit or governmental group, corporation or consortium which exists for the purpose of providing economic development funding, provided in the form of capital equipment purchases, to companies doing business, or planning to do business in Allegheny County.

For the purposes of this competition, an eligible applicant may also be an other nonprofit or governmental organization experienced in successfully collaborating with business and industry located in Allegheny County. The collaboration must have been in regard to development of employment, employment opportunities, placement of hard to place populations, workforce development, or comparable areas of endeavor.

A bona fide applicant must have operated in the capacities as noted above for at least 3 years prior to submittal of an application under this competition.

- A bona fide applicant must address the need for job creation assistance, of the nature described, in Allegheny County.

- A bona fide applicant must demonstrate that its application has been developed considerate of input from the Pittsburgh OVR District Office.

- The original and one copy of the application narrative, as well as the original and one copy of the project budget must be received at the following address by the application deadline: Office of Vocational Rehabilitation, Infrastructure Services Section, Room 1320, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, Attention: Raymond L. Walker, Supervisor.

An original and one copy of the project budget, submitted in a separate, sealed envelope, must accompany the application narrative. No reference may be made to the amount of funds requested, or other budgetary information, in the narrative application.

Four copies of the completed application narrative, only, must be received at the OVR Pittsburgh District Office at the following address (by the application deadline cited above): PA Office of Vocational Rehabilitation, Pittsburgh District Office, 217 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, Attention: Carol Dudek, District Administrator.

No budget information is to be sent to the Pittsburgh District Office.

Service Information

For purposes of this competition, *Job Creation Assistance on Behalf of Persons with Severe Disabilities*, services focus upon activities that result in increased competitive employment of OVR-eligible persons with severe disabilities. Activities allowable under this grant competition include 1.) disbursement of monies, through the OVR grantee, to qualified local businesses for purchase of equipment, and requiring the recipient businesses to employ persons with severe disabilities to operate that equipment and; 2.) staff/other project-related administrative costs of the grantee, not to exceed 20% of the total application budget.

The grantee funded under this competition must comply with the following:

- Individuals placed in employment through this program must be eligible OVR customers.
- Job Creation services must be implemented with the close coordination of the OVR Pittsburgh District Office functioning in a leadership capacity. Proposals submitted for consideration under this grant competition must reflect this ongoing joint effort.
- The OVR District Administrator, OVR Pittsburgh District Office, or that person's designee, must personally be involved in all decisions regarding provision of equipment to applicant businesses. The District Administrator must co-sign all disbursements made by the grantee to qualifying businesses.

Commitment to Enhance Socially/Economically Restricted Business (SERB)

The Commonwealth of Pennsylvania strongly encourages the submission of proposals by SERBs in response to this Request for Proposal.

To achieve the objective of enhancing SERB participation, the Commonwealth has established SERB utilization as a selection criterion in the evaluation process.

The Bureau of Contract Administration and Business Development (BCABD) in the Department of General

Services will evaluate the aforementioned criterion and assign a point value to be considered within the overall RFP total point tabulation.

Proposals submitted by individuals claiming SERB status or proposals submitted by individuals reflecting joint venture and subcontracting opportunities with SERBs must submit documentation verifying their claims.

SERBs are businesses whose economic growth and development have been restricted based on social and economic bias. The businesses are BCABD-certified minority- and women-owned businesses and certain restricted businesses whose development has been impeded because their primary or headquarters facilities are physically located in areas designated by the Commonwealth as being in enterprise zones. A business will not be considered socially/economically restricted if one of the following conditions exists:

1. The business has gross revenues exceeding \$4 million annually.
2. The concentration of an industry is such that more than 50% of the market is controlled by the same type of SERB (Minority Business Enterprise (MBE) or Women Business Enterprises (WBE)).

Proposers not considered to be socially/economically restricted business seeking to identify the businesses for joint venture and subcontracting opportunities are encouraged to contact: Department of General Services, Bureau of Contract Administration and Business Development, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-7380, fax (717) 787-7052.

Application Material/Questions

The complete application package containing a detailed Request for Proposal and Guidelines for Application including detailed information concerning SERB participation, is available by writing to the following address, or by calling Raymond L. Walker, Supervisor, Infrastructure Services Section at (717) 787-5735 (TDD: 783-8917). Office of Vocational Rehabilitation, Infrastructure Services Section, Room 1320 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120.

Please direct questions concerning this announcement to Raymond Walker at the above address and telephone number.

Preproposal Conference

A preproposal conference to deal specifically with technical questions regarding the application will be held for prospective applicants on Friday, September 18, 1998, beginning at 1 p.m. at: OVR Pittsburgh District Office—Conference Room, 217 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, (800) 442-6371, (T.D.D.—(412) 392-5936).

Persons expecting to attend the preproposal conference should advise Carol Dudek, Pittsburgh District Office Administrator, in advance, of any special considerations/accommodations that may be required in order for them to fully participate in the preproposal conference. If reserved, handicapped parking is required, it is imperative that persons needing such parking notify Carol

Dudek as soon as possible. Persons needing directions to the State Office Building should call the OVR numbers noted above.

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 98-1406. Filed for public inspection August 28, 1998, 9:00 a.m.]

DEPARTMENT OF REVENUE

PA Football Legends Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is PA Football Legends.

2. *Price:* The price of a PA Football Legends instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each PA Football Legends instant lottery game ticket will contain two play areas. The first play area will feature a "1st," "2nd," "3rd" and "4th" down. The play symbols and their captions located in each of the "Downs" are: 0 (ZRO), 1 (ONE), 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT) and 9 (NIN). The play symbols and their captions located in the second play area "Win \$10 Instantly!" are: Football Symbol (FBALL), Pennant Flag Symbol (PENNT), Goalpost Symbol (GPOST), Cleat Shoe Symbol (CLETS) and a Helmet Symbol (HELMT).

4. *The prize play symbols and their captions located in the "Prize" area are:* \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$3.⁰⁰ (THR DOL), \$7.⁰⁰ (SVN DOL), \$21\$ (TWY ONE), \$50\$ (FIFTY), \$100 (ONE HUN) and \$1,000 (ONE THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$7, \$10, \$21, \$50, \$100 and \$1,000.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 8,160,000 tickets will be printed for the PA Football Legends instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$1,000 (ONE THO) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$1,000.

(b) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$100 (ONE HUN) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$100.

(c) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize playsymbol of \$50\$ (FIFTY) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$50.

(d) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$21\$ (TWY ONE) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$21.

(e) Holders of tickets with two matching play symbols in the "Win \$10 Instantly!" area, on a single ticket, shall be entitled to a prize of \$10.

(f) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$7.⁰⁰ (SVN DOL) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$7.

(g) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$3.⁰⁰ (THR DOL) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$3.

(h) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$2.

(i) Holders of tickets where the sum of the yardage for the four "Downs" equals 10 or more, and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears in the "Prize" area, on a single ticket, shall be entitled to a prize of \$1.

(j) A prize will be paid only for the highest PA Football Legends instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*Add Yardage For 4 Downs.
Total Is 10 Or More,
With Prize(s) Of:*

\$1	\$1
\$2	\$2
\$3	\$3
\$7	\$7
Symbol Match	\$10
\$21	\$21
\$50	\$50
\$100	\$100
\$1,000	\$1,000

*Approximate
Odds*

*Approximate No. of
Winners Per 8,160,000
Tickets*

1:6.67	1,224,000
1:13.04	625,600
1:60	136,000
1:375	21,760
1:75	108,800
1:750	10,880
1:842.11	9,690
1:30,000	272
1:240,000	34

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell PA Football Legends instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of PA Football Legends, prize money from winning PA Football Legends instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the PA Football Legends instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote PA Football Legends or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1407. Filed for public inspection August 28, 1998, 9:00 a.m.]

Pennsylvania \$100,000 Broadcast Bucks Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$100,000 Broadcast Bucks.

2. *Price:* The price of a Pennsylvania \$100,000 Broadcast Bucks instant lottery game ticket is \$3.00.

3. *Play Symbols:* Each Pennsylvania \$100,000 Broadcast Bucks instant lottery game ticket will contain four "Play Area" areas. Each "Play Area" is played separately. The play symbols and their captions located in each "Play Area" are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$3.⁰⁰ (THR DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$15.⁰⁰ (FTN DOL), \$25\$ (TWYFIVE), \$50\$ (FIFTY), \$250 (TWOHUNFTY), \$2,500 (TWFIVHUN), \$100,000 (ONEHNTHO) and a Television Symbol (TELEVISION).

4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$4, \$5, \$8, \$10, \$15, \$25, \$50, \$250, \$2,500 and \$100,000. The player can win up to 4 times on each ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,320,000 tickets will be printed for the Pennsylvania \$100,000 Broadcast Bucks instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of \$100,000 (ONEHNTHO) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets with three matching play symbols of \$2,500 (TWFIVHUN) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets with three matching play symbols of \$250 (TWOHUNFTY) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$250.

(d) Holders of tickets with two matching play symbols of \$25\$ (TWYFIVE) and a Television Symbol (TELEVISION) in the same "Play Area," and a \$50 win in another "Play Area," on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets with three matching play symbols of \$50\$ (FIFTY) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets with two matching play symbols of \$25\$ (TWYFIVE) and a Television Symbol (TELEVISION) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets with two matching play symbols of \$5.⁰⁰ (FIV DOL) and a Television Symbol (TELEVISION) in the same "Play Area," and a \$15 and \$25 win in two other "Play Area" areas, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets with three matching play symbols of \$25\$ (TWYFIVE) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$25.

(i) Holders of tickets with two matching play symbols of \$5.⁰⁰ (FIV DOL) and a Television Symbol (TELEVISION) in the same "Play Area" and a \$15 win in another "Play Area," on a single ticket, shall be entitled to a prize of \$25.

(j) Holders of tickets with three matching play symbols of \$15.⁰⁰ (FTN DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$15.

(k) Holders of tickets with three matching play symbols of \$10.⁰⁰ (TEN DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets with two matching play symbols of \$5.⁰⁰ (FIV DOL) and a Television Symbol (TELEVI-

SION) in the same "Play Area," on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets with two matching play symbols of \$1.⁰⁰ (ONE DOL) and a Television Symbol (TELEVISION) in the same "Play Area," and in a different "Play Area" two matching play symbols of \$4.⁰⁰ (FOR DOL) and a Television Symbol (TELEVISION) in the same "Play Area," on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets with three matching play symbols of \$5.⁰⁰ (FIV DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets with two matching play symbols of \$2.⁰⁰ (TWO DOL) and a Television Symbol (TELEVISION) in the same "Play Area" and a \$1 win in another "Play Area," on a single ticket, shall be entitled to a prize of \$5.

(p) Holders of tickets with three matching play symbols of \$4.⁰⁰ (FOR DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets with two matching play symbols of \$2.⁰⁰ (TWO DOL) and a Television Symbol (TELEVISION) in the same "Play Area," on a single ticket, shall be entitled to a prize of \$4.

(r) Holders of tickets with two matching play symbols of \$1.⁰⁰ (ONE DOL) and a Television Symbol (TELEVISION) in the same "Play Area" and a \$2 win in another "Play Area," on a single ticket, shall be entitled to a prize of \$4.

(s) Holders of tickets with three matching play symbols of \$3.⁰⁰ (THR DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$3.

(t) Holders of tickets with three matching play symbols of \$2.⁰⁰ (TWO DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$2.

(u) Holders of tickets with three matching play symbols of \$1.⁰⁰ (ONE DOL) in the same "Play Area" on a single ticket, shall be entitled to a prize of \$1.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,320,000 Tickets</i>
\$1 x 3	\$3	1:10	432,000
\$1 + \$2	\$3	1:33.33	129,600
\$3	\$3	1:50	86,400
\$1 x 4	\$4	1:20	216,000
\$1 W/TV + \$2	\$4	1:100	43,200
\$2 W/TV	\$4	1:250	17,280
\$4	\$4	1:166.67	25,920
\$1 x 3 + \$2	\$5	1:23.81	181,440
\$1 + \$2 W/TV	\$5	1:250	17,280
\$1 + \$4	\$5	1:83.33	51,840
\$5	\$5	1:500	8,640
\$1 W/TV + \$4 W/TV	\$10	1:71.43	60,480
\$5 W/TV	\$10	1:250	17,280
\$10	\$10	1:500	8,640
\$5 + \$10	\$15	1:250	17,280
\$5 x 3	\$15	1:500	8,640

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,320,000 Tickets</i>
\$3 + \$4 x 3	\$15	1:500	8,640
\$15	\$15	1:500	8,640
\$5 x 3 + \$10	\$25	1:363.64	11,880
\$5 W/TV + \$15	\$25	1:363.64	11,880
\$10 + \$15	\$25	1:363.64	11,880
\$25	\$25	1:363.64	11,880
\$5 W/TV + \$15 + \$25	\$50	1:1,154	3,744
\$10 + \$15 + \$25	\$50	1:1,154	3,744
\$25 W/TV	\$50	1:3,333	1,296
\$50	\$50	1:6,667	648
\$25 x 4	\$100	1:3,333	1,296
\$25 W/TV + \$50	\$100	1:3,333	1,296
\$250	\$250	1:8,571	504
\$250 x 4	\$1,000	1:15,000	288
\$2,500	\$2,500	1:30,000	144
\$2,500 x 4	\$10,000	1:120,000	36
\$100,000	\$100,000	1:720,000	6

TV = Double the prize

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$100,000 Broadcast Bucks instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$100,000 Broadcast Bucks, prize money from winning Pennsylvania \$100,000 Broadcast Bucks instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$100,000 Broadcast Bucks instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$100,000 Broadcast Bucks or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1408. Filed for public inspection August 28, 1998, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding

Chester County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace the existing Hopewell Road Bridge, which is located on S. R. 3016 in Chester County. The existing bridge spans a branch of Tweed Creek approximately 0.80 km (0.5 mile) east of the Village of Hopewell in Nottingham Township. This bridge replacement project also includes alignment improvements of the approach roadways.

The Hopewell Road Bridge is located within the National Register listed Hopewell Historic District. The bridge is not a contributing element. The effect of this project on the Hopewell Historic District will be mitigated by mitigation measures outlined in the Categorical Exclusion Evaluation/Section 2002 Evaluation.

I have considered the environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, and have concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effect.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1409. Filed for public inspection August 28, 1998, 9:00 a.m.]

Finding

Venango County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to retrofit the existing bridge (Drake Well Bridge) carrying S.R. 1011 over Oil Creek in Cherrytree Township. The existing Drake Well Bridge is listed on the National Register of Historic Places.

The following mitigation measures will be implemented:

1. The bridge will be photographed before construction, during all stages of construction, and after the retrofitting process is completed.

2. The design of the bridge will be compatible to the greatest extent possible with the historic qualities of Drake Well Park in terms of scale, massing, color, and materials and is responsive to the recommended approaches to new construction set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Details for retrofitting the truss onto the bridge will be developed in consultation with the PA Historical & Museum Commission.

3. PennDOT will work with the staff of Drake Well Park to develop a plan to reroute traffic to the Park during the construction of the new bridge, using the existing historic train corridor into the Park in addition to providing information describing transportation alternatives to the Park.

I have considered the environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, and have concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effect.

No adverse environmental effect is likely to result from the reconstruction of this section of highway.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1410. Filed for public inspection August 28, 1998, 9:00 a.m.]

Retention of Engineering Firms

Philadelphia County Project Reference No. 08430AG2239

The Department of Transportation will retain an engineering firm to perform NBIS Bridge Inspections for 344 state-owned bridges in Philadelphia County. These bridges include, but may not be limited to:

- A) Reinforced concrete, prestressed concrete(except trusses), 2 trusses, 2 other structures;
- B) Slabs, stringers, multi-girders and barrel arches [293];
- C) Girder floor beam system, open spandrel arches, rigid frames, hybrids [47];
- D) Trusses [2];
- E) Moveable [2].

The structure lengths range from 20 feet to 8,780 feet.

The selected firm is required to provide one bi-annual NBIS inspection for each bridge over a two (2) year period. The firm will provide updated inspection reports. The report will include an inspection summary, field inspection Form D-450, updated BMS coding sheets and maintenance recommendations.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an engineering agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.
- b. Capabilities of the proposed teams to address the bridge inspection, engineering and evaluations and recommendations, and related aspects identified in the advertisement.
- c. Number of certified inspectors, and inspection teams available for this agreement.
- d. Prior technical successes and timeliness in performing bridge inspection work with the Department.
- e. Specialized technical expertise and experience of the individuals committed to this assignment.
- f. Current bridge inspection workload.
- g. Internal procedures for cost containment and quality assurance.
- h. Location of firm.

The second copy of the letter of Interest and required forms (see General Requirements and Information Sections) shall be sent to Mr. Andrew L. Warren, District Administrator, District 6-0, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087.

Any technical questions concerning the requirements for this project should be directed to Mr. John Ferry at (610) 964-6704 or Mr. James J. Rowan, P.E., at (610) 964-6541.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

Clearfield County Project Reference No. 08430AG2240

The Department of Transportation will retain an engineering firm to provide final design services for S. R. 0080, Section B14. This project involves the I-80 bridges over West Branch Susquehanna River, I-80 Bridges over Conrail railroad and the I-80 bridges spanning S. R. 0879. The project is located at Exit 19 interchange in Clearfield County near Clearfield, PA.

S. R. 0080, Section B14 project is the replacement of the superstructure for two (2) adjacent 7 span 1056 feet long bridges. The existing curb to curb width is 31 feet for the bridges. The proposed project will widen the bridges to current design standards. This project will also involve replacement of the abutments and modification of the existing pier caps and scour protection design for the

piers. This project also requires the replacement of the I-80 bridges over Conrail railroad and the I-80 bridges spanning S. R. 0879 with single span bridges. Traffic for S. R. 0080, Section B15 will be maintained utilizing temporary roadways and daylight flagging operations as necessary. A conceptual traffic control plan will be supplied to the final design consultant. The estimated construction cost is \$12.1 million. This project will be done in metric units.

The selected engineering firm will be required to perform surveys; preliminary design/Step 9; final roadway design; structure design/plans; signing; traffic signal warrant analysis; pavement marking and delineation design/plans; erosion and sedimentation control plan; traffic control plan; geo-technical engineering; and the construction plans, specifications, and estimates.

The letters of interest, at a minimum, will indicate how the selected firm will accomplish the tasks outlined or provide the services required and the names and resumes of key individuals that will provide the services. The anticipated duration of the agreement is eighteen (18) months.

The Department will establish a shortlisting of a minimum of three (3) 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. Proposed methodology to accomplish the required services.
- c. Specialized experience and technical competence of firm.
- d. Specialized experience, previous experience, technical competence of individuals who constitute the firm.
- e. Current workload and capacity of firm to perform work.
- f. Past record of performance with respect to cost control, work quality, and ability to meet schedules.

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 District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. George M. 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. Ordóñez, 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.

**Centre and Clearfield Counties
Project Reference No. 08430AG2241**

The Department of Transportation will retain an engineering firm for photogrammetric mapping of S. R. 0322, Section B02, in Centre and Clearfield Counties.

S. R. 0322, Section B02 is the relocation of U.S. 0322 from its interchange with I-99 north of Port Matilda in Centre County to the Woodland Interchange (Interchange 20) of Interstate 80 in Clearfield County. The area of photogrammetric mapping required is approximately 27 miles (43.45 kilometers) long and varies in width between 1 and 7 miles (1.6 and 11.3 kilometers) in width.

The scope of work will include aerial photography acquisition, targeting and control survey, analytical aerotriangulation, digital map compilation, digital map editing and plotting, accuracy testing, and electronic files. The mapping will be at a scale of 1:2000, and 1:500 at select locations.

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. Specialized experience and technical competence of the firm in photogrammetric mapping.
- c. Equipment necessary to complete assignment.
- d. Ability to complete assignments in an expeditious time frame.
- e. Staff to accomplish large scale projects.
- f. Specialized experience, previous experience, technical competence of individuals who constitute the firm.
- g. How the various tasks will be accomplished.
- h. Current workload and capacity of the firm to perform the assignment.
- i. Past record of performance with respect to cost control, work quality, and ability to meet schedules.

The shortlisting for this project will be done at the District. All firms submitting letters of interest will be notified by the District of the shortlisting date.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. George M. 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. James R. Bathurst, P.E., District 2-0 at (814) 765-0437.

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 are required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to: Mr. Charles W. Alwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P. O. Box 3060, Harrisburg, Pennsylvania 17105-3060. Note: The Zip Code for express Mailing is 17101-1900.

The Letter of Interest and required information must be received within twenty (20) 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 twentieth 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 Organizational Chart (one page, one side, maximum size 11" x 17")

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 specify only the number of subconsultant personnel and Column B must specify only the number of prime consultant personnel to be assigned to work on this project reference number. Do *not* include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than 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 (For Construction Inspections Services, 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 Accountant 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. 98-1411. Filed for public inspection August 28, 1998, 9:00 a.m.]

FISH AND BOAT COMMISSION

Additional Restrictions on Fish and Boat Commission Property

The Executive Director of the Fish and Boat Commission, acting under the authority of 58 Pa. Code § 53.18, has established the following additional restrictions for Fish and Boat Commission property. These restrictions shall remain in effect until further notice.

<i>County</i>	<i>Area</i>	<i>Additional Restrictions</i>
Philadelphia	Frankford Access Area	The use or possession of beer and alcoholic beverages is prohibited. Closed to all use from 10 p.m. to 5 a.m. Fishing on or near the launch area is prohibited.
Philadelphia	Tacony Access Area	The use or possession of beer and alcoholic beverages is prohibited. Closed to all use from 9 p.m. to 7 a.m. Fishing on or near the launch area is prohibited.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 98-1412. Filed for public inspection August 28, 1998, 9:00 a.m.]

Designation of Water Subject to Special Fishing Regulations

On April 4, 1998, the Executive Director of the Fish and Boat Commission (Commission), exercising his authority under 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), took immediate action to temporarily modify fishing regulations to conserve and preserve fishing opportunities on Little Lehigh Creek, Lehigh County. Specifically, the Executive Director temporarily modified special regulations applicable to Little Lehigh Creek as follows:

(a) A 1.8 mile section of the Little Lehigh Creek (Lehigh County) from a bridge on T-508 (Wild Cherry Lane) downstream to a bridge on T-510 (Mill Race Road) will be governed by "Delayed-Harvest, Fly-Fishing Only" regulations set forth in 58 Pa. Code § 65.2 instead of "Delayed-Harvest, Artificial Lures Only" regulations.

(b) A 0.3 mile section of the Little Lehigh Creek (Lehigh County) from a bridge on SR 2017 (Brookside Road) downstream to a bridge on T-508 (Wild Cherry Lane) will be governed by Statewide fishing regulations (58 Pa. Code § 61.1) instead of "Delayed-Harvest, Artificial Lures Only" special regulations.

In accordance with 58 Pa. Code § 65.25(b), the members of the Commission considered the special regulation status of these stream sections at their next regular meeting. Notice is hereby given that the members of the Commission approved the special regulations status of the streams sections as set forth above.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 98-1413. Filed for public inspection August 28, 1998, 9:00 a.m.]

Invitation for Public Comments on the Draft Strategic Plan

The Fish and Boat Commission (Commission) is seeking public input on its draft strategic plan.

The Commission was established in 1866 in response to declining shad runs. Over the years the Commission's

structure, mandates and responsibilities have evolved and expanded. Throughout this evolution, the agency's independent status and customer based funding have ensured that the agency is lean, effective and responsive.

Today, the Commission is the Commonwealth agency with the mandate to ensure the protection, propagation, and distribution of game fish, fish bait, bait fish, amphibians, reptiles and aquatic organisms. Since 1931, the Commission has also been charged with managing recreational boating in this Commonwealth. Section 321 of the Fish and Boat Code, 30 Pa.C.S. § 321, provides the specific administrative and enforcement powers and duties of the Commission. They are:

- (1) The encouragement, promotion and development of the fishery interests.
- (2) The protection, propagation and distribution of fish.
- (3) The management of boating and the operation of boats.
- (4) The encouragement, promotion and development of recreational boating.

As stewards of Pennsylvania's aquatic resources and the recreational opportunities they afford, the Commission's mission is "to provide fishing and boating opportunities through the protection and management of aquatic resources." The Commission outlined four broad agency-wide goals to supplement the broad mission statement. These goals provided direction on how the Commission meets the agency's mandates in our management programs. These goals were to protect, conserve and enhance aquatic resources; to advocate the wise, safe use of Pennsylvania's aquatic resources; to provide for protection of aquatic resource users, and to address the expectations of anglers and boaters.

In addition to the mission and goals, the Commission staff developed a vision statement to express how the agency will strive to fulfill its mission:

The Fish and Boat Commission will produce the highest quality fishing and boating opportunities responsive to the desires of the public and the needs of the resource. To accomplish this, the Commission will nurture a motivated, skilled, dedicated and diverse workforce, well-informed about their jobs and agency programs, focused on the agency's mission and goals, and proud of what they do and how well they do it. We will be the best in the nation at what we do.

To fulfill the Commission's statutory mandates and accomplish its mission, Commission staff also developed a draft strategic plan that describes a variety of programs, initiatives and strategies. Although many of the strategies identified in this plan are program specific, several "themes" are apparent. These themes include resource stewardship, partnerships and funding.

The need for resource protection and management, "stewardship," is increasing as more demands are placed on a finite resource base. The stewardship theme is a Commission mandate and an agency-wide goal for which there is a strong commitment. Paralleling this growing need for stewardship, anglers and boaters are seeking and enjoying a growing diversity of aquatic recreation experiences in this Commonwealth. The Commission strives to tailor management programs to optimize fishing

and boating opportunities; however, user demands must always be balanced with good resource stewardship.

The Commission cannot achieve its mission and goals alone. The agency relies heavily on "partnerships." Partnerships enable the Commission to stretch limited resources and be good stewards of the resource and anglers' and boaters' dollars. The theme of partnerships is one that the Commission will continue to recognize as a keystone of future programs and initiatives. The Commission will be challenged to work with other entities to maximize the application and effectiveness of existing funding and augment current funding sources for traditional programs. Positive impacts on the resource and customer satisfaction will be key measures of effectiveness and success under the theme of fostering partnerships.

The traditional base of program support, fishing license sales, is declining. The Commission has an annual budget of approximately \$37 million dollars. The Commission also has growing capital improvement and resource protection needs. There is currently a \$60 million backlog of projects. The Commission needs to partner with others, including the legislature, to address these capital needs. Addressing infrastructure needs will require increasing attention to meet changing regulatory, environmental, safety and other requirements.

Angling recreation generates more for the state's economy, \$1.35 billion annually, than the Commission collects in fishing license sales—\$20+ million. In fact, the \$49 million in state sales and income taxes generated annually from fishing related business easily eclipses the license fees collected by the Commission. Fishing and boating are good not just for the Commission but they are a significant component of the Commonwealth's outdoor travel and tourism economy. It is in the Commonwealth's interest to see that angling and boating, and the resource upon which these activities depend, receive the attention that they deserve.

The Commission voted to seek public comment on the draft strategic plan at its July, 1998 meeting. The Commission is making available its draft plan for public review and comment. This plan is available electronically through the Commission's Web site at www.fish.state.pa.us or may be obtained by written request to Resource Planning Coordinator—Strategic Plan, Pennsylvania Fish & Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000; e-mail: cseifert@fish.state.pa.us.

Interested persons are invited to submit written comments, objections or suggestions about the draft strategic plan to the Executive Director, Pennsylvania Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically at "tford@fish.state.pa.us." A return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 98-1414. Filed for public inspection August 28, 1998, 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>
12-49	Department of Labor and Industry Workers' Compensation Self- Insurance	8/18/98

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-1415. Filed for public inspection August 28, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

Appeal of Richard Peter Scherer; Consent Order; Doc. No. P94-06-040

A hearing shall occur on September 9, 1998, at 9 a.m. in Room 200, Administrative Hearing Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (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.

Motions preliminary to those at hearing, if any, must be filed with the Docket Clerk, Insurance Department, Capitol Associates Building, Room 200, 901 N. 7th Street, Harrisburg, PA 17102 on or before September 4, 1998.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1416. Filed for public inspection August 28, 1998, 9:00 a.m.]

Notice of Requirement to File Forms Under the Accident and Health Filing Reform Act

Certain group health insurance policies, and other forms, issued by Health Maintenance Organizations, Preferred Provider Organizations, Hospital Plan Corporations and Professional Health Services Plan Corporations were exempted from filing with the Insurance Department (Department) by the Insurance Commissioner (Commissioner) under notices issued April 12, 1997 (27 Pa.B. 1893) and June 28, 1997 (27 Pa.B. 3118), under the authority of section 3(a) and 3(b) of the Accident and Health Filing Reform Act (Act 159), act of December 18, 1996 (P. L. 1066, No. 159) (40 P. S. § 3803(a) and (b)).

Section 3(b) of Act 159 (40 P. S. § 3803(b)) authorizes the Commissioner to require any forms exempted from filing to be subsequently made subject to filing again with the Department upon 90 days advance notice published in the *Pennsylvania Bulletin*. By this publication, the Commissioner hereby communicates her intent to temporarily discontinue the form filing exemption with respect to those forms issued by "managed care plans," as that term is defined by the Quality Health Care Accountability and Protection provisions of Act 68 of 1998 (Act 68) (P. L. 446, No. 68), which are necessary to meet the requirements of Act 68.

Act 68 imposes new requirements on managed care plans and licensed insurers effective January 1, 1999. The requirements include, but are not limited to, disclosure of specified information by managed care plans to enrollees and, under certain circumstances, to prospective enrollees and health care providers. The Department has determined that it is in the public interest to initially review the enrollee material issued by managed care plans to meet these statutory changes. The Department will review only the initial changes made to forms for compliance with Act 68. Future changes to forms need not be filed with the Department and will return to the exemption from filing under the April and June 1997 notices referenced above.

This modification in the exemption of accident and health forms filings shall be effective 90 days after publication of this notice in the *Pennsylvania Bulletin*. However, because of the anticipated volume of filings from managed care plans, and in an effort to meet the January 1, 1999 effective date of Act 68, the Department will begin reviewing Act 68 compliance filings received prior to the effective date of this notice.

Under this modification, managed care plans shall file with the Department, under the requirements of sections 3 and 4 of Act 159 (40 P. S. § 3803 and 3804), all enrollee material, including but not limited to, subscriber and group master contracts, amendments, riders, endorsements and member handbooks which will be used to disclose the information required by Act 68 to enrollees, prospective enrollees and health care providers.

The discontinuance of this exemption from filing the forms identified above (the modification), shall apply only for the revisions to enrollee material made necessary by Act 68. Other changes and modifications to existing forms not relating to Act 68 may be made using the deregulation process outlined in the April and June 1997 notices

referenced above. The deregulation of group accident and health forms will resume under Act 159 for each individual managed care plan after that managed care plan files the required amendments with the Department and these amendments have been reviewed by the Department under the requirements of Act 159.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1417. Filed for public inspection August 28, 1998, 9:00 a.m.]

Princeton Insurance Company; Physicians and Surgeons Professional Liability Rate Filing

On August 13, 1998, the Insurance Department received from Princeton Insurance Company a Physicians and Surgeons Professional Liability Rate Filing.

The company requests an overall 46.2% increase amounting to \$2.1 million, which includes a 7.4% increased limit factor. The proposed effective date is January 1, 1999.

Unless formal administrative action is taken prior to October 12, 1998, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Nabila Audi, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, or by e-mail at naudi@ins.state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1418. Filed for public inspection August 28, 1998, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Railroad
With Hearing

I-00970071. Investigation Upon The Commission's Own Motion. An Investigation upon the Commission's Own Motion has been made to the Pennsylvania Public Utility Commission (Commission), under the provisions of the Public Utility Code, requesting that the Commission determine the condition, disposition and responsibility for maintenance of the existing crossing structure carrying Pennsylvania Avenue (S. R. 0254) above-the-grade of the tracks of CSX Transportation, Inc., in the Borough of Monaca, Beaver County (AAR 584 859 N).

An initial hearing on this matter will be held Wednesday, October 7, 1998, at 10 a.m. in the 11th floor hearing room, Pittsburgh State Office Building, 300 Liberty Av-

enue, Pittsburgh, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1419. Filed for public inspection August 28, 1998, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before September 21, 1998, 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 additional right and privilege of operating motor vehicles as common carriers for transportation of persons by transfer of rights as described under each application.

A-00113966, Folder 2. Bishop's Moving Services, Inc. (2015 Chapel Avenue, Cherry Hill, Camden County, NJ 08002)—a corporation of the state of New Jersey—additional right—to transport, as a common carrier by motor vehicle, household goods in use between points in the city and county of Philadelphia; which is to be a transfer of all of the rights authorized under the certificate issued at A-00079522, to the estate of Philip L. Inverso by Gloria J. Inverso, administratrix of the estate, subject to the same limitations and conditions. *Attorney:* Jeffrey F. Belz, 605 W. Route 70, Cherry Hill, NJ 08002.

A-00112763, Folder 3. Eastern Medical Ambulance, Inc. (1309 East Market Street, Warren, Trumbull Township, OH 44483), a corporation of the state of Ohio—additional right—persons in paratransit service, between points in the county of Crawford; which is to be a transfer of all of the right authorized under the certificate issued at A-00109416 to Lafayette Taxi Service, Inc., subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00114425, Folder 2, Am-A. Juliette D. Allis, t/d/b/a Valley Taxi (R. R. 2, Box 453, Athens, Bradford County, PA 18848)—persons upon call or demand in the boroughs of Sayre, South Waverly and Athens, and the township of Athens, Bradford County: *so as to permit* the transportation of persons upon call or demand in the borough of Towanda, and points located within 3/4 of a mile on either side of State Route 220, from the borough of Towanda north to the borough of Athens.

Applications of the following for approval *amendment of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.*

A-00112763, Folder 1, Am-A. Eastern Medical Ambulance, Inc. (1309 East Market Street, Warren, Trumbull County, OH 44483), a corporation of the State of Ohio—persons upon call or demand in Mercer County: *so as to permit* the transportation of persons upon call or demand in the city of Meadville, Crawford County; which is to be a transfer of all of the rights authorized under the certificate issued at A-00109416, F. 2 to Lafayette Taxi Service, Inc., subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.*

A-00115125. Scalp Level-Paint Volunteer Fire Company & Windber Volunteer Fire Company #1, Inc., Copartners, t/d/b/a Northern EMS, (1620 Somerset Avenue, Windber, Somerset County, PA 15963), to for the right to begin to transport as a common carrier by motor vehicle—persons in paratransit service, between points in the boroughs of Windber, Paint, Central City, Indian Lake, Hooversville and Benson and the townships of Pain, Ogle, Shade, Stoney Creek, and Conemaugh, all located in Somerset County, and the borough of Scalp Level and the township of Adams, located in Cambria County, and from points in said territory, to points in Pennsylvania, and return.

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 September 14, 1998.

- A-00115221 Zimmerman Group, Inc., t/a Zimmerman Carriers
786 Glenwood Drive, Ephrata, PA 17522
- A-00115220 Scott Ludwig
R. D. #2, P. O. Box 19, Auburn, PA 17922
- A-00115219 D & R Leasing, Inc.
P. O. Box 831, 915 W. Broad Street,
Quakertown, PA 18951
- A-00115218 Daniel Shingara, t/a Shingra Excavating & Construction
R. D. #2, Box 401, Shamokin, PA 17872:
Myron M. Moskowitz, 2 E. Independence
Street, Shamokin, PA 17872
- A-00115217 Melvin Keller, t/a Valley View Trucking
Box 20AA, Star Route, Jones Mills, PA
15646
- A-00115216 Carl R. Smith, Inc., t/a PRS Transit
1134 Saxonburg Road, Saxonburg, PA
16056
- A-00115234 Joseph & Sonja Bomersheim, t/a So-Jo
Enterprise
R. R. #1, Box 1075, Nicholson, PA 18446

- A-00115232 Pickarski Incorporated
P. O. Box 1200, Gouldsboro, PA 18424:
Marshall E. Anders, 802 Main Street,
Stroudsburg, PA 18360
- A-00115231 Car Jockeys, Inc.
R. R. 6, Box 1, Altoona, PA 16601
- A-00115230 David W. Miller, t/a Miller's Trucking &
Excavating
R. D. 1, Box 404-D, Centre Hall, PA
16828
- A-00115222 John B. Deljanovan, t/a J.B. Deljanovan
Trucking
P. O. Box 104, Ralston, PA 17763
- A-00115223 Triple-A-Transport, Inc.
94 Dakota Drive, Hanover, PA 17331:
John Fullerton, P. O. Box 9500, Harris-
burg, PA 17108
- A-00115224 Dean Transportation, Inc.
1415 West Waterloo Road, Akron, OH
44314: Paul A. Gajewski, 135 South
Lasalle Street, Chicago, IL 60603
- A-00115225 Michelle G. Eppley, t/a J and M Eppley
Trucking
P. O. Box 406, Jennerstown, PA 15547
- A-00115226 P.D.Q. Courier Express, Inc.
P. O. Box 24655, Philadelphia, PA 19111:
Keith N. Leonard, 1515 Market Street,
18th Floor, Philadelphia, PA 19102
- A-00115227 Bert Unterberger & Janet E. Whirlow, t/a
Janet & Bert Enterprises
Box 274, Penn, PA 15675
- A-00115228 Good & Fair Carting & Moving Co., Inc.
300 Woodward Avenue, Kenmore, NY
14217: Joe Nasca, The Olympic Towers,
Buffalo, NY 14207
- A-00115229 Joseph Rodney James, t/a Tri-State Moving
Services
348 Station Street, Suite 14, Bridgeville,
PA 15017: David M. O'Boyle, 1450 Two
Chatham Center, Pittsburgh, PA 15219-
3427
- A-00115233 Joseph Tomko, t/a Tomko Trucking
357 Park Avenue, Hooversville, PA 15936
- A-00115235 J.K.U. Trucking, Inc.
88 Conrad Road, Fleetwood, PA 19522
- A-00115236 Stephen D. Clark, t/a Clark Farms
16786 Stahlhut Road, Marion, IL 62959
- A-00115237 Shady Maple Trucking, Inc.
1324 Main Street, East Earl, PA 17519:
Donald H. Hess, 41 East Orange Street,
Lancaster, PA 17602

JAMES J. MCNULTY
Secretary

[Pa.B. Doc. No. 98-1420. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310698F0002. Bell Atlantic-Pennsylvania, Inc. and Accelerated Connections, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Accelerated Connections, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Accelerated Connections, Inc., by its counsel, filed on July 14, 1998, at the

Pennsylvania Public Utility 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 Accelerated Connections, Inc. Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1421. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310342F0003. Bell Atlantic-Pennsylvania, Inc. and Access Network Services, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Access Network Services, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Access Network Services, Inc., by its counsel, filed on June 30, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Resale 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 Access Network Services, 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,
Secretary

[Pa.B. Doc. No. 98-1422. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310515F0002. Bell Atlantic-Pennsylvania, Inc. and Alonge Regional Healthcare Communications Corporation d/b/a Health Group Telecommunications, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Alonge Regional Healthcare Communications Corporation d/b/a Health Group Telecommunications, Inc., for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Alonge Regional Healthcare Communications Corporation d/b/a Health Group Telecommunications, Inc., by its counsel, filed on June 26, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a

resale 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. Comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Alonge Regional Healthcare Communications Corporation d/b/a Health Group Telecommunications, 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,
Secretary

[Pa.B. Doc. No. 98-1423. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310092F0002. Bell Atlantic-Pennsylvania, Inc. and Business Telecom, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Business Telecom, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Business Telecom, Inc., by its counsel, filed on August 6, 1998, at the Pennsylvania Public Utility 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 Business Telecom, Inc. Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1424. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310707F0002. Bell Atlantic-Pennsylvania, Inc. and Echo Communications. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Echo Communications for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Echo Communications, by its counsel, filed on June 15, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale 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 Echo Communications Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1425. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310691. Bell Atlantic-Pennsylvania, Inc. and EZ Talk Communications, L.L.C. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and EZ Talk Communications, L.L.C. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and EZ Talk Communications, L.L.C., by its counsel, filed on August 6, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale 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 EZ Talk Communications, L.L.C. Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1426. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310711. Bell Atlantic-Pennsylvania, Inc. and Keystone Kalling, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Keystone Kalling, Inc., for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Keystone Kalling, Inc., by its counsel, filed on June 30, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Resale 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. Comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Keystone Kalling,

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,
Secretary

[Pa.B. Doc. No. 98-1427. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310674. Bell Atlantic-Pennsylvania, Inc. and Momentum Telecom, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Momentum Telecom, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Momentum Telecom, Inc., by its counsel, filed on June 24, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale 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 Momentum Telecom, Inc. Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1428. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310642. Bell Atlantic-Pennsylvania, Inc. and Network Telecom Exchange Corp. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Network Telecom Exchange Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Network Telecom Exchange Corp., by its counsel, filed on July 24, 1998, at the Pennsylvania Public Utility 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 Network Telecom Exchange Corp. Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1429. Filed for public inspection August 28, 1998, 9:00 a.m.]

Telecommunications

A-310560F0002. Bell Atlantic-Pennsylvania, Inc. and USN Communications Atlantic, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and USN Communications Atlantic, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and USN Communications Atlantic, Incorporated, by its counsel, filed on June 15, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale 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 USN Communications Atlantic, Incorporated Joint Petition are on file with the Pennsylvania Public Utility 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,
Secretary

[Pa.B. Doc. No. 98-1430. Filed for public inspection August 28, 1998, 9:00 a.m.]

Water Service Without Hearing

A-212370F0046, A-212370F0047. Philadelphia Suburban Water Company. Application of Philadelphia Suburban Water Company for approval of (1) the acquisition, by purchase, of certain water supply system assets of Brandywine Operating Partnership, L. P., and (2) the right of Philadelphia Suburban Water Company to begin to offer, render, furnish or supply water service to the public in an additional portion of Cumru Township, Berks County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before September 14, 1998, under 52 Pa. Code (relating to public utilities).

Applicant: Philadelphia Suburban Water Company

Through and By Counsel: Mark J. Kropilak, Esquire, Vice President and General Counsel, Philadelphia Suburban Water Company, 762 Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1431. Filed for public inspection August 28, 1998, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for the following projects: Project #98-225-001—Installation of the Crane Festoon Rail at Tioga Marine Terminal, Philadelphia, PA. Bid documents available—Tuesday, September 1, 1998. Prebid meeting (not mandatory)—10 a.m. Thursday, September 10, 1998 at Tioga Marine Terminal—use gate directly across from the Port Administration Bldg. Bid closing—2 p.m. on Thursday, September 17, 1998. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable.

Project #98-225-002—HVAC Maintenance at Port Administration Bldg., 3460 N. Delaware Ave., Philadelphia, PA 19134. Bid documents available—Tuesday, September 1, 1998. Bid closing—2 p.m. on Thursday, September 17, 1998. There is no charge for the bid document. Bid openings will be held at 210 W. Washington Square, 13th Fl., Philadelphia, PA 19106. The bid documents can be obtained from the Procurement Administrator, 210 W. Washington Sq., 13th Fl., Philadelphia, PA 19106, (215) 928-9100. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 98-1432. Filed for public inspection August 28, 1998, 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

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Commodities

1153228 Construction and building materials—4,300 sq. yd. bituminous surface course ID-2A in place.

Department: Fish and Boat Commission
Location: Bellefonte, Centre County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249560 Construction, mining, excavating and highway maintenance equipment—6 each trencher, attachment.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1115358 Drinking water—12,000 gallons bottled drinking (1 gallon plastic bottles, 4 bottles per case); 400 bottles bottled drinking water (5 gallon bottles); 24 each rental of four water coolers per month.

Department: Environmental Protection
Location: Wilkes-Barre, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8504590 Engines, gasoline, vehicular—1,536 each lights, spreader PN620W.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1149358 Laboratory instruments and equipment—24 each Rupprecht & Patashnick Co., Inc. brand PM 2.5 sampler, Partisol Plus Model 2025 sequential air sampler; 15 each HP palmtop data acquisition system with RP Comm software for palmtops and PC's; 15 each Strealine Fts. flow audit package with manometer; 2 each Wins PM 2.5 impactors (complete with well); 50 each impactor well assemblies; 25 each O-ring/seal packages; 50 box 37 M glass fiber filters 25/box; 25 each Wins impactor oil 100ML; 25 packs filter cassettes 10/pack; 50 each filter cassette magazine; 50 each magazine transport containers; 1 each filter cassette removal sleeve; 1 each filter cassette separator tool.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1175158 Laboratory instruments and equipment—1 each Dolby-Jamison 9106813100 HMP 300 automated microprocessor histology tissue processor.

Department: Agriculture
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1084238 Metal bars, sheets and shapes—200 each steel posts—flanged sign channel post 6'; 175 each steel posts—flanged channel posts 8'; 500 each steel posts flanged sign channel posts 11'; 330 each steel posts flanged sign channel 12'; 15 each steel posts flanged sign channel 14'; 100 each steel posts formed channel brace posts 12'; 325 each steel delineator posts "U" channel 5'; 760 each steel delineator posts "U" channel 6'.

Department: Game Commission
Location: Hughesville, Lycoming County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1109118 Metal bars, sheets and shapes—2,000 each steel angle iron—unequal legs—must conform to ASTM A36, must be descale and lightly oiled free from rust; size 2" x 1 1/2" x 3/16" x 20 feet length.

Department: Correctional Industries
Location: Pittsburgh, Allegheny County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249520 Motor vehicles, trailers and cycles—80 each 1999 model sport utility vehicle 4x4, 4 door with air conditioning and cruise control, color blue.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249590 Motor vehicles, trailers and cycles—7 each 1999 model truck, full size 1/2 ton automatic; 10 each 1999 model truck full size 1/2 ton automatic w/air conditioning; 6 each 1999 model truck full size 1/2 ton extended cab automatic w/air conditioning.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249600 Motor vehicles, trailers and cycles—6 each 1999 model truck 3/4 ton full size, automatic; 6 each 1999 model truck 3/4 ton full size, 4x4 automatic with plow; 6 each 1999 model 3/4 ton full size 4x4 automatic (without plow) with air conditioning.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249610 Motor vehicles, trailers and cycles—7 each 1999 model truck, compact pickup, heavy duty, automatic; 8 each 1999 model truck, compact pickup, heavy duty 4x4 extended cab automatic with air conditioning.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249620 Motor vehicles, trailers and cycles—6 each 1999 model van 5 passenger full size with cruise control, color blue; 13 each 1999 model van 8 passenger full size with cruise control color blue; 6 each 1999 model van, 12 passenger full size with cruise control color blue; 15 each 1999 model mini van, 8 passenger with cruise control, color blue.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8249680 Motor vehicles, trailers and cycles—2 each body, pony truck, to be installed on Department owned equipment.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1181128 Paper and printing—600M UC-1099G Statement for Recipients of PA Unemployment Compensation Payments.

Department: Labor and Industry
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

SERVICES

Audio/Video—04

Project No. 501 Maintenance of radios, mobile, portable console/consolette, remote control, battery chargers, repeaters, paging systems, and the like.

Department: Military and Veterans Affairs
Location: Ft. Indiantown Gap, Annville, Lebanon County, PA
Duration: October 1, 1998—September 30, 2001
Contact: Emma Schroff, (717) 861-8518

Construction—09

AE-5204 Construction of a three-bay superstructure on existing concrete wall. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Stockpile No. 7, SR 1, North of Toughkenamon Interchange, Kennett Square, Chester County, PA
Duration: 90 calendar days, proposed bid October 1998
Contact: Tina Chubb, (717) 787-7001

AE-5205 Construction of a three-bay superstructure on existing concrete walls. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Stockpile No. 2, Trevoise Road, Bensalem Township, Bucks County, PA
Duration: 90 calendar days, proposed bid October 1998
Contact: Tina Chubb, (717) 787-7001

AE-5206 Construction of a three-bay superstructure on existing concrete wall. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Stockpile No. 1, Markley Stand Boroline, Norristown, Montgomery County, PA
Duration: 90 calendar days, proposed bid October 1998
Contact: Tina Chubb, (717) 787-7001

AE-5207 Construction of a three-bay superstructure on existing concrete wall. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Stockpile No. 2, Chester Pike (US 13) and I-476, Ridley Township, Delaware County, PA
Duration: 90 calendar days, proposed bid October 1998
Contact: Tina Chubb, (717) 787-7001

Contract No. FBP-18-9005 Removal of existing 24" R. C. pipe; clearing, grubbing and rough grading; excavating, backfilling and compacting; rock lining; erosion and sediment pollution control measures; selected material surfacing; traffic signing; landscaping; plain and reinforced concrete structure (8 C. Y.); and precast reinforced box culvert (5' x 3' x 28'±). Work is located in Powells Valley, south of the Borough of Lykens.

Department: Conservation and Natural Resources
Location: Jefferson Township, Dauphin County, PA
Duration: Ninety (90) days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-015-175 Removal of three existing structures (steel I-beams, steel grating and timber decks, masonry and concrete substructures); construction of two single span spread box beam bridges and one cast-in-place reinforced concrete box culvert; erosion and sedimentation measures; guide rail; landscaping; architectural surface treatment; roadway drainage; rock lining; and selected material surfacing. All work is located along the upper reaches of the Young Womans Creek, north of the village of North Bend near Renovo.

Department: Conservation and Natural Resources
Location: Chapman Township, Clinton County, PA
Duration: May 31, 2000
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-320-396 Erosion and sedimentation control measures; seeding and mulching; trench excavation and backfill; AASHTO No. 57 and No. 8 aggregates; topsoil; providing and installing various sizes of buried and interior waterlines and valves; water storage tank; impermeable liner; hydropneumatic tank; automatic pressure sensing system; hydrants; chemical feed system; and bituminous wearing course. All work is located at Kings Gap Environmental Education and Training Center.

Department: Conservation and Natural Resources
Location: Dickinson Township, Cumberland County, PA
Duration: 90 days
Contact: Construction Management Section, (717) 787-5055

DGS 406-52 Rebid Project title: Upgrade Electrical Utility, Phase II. Brief description: Upgrade electrical utilities—replace 15-KV cables, renovate manholes; install U/G ductbanks and 15-KV primary cables, install new transformers and secondary entrances and replace secondary main distribution equipment at various buildings. Electrical construction. Plans deposit: \$65 per set. Payable to: Caplan Engineering Company. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Caplan Engineering Company, 7521 Roslyn Street, Pittsburgh, PA 15218-2518, (412) 271-4700. Bid date: Wednesday, September 23, 1998, at 11 a.m. A prebid conference has been scheduled for Wednesday, September 9, 1998, at 10 a.m. in the Conference Room of Early Hall Facility Maintenance Office, Edinboro University of Pennsylvania, Edinboro, PA. Contact: Robert Caplan, (412) 271-4700. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Edinboro University, Edinboro, Erie County, PA
Duration: 365 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 553-28 Project title: Install New Heating and Cooling System in Building Number 15. Brief description: Work involves the installation of HVAC and associated electrical system in three story No. 15 Building at Selinsgrove. Split A/C system will have five units. There will be abatement of lead based paint and asbestos affecting the work. HVAC and electrical construction. Plans deposit: \$45 per set. Payable to: Ms. Cam S. Fitzgerald, P.E. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Cam S. Fitzgerald, P.E., 105 North Front Street, Suite 307, Harrisburg, PA 17101, (717) 766-0865. Bid date: Wednesday, September 16, 1998, at 2 p.m. A prebid conference has been scheduled for Thursday, September 3, 1998 at 10 a.m. in the Department of General Services Building located directly behind the Chapel, Selinsgrove Center, Selinsgrove, PA. Contact person: Cam S. Fitzgerald, P.E., (717) 766-0865. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA
Duration: 180 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 980-29 Project title: Archaeology Gallery Renovations. Brief description: Renovate display cases and install suspended ceiling. Renovations include various electrical fixtures and mountings. General and electrical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, September 16, 1998, at 2 p.m.

Department: General Services
Location: The State Museum of Pennsylvania, Harrisburg, Dauphin County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 1577-7 Project title: Construct Perimeter Road and Expand Parking. Brief description: Work consists of construction of a new parking area and drive, reconstruct an existing parking area, resurface/reconstruct a perimeter roadway, site lighting for parking areas and erection of a carport. General and electrical construction. Plans deposit: \$50 per set. Payable to: MS Consultants, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: MS Consultants, Inc., 333 Rouser Road, Airport Office Park 4, Coraopolis, PA 15108, (412) 264-8701. Bid date: Wednesday, September 16, 1998, at 11 a.m.

Department: General Services
Location: State Correctional Institution, Waynesburg, Greene County, PA
Duration: 108 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

MI-716 Project title: Lenhardt Hall Roof Replacement. Scope of work: Roof replacement of three 1-story, one 10-story and one 11-story roofs, totaling approximately 13,500 square feet. Remove existing gravel built-up roof and insulation and install new cold applied built-up roofing system. Plans cost: \$50 nonrefundable.

Department: State System of Higher Education
Location: Lenhardt Hall, Millersville University, Millersville, Lancaster County, PA 17551-0203
Duration: 60 days from Notice to Proceed
Contact: Jill M. Coleman, (717) 872-3730

MI-717 Project title: Gaige Hall Roof Replacement and Repairs. Scope of work: Roof replacement of one 4-story roof, totaling approximately 16,730 square feet. Remove existing gravel, built-up roof and insulation and install new cold applied built-up roofing system. Also, install building panels and new aluminum coping cap and repaint and recaulk brick. Plans cost: \$50 nonrefundable.

Department: State System of Higher Education
Location: Gaige Hall, Millersville University, Millersville, Lancaster County, PA 17551-0203
Duration: 60 days from Notice to Proceed
Contact: Jill M. Coleman, (717) 872-3730

Demolition—11

080516 Demolition contractor to demolish or remove two-story frame dwelling and garage, any outbuildings and any site improvements located at 209 King of Prussia Road, Wayne, PA, Montgomery County 19087.

Department: Transportation
Location: PennDOT District 6-0, Upper Merion Township, Montgomery County, PA
Duration: Indeterminate 1998—99
Contact: Roger Joseph, (610) 768-3006

Engineering Services—14

08430AG2239 To perform NBIS bridge inspection for 344 State-owned bridges in Philadelphia County.

Department: Transportation
Location: Engineering District 6-0
Duration: Twenty-four (24) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2240 Final design services for S. R. 0080, Section B14, in Clearfield County.

Department: Transportation
Location: Engineering District 2-0
Duration: Eighteen (18) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2241 Photogrammetric mapping services for S. R. 0322, Section B02, in Clearfield and Centre Counties.

Department: Transportation
Location: Engineering District 2-0
Duration: Six (6) months
Contact: Consultant Agreement Division, (717) 783-9309

Environmental Maintenance Services—15

BF 139-101.1 Abandoned mine land reclamation, Frank Kowalski and Frank Kowalczyk involves an estimated 22,000 c. y. of grading, gas line inspection and 16 acres of seeding.

Department: Environmental Protection
Location: Conemaugh Township, Indiana County, PA
Duration: 300 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

OSM 49(2052)101.1 Backfilling strip pits, Marion Heights involves clearing and grubbing, removal of structures, backfilling, grading an estimated 253,000 c. y. and 37.3 acres of seeding. One hundred percent (100%) of this project is financed by the Federal Government. Federal funds available for this program total \$20.4 million for Pennsylvania's 1997 AML Grant.

Department: Environmental Protection
Location: Marion Heights Borough, Northumberland County, PA
Duration: 310 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

Financial and Insurance Consulting—17

OA-PER-C-98 The Office of Administration, Employee Benefits Division is requesting proposals to provide employee benefits consulting services. The selected consultant will assist the Employee Benefits Division in the administration of the following benefit programs for Commonwealth employees: the Retired Employees Health Program, the State Police Health Program, the State Police Supplemental Benefits Program, the GroupLife Insurance Program, the Workers' Compensation Program and other programs which are managed in whole or in part by the Employee Benefits Division. In addition, the selected consultant may be asked to review actuarial or consulting work performed on behalf of the Pennsylvania Employees Benefit Trust Fund (PEBTF). The PEBTF is a jointly trustee health and welfare fund which provides health benefits for most active State employees and administers the benefits provided for most retired State employees. The Office of Administration, Employee Benefits Division reserves the right to reject any and all proposals or to negotiate separately with any organization that submits a proposal. The Office of Administration will not be liable for any cost incurred by an organization prior to issuance of a contract. Proposals must arrive at the Office of Administration, Employee Benefits Division, Room 513 Finance Building, Harrisburg, PA 17120 before 3 p.m. on September 26, 1998. Requests for proposals may be obtained by writing to the above address or by calling James Burris at (717) 787-9872. Most of the consultant's work will be performed at the consultant's headquarters but some may be performed at the contractor's site.

Department: Office of Administration
Location: Harrisburg, PA
Duration: January 1, 1999 to December 31, 2004
Contact: Employee Benefits Division, (717) 787-9872

Food—19

AA 08055 Grocery and frozen food items.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: October, November and December, 1998
Contact: Jeanette Gualtieri, (814) 878-4930

AA 08056 Milk and cream.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: January 1, 1999 through December 31, 1999
Contact: Jeanette Gualtieri, (814) 878-4930

SP 402523 Provide janitorial services for the Lebanon County Assistance Office. The office space consists of 12,400 square feet. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: 625 South 8th Street, P. O. Box 870, Lebanon, PA 17042
Duration: January 01, 1999—December 31, 2000 with two additional 1-year renewals
Contact: Rose Wadlinger, (717) 783-3767

HVAC—22

Project No. 504 Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 4 hours of receiving a call either directly or by means of a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90-day period. Bid proposal forms used to submit bids are available from the State Army Board.

Department: Military and Veterans Affairs
Location: PAARNG Armory, 5350 Ogontz Avenue, Philadelphia, Philadelphia County, PA
Duration: October 1, 1998—June 30, 2000
Contact: Emma Schroff, (717) 861-8518

Project No. 505 Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 4 hours of receiving a call either directly or by means of a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90-day period. Bid proposal forms used to submit bids are available from the State Army Board.

Department: Military and Veterans Affairs
Location: PAARNG Armory, 23rd and Ranstead Streets, Philadelphia, Philadelphia County, PA
Duration: October 1, 1998—June 30, 2000
Contact: Emma Schroff, (717) 861-8518

401-BL-574 Provide all labor, equipment and material necessary to completely remove existing heating plant asbestos pipe fittings and equipment insulation, and installation of new insulation. Work is to commence by late February or early March and must be completed no later than August 10, 1999. To obtain a set of bid documents submit a nonrefundable \$55 deposit to Reilly Associates, 222 Wyoming Avenue, West Pittston, PA 18643. Bids and plans will be released in early September 1998, and all bid and prebid information will be included in the bid package.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA 17815
Duration: 160 days
Contact: Joseph C. Quinn, (717) 389-4311

FM-70 Furnish and provide all labor and materials to install and maintain a complete computerized maintenance and guaranteed energy savings program covering the air-conditioning and heating system but not limited to the following: 1. Preventive maintenance service; 2. Predictive maintenance service; 3. Operational analysis; 4. Component replacement; 5. Emergency service; 6. 24 hour, 7 day a week, central monitoring computer—providing hard copy of system operation and maintenance records.

Department: State Police
Location: Facility Management, Philadelphia Headquarters, 2201 Belmont Avenue, Philadelphia, PA 19131
Duration: October 1, 1998 to June 30, 2001
Contact: Les Brightbill, (717) 783-5484

Janitorial Services—33

SP 402521 Provide janitorial services for the Jefferson County Assistance Office. The office space consists of approximately 7,675 square feet of floor space to be maintained 5 days per week, Monday through Friday, except on State holidays. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: 720 West Mahoning Street, Punxsutawney, PA 15767
Duration: January 01, 1999—December 31, 1999 with two additional 1-year periods
Contact: Rose Wadlinger, (717) 783-3767

Lodging/Meeting—27

10-98-07 The Pennsylvania State Police is seeking a facility to conduct a 3-day conference within a 15-mile radius of State College, PA for Commonwealth law enforcement personnel beginning October 20, 1998, and ending October 22, 1998. Must provide lodging and conference rooms, break refreshments, breakfast, lunch and dinner. Complete details will be sent to all interested bidders.

Department: State Police
Location: State College area
Duration: October 20, 21 and 22, 1998
Contact: Margaret Chapman, P&S Division, (717) 783-5485

MEDP99 Conference to be held Tuesday, Wednesday, Thursday the week of May 03 or May 10, 1999. Meeting rooms for 220 persons with 5 breakout rooms at 40 people each. Rooms are to be available from 7 a.m. Tuesday through 1 p.m. Thursday. Lodging on site for 200 singles for two nights with checkout to 1 p.m. Auto parking for 200 vehicles must be at no cost. Two lunches/breakfasts and associated breaks for 200 people. Facility must be within 20 miles of the greater Pittsburgh Airport. Bids must be received no later than 1 p.m. September 18, 1998, in the room designated on the bid return envelope. Contact Hazel Blanco for bid specifications.

Department: Transportation
Location: PennDOT Bureau of Maintenance and Operations, Pittsburgh, PA
Duration: May 04, 05, 06 or May 11, 12, 13, 1999
Contact: Hazel Blanco, (717) 787-6227

Medical Services—29

9999-3200-055 Contractor shall provide on an as-needed basis the services of a Registered Nurse (RN) for routine medical care of this agency's resident population.

Department: Corrections
Location: State Regional Correctional Facility-Mercer, 801 Butler Pike, Route 258 S, Mercer, PA 16137-5699
Duration: September 1, 1998 to June 30, 1999
Contact: Melissa Peters, Health Care Administrator, (724) 662-1837, ext. 139

Property Maintenance—33

DES001, DES002, DES003, DES004 The Pennsylvania Department of Transportation (PennDOT) is soliciting bids to provide for snow removal services for the following Driver's Licensing Exam Sites: Meadville, (Project No. DES001); Seneca, (Project No. DES002); Island Avenue (Philadelphia), (Project No. DES003); Selinsgrove, (Project No. DES004). Interested contractors may request information and a bid package for any or all of these site locations. Submit requests by fax to (717) 783-7971, Attn: Carol Michael Crum. Include your company name, address, phone number, fax number, and the name of the sites you are interested in.

Department: Transportation
Location: PennDOT/Bureau of Office Services, Meadville, Seneca, Island Avenue, Selinsgrove, PA
Duration: Up to 5 years
Contact: Carol Michael Crum, (717) 783-8912

SP 402514 Provide snow removal services at the Somerset County Assistance Office. Service is to be performed Monday through Friday (except State holidays). Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: 600 Aberdeen Drive, Somerset, PA 15501
Duration: October 01, 1998—September 30, 2001 with two additional 1-year periods
Contact: Rose Wadlinger, (717) 783-3767

Real Estate—35

80A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania State Police with 8,118 useable square feet of new or existing office/barracks space with parking for 56 vehicles in Susquehanna County, PA within a 1/2 mile radius of either Exit 65 or Exit 66 of I-81. Proposals due: October 19, 1998. Solicitation No.: 92716.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1998—99
Contact: John A. Hocker, (717) 787-4300, ext. 3107

Sanitation—36

98-522 Refuse and trash removal service: one 8-cubic dumpster to be provided at each of the following locations within Carbon County with the number of yearly pickups designated: Stockpile No. 01/SR 0902, Lehigh—60; Stockpile No. 02/SR 0093, Hudsondale—52; Stockpile No. 03/SR 0534, East Side Borough—26; Stockpile No. 04/SR 0902, Lehigh—52. Bids will be opened 2 weeks after publication date.

Department: Transportation
Location: Above-referenced Locations within Carbon County, PA
Duration: One year with four 1-year renewals
Contact: Linda Czarnecki, (717) 424-3024

Project No. 502 Trash Removal—4 cubic yard container.

Department: Military and Veterans Affairs
Location: PA Air National Guard, 1776 Minuteman Road, State College, Centre County, PA
Duration: October 1, 1998—September 30, 2001
Contact: Emma Schroff, (717) 861-8518

183058 Garbage and trash removal service for Warren State Hospital. Complete terms and conditions may be obtained by contacting the hospital. Award to be made on a 3-year aggregate basis.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Drive, North Warren, Warren County, PA 16365-5099
Duration: January 01, 1999—December 31, 2001
Contact: BD Muntz, (814) 726-4496

Security Services—37

Inquiry No. 30242 Security Guard Services at Western Center. Service is to be conducted at the facility 7 days per week 24 hours per day for the period September 1, 1998 to June 30, 2002.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: September 1, 1998—June 30, 2002
Contact: Ginny Stinespring, Purchasing Agent I, (724) 873-3256

SP 402513 Provide one uniformed security guard for the Cambria County Assistance Office. This service will be for 5 days per week, Monday through Friday, exclusive of State holidays, 11 hours per day from 6:30 a.m. to 5:30 p.m. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: 239 Main Street, Johnstown, PA 15901
Duration: December 1, 1998—November 30, 2001 with two additional 1-year renewals
Contact: Rose Wadlinger, (717) 783-3767

SP 402522 Provide security guard service for the Lehigh County Assistance Office. This service will be during the hours of 7:15 a.m. to 5 p.m., Monday through Friday except for State holidays. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: 101 South 7th Street, Allentown, PA 18101
Duration: January 01, 1999—December 31, 2003
Contact: Rose Wadlinger, (717) 783-3767

Miscellaneous—39

0011 Contractor will provide maintenance and repair to all kitchen equipment, existing and future, during the period of December 01, 1998, to June 30, 2002, at the State Correctional Institution at Pittsburgh.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: December 01, 1998 to June 30, 2002
Contact: Carol R. Schaeffer, Purchasing Agent II, (412) 761-1955

20-98-03 The development, administration and scoring of Pennsylvania State Police promotion examinations to the ranks of Corporal, Sergeant and Lieutenant.

Department: State Police
Location: Test Management and Administration Division, 2001 North Front Street, Suite 323, Harrisburg, PA
Duration: 18 months
Contact: Brenda Estep, (717) 787-3066

045-AAS98 Request for Proposal (RFP). The Office of Chancellor, State System of Higher Education wishes to secure the services of a vendor to conduct research and analysis of the productivity of System university faculty and faculty at similar universities. The RFP will provide vendors with detailed information to prepare and submit proposals to the Office of the Chancellor for consideration. The selected vendor will be required to have its final report and recommendations by March 1, 1998. If interested a copy of the RFP may be obtained by writing Dr. Frank Gerry at the following address.

Department: State System of Higher Education
Location: 2986 North Second Street, Harrisburg, PA 17110
Duration: Indeterminate 1998—99
Contact: Dr. Frank Gerry, (717) 720-4176

99999-000-98-RFP 1-98 Professional Conservation Services. The Pennsylvania Historical and Museum Commission is taking proposals for an indefinite quantities contract for a variety of professional collections conservation services for historic sites and museums throughout this Commonwealth on an as-needed basis, including the following areas: conservation examination and treatment of collections; design and fabrication of specialized mounts and environmentally regulated cases for exhibition of collections; design of museum artifact storage facilities; design and fabrication of specialized shipping and/or storage containers for collections; transport of museum collections; surveys and long-range conservation planning; emergency preparedness planning and disaster relief services; analytical services and scientific testing; environmental and lighting systems analysis for museums and historic buildings; and training in conservation, emergency preparedness, housekeeping and collections care. This will be a 5-year contract. Revised dates—A nonmandatory preproposal meeting will be held September 30, 1998, at 1 p.m. at the Commonwealth Conservation Center, 3rd floor Conference Room, Publications Building, 908 Market Street, Harrisburg, PA. Proposals are due November 4, 1998. For a copy of the RFP, call (717) 787-2292 or fax a request to (717) 787-9117, or write to Commonwealth Conservation Center, 908 Market Street, 3rd Floor, Harrisburg, PA 17101. Proposals are due on Wednesday, November 4, 1998, at 3 p.m. Proposals will be received at: Commonwealth Conservation Center, 908 Market Street, 3rd Floor, Harrisburg, PA 17101.

Department: Historical and Museum Commission
Location: Bureau of Historic Sites and Museums, Commonwealth Conservation Center, Publications Building, 10th and Market Streets, Harrisburg, PA 17101
Duration: July 1, 1999 to June 30, 2004
Contact: John Hartmann, (717) 787-2292

RFA 97-07-21 This publication supersedes PA Bulletin, Vol. 28, No. 32, published Saturday, August 8, 1998, and will extend the due date of the Request for Application (RFA 97-07-21) to September 30, 1998. The purpose of this Request for Application is to fund innovative research ideas related to breast or cervical cancer. Ten copies of the application must be submitted to the Pennsylvania Department of Health, Division of Contracts, Room 824, Health and Welfare Building, P.O. Box 90, Harrisburg, PA 17108-0090, by 3 p.m. on September 30, 1998. Applications received after this time will not be considered. Preproposal conference will not be held.

Department: Health
Location: Harrisburg, PA
Duration: 12 months
Contact: Dr. Godwin Obiri, Bureau of Epidemiology, (717) 783-4677

RFP 98-1 (Reissue) Job Creation Assistance on Behalf of Persons with Disabilities in Allegheny County—Reissue. Contract services will develop and implement a Job Creation Assistance Program in conjunction with the Pittsburgh District Office, PA Office of Vocational Rehabilitation. The Job Creation Assistance Program will increase employment of OVR-eligible persons and stimulate economic growth in Allegheny County.

Department: Labor and Industry
Location: Office of Vocational Rehabilitation, Room 1320 Labor and Industry Building, Harrisburg, PA 17120
Duration: January 1, 1999—December 31, 2003
Contact: Raymond L. Walker, (717) 787-5735

RFP 1998-13 ME 90000 The contractor will be required to provide a comprehensive education program and services for 120 Pennsylvania juvenile delinquents incarcerated at the Bensalem Youth Development Center. Programs must comply with the Pennsylvania School Code and other contractual requirements designated by the Commonwealth and its agencies.

Department: Education
Location: Bureau of Correction Education, Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July 1, 2000—June 30, 2004 with 1-year budget renewals
Contact: James H. Keeley, (717) 783-9202

RFP No. AQ1998SH To provide technical support to stakeholder groups that will be evaluating local and transported ozone air quality problems relative to Federal ambient air quality standards. Technical support must be available to provide independent information to these stakeholders and DEP.

Department: Environmental Protection
Location: Air Quality, 400 Market Street, 12th Floor, Harrisburg, PA 17105-8468
Duration: One year
Contact: Karen Matter, (717) 772-3359

SP 344352 The State Board of Private Licensed Schools invites contractors to submit bids to the Division of Private Licensed Schools, Pennsylvania Department of Education. The successful bidder will be contracted to prepare approximately 1,300 boxes of student records from 20 defunct schools for long-term storage and access and will agree to become the official depository for the records. To prepare the records, the contractor will remove the boxes from their current location, examine each student's file, dispose of superfluous documents therein, reproduce the remaining documents on microfiche, and deliver the microfiche to the Division of Private Licensed Schools. As the official depository, the contractor will (1) retain a copy of each defunct school's records for 50 years after the year in which the school closed and (2) provide paper copies of academic transcripts to students and other interested parties (colleges, universities, employers, and the like). The contractor may charge the student a fee for the transcript.

Department: Education
Location: 333 Market Street (Division of Private Licensed Schools), Harrisburg, PA 17126-0333
Duration: Eight months—October 1, 1998 to June 30, 1999
Contact: Sharon Lane, (717) 783-8228

[Pa.B. Doc. No. 98-1433. Filed for public inspection August 28, 1998, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

STATE CONTRACTS INFORMATION

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
9150-01	08/17/98	Guttman Oil Company	178,038.30
9150-01	08/17/98	Prolube, Inc.	44,997.00
9150-01	08/17/98	Paul H. Kruggle	629,933.90
9150-01	08/17/98	J. J. Powell, Inc.	13,310.00
9150-01	08/17/98	Export Fuel Company, Inc.	1,577.40
9150-01	08/17/98	Montour Oil Service Co.	7,185.75
9150-01	08/17/98	Lubeco, Inc.	40,460.23
9150-01	08/17/98	Pennzoil In- dustrial Lu- bricants	29,022.03
9150-01	08/17/98	Carlos R. Lef- fler, Inc.	39,911.30
1013158-01	08/17/98	Miller Electric Ltd. of PA	22,980.00
1043158-01	08/17/98	Adolph Sufrin, Inc.	95,451.95
1043158-02	08/17/98	National School Sup- ply	102,408.19

Requisition or Contract #	Awarded On	To	In the Amount Of
1043158-03	08/17/98	House of Doolittle	52,947.36
1043158-04	08/17/98	Kurtz Bros.	7,159.68
1090208-01	08/17/98	Dupli Enve- lope and Graphics Corp.	3,980.00
1097208-01	08/17/98	Guth Labora- tories, Inc.	29,700.00
1877137-01	08/17/98	Barjan Manu- facturing Ltd.	36,120.00
8249130-01	08/17/98	Seely Equip- ment and Supply Co.	7,565.00
8249260-01	08/17/98	Stephenson Equipment, Inc.	89,720.00
8249410-01	08/17/98	Custom Trailer, Inc.	91,539.00
8249420-01	08/17/98	Concord Road Equipment Mfg., Inc.	41,940.00
8249490-01	08/17/98	F & S Supply Co., Inc.	61,108.75

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-1434. Filed for public inspection August 28, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 271—273 AND 277—285]

Municipal Waste

The Environmental Quality Board (Board) proposes to amend Chapters 271—273 and 277—285. The proposed amendments are the result of the Department evaluating the municipal waste regulations promulgated in 1988, 1991 and 1992 in accordance with the Regulatory Basics Initiative (RBI).

This proposal was adopted by the Board at its meeting of June 16, 1998.

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 William F. Pounds, Chief of the Division of Municipal and Residual Waste, P. O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-7564, or Kristen M. Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. 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 of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

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

The Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101—6018.1003), as amended, which in section 105(a) of the SWMA (35 P. S. § 6018.105(a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to carry out the provisions of the SWMA.

The Clean Streams Law (CSL) (35 P. S. §§ 691.1—691.1001), which in section 5(b) of the CSL (35 P. S. § 691.5(b)) grants the Board the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of the CSL and which in section 402 of the CSL (35 P. S. § 691.402) grants the Board the authority to adopt rules and regulations requiring permits or establishing conditions under which an activity shall be conducted for any activity that creates a danger of pollution of the waters of this Commonwealth or that regulation of the activity is necessary to avoid such pollution.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101—4000.1904), which in section 302 of Act 101 (35 P. S. § 4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of this act.

The Land Recycling and Environmental Remediation Standards Act (Act 2) (35 P. S. §§ 6026.101—6026.909),

which in section 104(a) of Act 2 (35 P. S. § 6026.104(a)) authorizes the Board to adopt Statewide health standards, appropriate mathematically valid statistical tests to define compliance with Act 2 and other regulations that may be needed to implement the provisions of Act 2. Section 301(c) of Act 2 (35 P. S. § 6026.301(c)) authorizes the Department to establish by regulation procedures for determining attainment of remediation standards when practical quantification limits set by the United States Environmental Protection Agency (EPA) have a health risk that is greater than the risk levels established in Act 2. Section 303(a) of Act 2 (35 P. S. § 6026.303(a)) authorizes the Board to promulgate Statewide health standards for regulated substances for each environmental medium and the methods used to calculate the Statewide health standards.

The Infectious and Chemotherapeutic Wastes Law (ICWL) (35 P. S. §§ 6019.1—6019.6), which in sections 2(b) and 4(b) of the ICWL (35 P. S. §§ 6019.2(b) and 6019.4(b)) grants the Department the authority to propose regulations as may be necessary or appropriate to accomplish the purposes of the IWCL 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 the IWCL.

The Administrative Code of 1929 (AC) (71 P. S. §§ 510-5, 510-17 and 510-20), which in section 1905-A of the AC authorizes the Department to require applicants for permits and permit revisions to provide written notice to municipalities, in section 1917-A of the AC authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the Department, in section 1920-A of the AC grants the Board the power and the duty to formulate, adopt and promulgate the rules and regulations as may be determined by the Board for the proper performance of the work of the Department and in section 1937-A of the AC (71 P. S. § 510-37) revises the requirements for grant applications for development and implementation of municipal recycling programs.

The Small Business and Household Pollution Prevention Program Act (SBHPPP) (35 P. S. §§ 6029.201—6029.209), which in section 207 of the SBHPPP (35 P. S. § 6029.207) grants the Board the power to promulgate regulations as needed to implement the SBHPPP.

Section 15(a) of the act of November 26, 1997 (P. L. 530, No. 57) (Act 57), repeals section 512(b) of Act 101 pertaining to permit review periods.

The proposed revisions to § 285.219 (relating to transporting foodstuffs and feedstuffs in vehicles used to transport waste) are made under the previously cited authorities and also under the authority of 75 Pa.C.S.A. §§ 101—9805 (relating to Vehicle Code) (code), which in section 4909(e) of the code (relating to transporting foodstuff in vehicles used to transport waste) grants the Board the power and duty to adopt regulations, if necessary, to carry out the requirements of section 4909.

D. Background and Purpose

The municipal waste program in this Commonwealth was developed under the Pennsylvania SWMA and Act 101. The SWMA authorizes the Department to develop and promulgate regulations to manage municipal waste. Act 101 authorizes the Department to regulate municipal

waste planning, which includes the development and implementation of county municipal waste management plans, and to administer the planning, recycling and waste reduction programs under Act 101 and the regulations promulgated under it. Under these acts, municipal waste generally consists of waste resulting from operation of residential, municipal, commercial or institutional establishments and from community activities, and includes nonresidual and nonhazardous waste sludge from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. Municipal waste does not include source-separated recyclable materials. The municipal waste program also includes the management of infectious and chemotherapeutic waste.

On April 8, 1988, the Department promulgated a comprehensive set of regulations for the management of municipal waste. On August 7, 1992, the Department promulgated revisions to these regulations to address infectious and chemotherapeutic waste management. On September 14, 1991, the Department promulgated revisions concerning financial assurances for municipal waste management. Regulations for municipal waste planning, recycling and waste reduction were promulgated on October 10, 1992. Regulations concerning general permits for the beneficial use of municipal waste and the land application of sewage sludge, as well as other regulatory changes, were promulgated January 25, 1997. Today's comprehensive proposed rulemaking includes revisions to regulations promulgated under each of these rulemakings.

The Commonwealth's municipal waste landfill program is a Federally authorized program under the EPA "Subtitle D" Criteria for Municipal Solid Waste Landfills (40 CFR Part 258) (Subtitle D criteria), which became effective October 9, 1993. The EPA Subtitle D criteria contain minimum National criteria for the location, design, operation, cleanup and closure of municipal waste landfills. The Subtitle D criteria give a state flexibility in implementing the criteria if the state runs the program, as the Commonwealth does, as long as the state's regulations are at least as stringent as the Subtitle D criteria. The Commonwealth's regulations are at least as stringent as the Subtitle D criteria. In several instances in this proposed rulemaking, revisions are proposed to regulations that are more stringent than the Subtitle standards. Where this occurs, a justification for the regulation's stringency is provided in the "Summary of Regulatory Requirements." The following is a list of proposed revisions to regulations that include requirements that are more stringent than the Subtitle D criteria:

- Subchapter B of Chapter 273 (relating to municipal waste landfills—application requirements)
- § 273.202 (relating to areas where municipal waste landfills are prohibited)
- § 273.203 (relating to certification)
- § 273.211 (relating to signs and markers)
- § 273.213 (relating to access roads)
- § 273.214 (relating to measurement and inspection of waste)
- § 273.218 (relating to nuisance minimization and control)
- § 273.221 (relating to daily volume)
- § 273.232 (relating to daily cover)
- § 273.233 (relating to intermediate cover and slopes)
- § 273.234 (relating to final cover and grading)
- § 273.251 (relating to scope and requirements)
- § 273.252 (relating to general limitations)
- § 273.253 (relating to subbase)

- § 273.255 (relating to leachate detection zone)
- § 273.258 (relating to leachate collection system within protective cover)
- § 273.275 (relating to leachate collection and storage)
- § 273.276 (relating to leachate analysis and sludge handling)
- § 273.283 (relating to standards for wells and casing of wells)
- § 273.284 (relating to sampling and analysis)
- § 273.286 (relating to groundwater assessment plan)
- § 273.291 (relating to mineral resources)
- § 273.292 (relating to gas control and monitoring)
- § 273.302 (relating to emergency equipment)
- § 273.311 (relating to daily operational records).

This proposed rulemaking was developed in response to the Secretary of the Department's RBI and the Governor's Executive Order 1996-1 which required all departments to reevaluate existing regulations. The RBI requires evaluation of regulations based on the following criteria: agency requirements are no more stringent than standards imposed by Federal law unless justified by a compelling and articulable Commonwealth interest or authorized by State law; requirements are eliminated which are no longer necessary or redundant; performance-based requirements are encouraged; new green technologies are encouraged; a pollution prevention approach is supported; and information is prepared in plain, simple, clear and concise language.

The RBI review process invited the regulated community, local governments, environmental interests and the general public to help the Department identify specific regulations which should be changed based on the RBI criteria. Input was solicited from the Solid Waste Advisory Committee (SWAC), the Pennsylvania Chamber of Business and Industry, the Pennsylvania Waste Industries Association, the Solid Waste Association of North America, and numerous other groups, individual companies and the public. The opportunity for involvement in this process was noticed in the *Pennsylvania Bulletin* with a 90-day comment period. Evaluation of the municipal waste regulations under the RBI criteria resulted in the Department's preparation of eight separate reports. These reports were made available to the general public, the regulated community, local governments and environmental interest groups. In addition, the Department prepared a Comment and Response Document to address the comments received during the RBI evaluation and to identify which regulations would be revised in response to the comments.

The proposed regulatory amendments reflect the changes identified as a result of the RBI process and changes identified as a result of nearly 10 years of experience in implementing the regulations. The proposed amendments also reflect several of the recommendations made in 1996 by the Municipal Waste Stakeholders Group, a 28-member group of recyclers, haulers, landfill operators, county waste authorities, municipal and county government representatives, and environmental and public interest groups, formed to discuss municipal waste issues and cosponsored by the Department and the County Commissioners Association of Pennsylvania. In addition, the proposed regulations clarify the application of the Act 2 remediation standards, which became effective on August 16, 1997, to municipal waste facilities that ceased accepting waste prior to the effective date of the Federal Subtitle D criteria and the application of the Subtitle D standards for facilities that cease accepting waste after that date. The Department met with SWAC to

discuss changes to the regulations on September 11, 1997, at which time SWAC approved the proposed changes.

E. Summary of Regulatory Requirements

Introductory Note on Infectious and Chemotherapeutic Waste (In Chapters 271, 273, 283 and 285)

During the preparation of this regulatory package, the Department considered whether to consolidate the infectious and chemotherapeutic waste regulations into one chapter. The Department is seeking comments on the concept of consolidation of those regulations.

Summary of Entire Proposed Rulemaking

A description of the proposed amendments to the municipal waste regulations is as follows:

Chapter 271. Municipal Waste Management—General Provisions

General

Section 271.1. Definitions.

Several terms were added, modified or deleted that relate to groundwater abatement and remediation. The Department is proposing to add the following terms to clarify what standards apply to a release that occurs during the operational phase of a facility and that occurs during the closure phase: "abatement standards," "alternative groundwater protection standard," "background standard," "remediation standards" and "risk-based standard." In addition, a minor change was made to the term "groundwater degradation" by changing the phrase: "The unnatural" to: "A measurable" in order to read the same as the definition in the proposed residual waste amendments published at 28 Pa.B. 4073 (August 15, 1998).

The proposed regulations differentiate between abatement standards and remediation standards. The "abatement standards" serve as performance standards during operations. If, during operations, groundwater degradation is detected at monitoring points as a result of failed liner or leachate collection systems, groundwater assessment and abatement must be conducted to meet abatement standards. If a liner or leachate collection system fails, the system design must be repaired to prevent future releases and, in addition, performance standards to contain or mitigate the leak must be implemented in order to allow further operation of the facility. The abatement standards serve as the performance standards that must be met if the facility continues to operate. If groundwater degradation exists after the facility ceases to accept waste, the release must be remediated to meet one of the "remediation standards."

The primary difference between the abatement and the remediation standards is the application of a risk assessment when selecting either the "risk-based standard" for abatement or the "alternative groundwater protection standard" for remediation. During abatement a risk assessment must include fixed exposure assumptions, such as an assumption that human receptors exist at the property boundary. Fixed assumptions are necessary during the operational phase of the facility because the particular conditions of the site will continue to change, due to continued operations. After the facility ceases to accept waste, the risk assessment may consider the actual risks that exist at the time the remediation is implemented. The risk-based standard and the alternative groundwater protection standard are consistent with the Federal assessment monitoring and corrective action programs under the Federal Subtitle D criteria.

The term "asbestos containing waste" has been deleted. This change, along with the proposed revision to § 271.2(d) (relating to scope) stating that "friable" asbestos containing waste will be managed as a residual waste, clarify that nonfriable asbestos containing waste may be managed as municipal waste. Waste such as shingles or floor tiles from the demolition of homes is commonly managed as construction/demolition waste under the municipal waste program.

Several changes have been proposed to this section with regard to infectious and chemotherapeutic waste. A new definition of "autoclave" was added for purposes of clarification. The term is defined as a pressure vessel in which infectious waste is disinfected using high temperature steam, directly or indirectly, to maintain specified temperatures for retention times consistent with the waste being processed. Other definitions that have been added or changed regarding infectious and chemotherapeutic waste are "highly virulent diseases," "home self-care," "infectious waste" and "unrecognizable infectious waste."

The definition of "clean fill" has been modified to identify more clearly those uncontaminated materials that qualify as clean fill, and to allow the material to be placed into waters of this Commonwealth if approved by the Department. Soil and other materials managed as clean fill are not waste; however, a person using the material as clean fill has the burden of proof to demonstrate that the material is clean fill. The burden of proof is added to be consistent with the existing and proposed residual waste regulations. The term "clean fill" is defined to allow soil and other materials to qualify as clean fill with de minimis levels of contamination and criteria for the unrestricted management of clean fill.

The term "closure certification" has been added to define the term which is used elsewhere in the municipal waste regulations. The definition will apply to closure certification by the facility operator or by the Department, both of which are required in the regulations.

The term "construction/demolition waste" has been amended to exclude "dredging waste" because dredging waste is proposed to be managed as residual waste due to its physical and chemical characteristics. The term has also been amended to reflect certain revisions to the definition of "clean fill" because, as in the current regulations, certain materials that are separate from other waste and used as clean fill are not considered "construction/demolition waste."

The term "dredged material" is proposed to be added to clarify that uncontaminated dredged material can be used as clean fill. This material will be managed as residual waste.

The term "facility" is proposed to be modified to include land, structures and other appurtenances or improvements where "beneficial use" is permitted or takes place.

The term "general composting facility" has been revised to exclude individual backyard composting facilities and yard waste composting facilities operating under permit by rule. This change is proposed to be consistent with January 25, 1997, revisions to the municipal waste regulations pertaining to permit by rule.

The term "groundwater degradation" has been amended to shift the determination from whether an "unnatural" increase in the concentration of a contaminant occurs to whether a "measurable" increase occurs. The change is proposed to be consistent with the proposed residual waste regulations, § 287.1 (relating to definitions).

A typographical error in the term "highly virulent disease" has been corrected.

A new definition for "home self-care" has been added to clarify an exemption that exists to the "infectious waste" definition. The existing regulations exempt waste generated in individual residences from being considered "infectious waste." The "home self-care" definition clarifies this exemption by referring to medical care in the home setting.

Proposed changes to the definition of "infectious waste" have been made for purposes of clarification. Subparagraph (i)(C)(VII) has been amended to delete the reference to "contaminated" and replace it with "saturated or dripping with body fluids or caked with dried body fluids" to be consistent with other references to blood and body fluid waste. In clause (i)(F), the proposed regulations include deletions to examples of "sharps" in the description of "used sharps." The examples have been added to the definition of "sharps." Subparagraph (iii)(A) has been amended to include a reference to the new proposed term "home self-care" and to delete a reference to "individual residences." Subparagraph (iii)(G) includes a new reference to Federal regulations that apply to the disinfection of laundry and medical equipment.

The term "municipal-like residual waste" was added to identify a class of waste that qualifies for a streamlined approval process for disposal or processing. The waste must have the same physical and chemical characteristics as residential municipal waste.

A definition of the "Small Business and Household Pollution Prevention Program Act" has been added because that new act is referenced in this proposed regulation.

The term "special handling waste" has been modified to exclude asbestos-containing waste that is not friable, to delete the word "oil" when referring to hazardous waste and to delete fuel contaminated soil, waste tires and water supply treatment plant sludges from the definition.

A new definition has been included for "unrecognizable infectious waste" for purposes of clarification. The existing regulations have a reference to this term and these proposed regulations now provide specific meaning to the term. The term includes a size limitation for processed pieces and sharps. The term does not include compaction or encapsulation except through: 1) thermal treatment or melting during which disinfection takes place; 2) shredding, grinding, tearing or breaking during or after disinfection occurs; and 3) melting plastics and fully encapsulating metallic or other sharps and sealing waste so that it cannot be penetrated by untreated sharps.

Section 271.2. Scope.

A revision is proposed to subsection (b)(1) exempting construction/demolition waste with greater than 4 ppm of PCBs from management under Article VIII because, in accordance with a change made in the January 25, 1997, rulemaking (relating to sewage sludge; municipal waste; and residual waste), a waste exceeding 4 ppm of PCBs is a "PCB containing waste" and is to be managed as a residual waste.

Subsection (b)(3) has been changed to delete the reference to "other" residual waste and to clarify that sewage sludge mixed with a small quantity of residual waste will be managed under the municipal waste regulations. In subsection (c), the reference to hazardous waste "oil" has been removed because that term is no longer used in the hazardous waste program. Autofluff and dredged material

have been added for management under the residual waste regulations. In addition, the term "fuel" has been deleted and the regulations clarify that any contaminated soil must be managed under the residual waste regulations. In subsection (d), the word "friable" has been added to indicate that only friable asbestos containing waste is a special handling waste that is managed under the residual waste regulations.

Section 271.3. Environmental protection.

Two minor corrections are proposed to subsection (b) for sentence structure purposes.

Section 271.5. Public records and confidential information.

This section is proposed to be added in order to be consistent with the existing residual waste regulations (§ 287.5 relating to public records and confidential information). As in the residual waste regulations, subsections (a)—(c) contain the statutory requirements found in section 1713 of Act 101 (53 P. S. § 4000.1713), with minor additions, and subsections (d)—(f) provide additional direction that will be useful to the public and the regulated community.

General Requirements for Permits and Permit Applications

Section 271.101. Permit requirement.

Subsection (b)(3), the permit exemption for clean fill, has been deleted. The management of uncontaminated soil and other materials will continue to be subject to the Department's published "Policy and Procedure Establishing Criteria for Use of Uncontaminated Soils, Rock, Stone, Unused Brick and Block, Concrete and Used Asphalt as Clean Fill." This policy is being updated, with consideration to the final land recycling regulations.

New subsection (b)(3) is proposed to be added because it was inadvertently deleted in the January 25, 1997, rulemaking. Prior to that rulemaking, it could be found in § 271.101(b)(8). This paragraph provides that a person or municipality is not required to obtain a permit for temporary storage, which facilitates the transportation or transfer of infectious or chemotherapeutic waste, that does not exceed 24 hours. The stored waste shall remain in its original packaging, as received for storage.

Section 271.102. Permit by rule for infectious or chemotherapeutic waste processing facilities; qualifying facilities; general requirements.

Subsection (a)(1) has been amended to allow onsite autoclave facilities to receive waste from small quantity generators that generate less than 220 pounds per month. This change was made to be consistent with the requirements for onsite incinerators. In addition, new performance standards have been proposed for autoclaves to ensure that bulk fluids are properly treated and to clarify that autoclaving is not appropriate for pathological waste. A new subsection (a)(3) has been added to incorporate technology similar to autoclaving that disinfects infectious waste. This technology requires the use of steam and superheated water for disinfection. In subsection (b)(1), new language has been added to allow processed waste to be incinerated. The existing requirements allow the waste only to be disposed at a landfill. In subsection (c)(11), a parallel change has been made to allow processed waste to be sent to an incinerator.

Section 271.111. Permit application filing deadline.

This section is proposed to be deleted because the deadlines in it have passed, rendering it obsolete.

Section 271.112. Continued operation under prior permits.

This section is proposed to be deleted because the deadlines in it have passed, rendering it obsolete.

Section 271.113. Closure plan.

The structure of this section is proposed to be modified, along with several additions and deletions. Existing subsection (f) is proposed to become subsection (a) and will be identical to the existing language except that an end date of April 9, 1988 (the effective date of this section in the existing municipal waste regulations) is added. Existing subsection (a), proposed as subsection (b), has been revised to delete a cross reference to a section that is being deleted. The same deletion is made in subsection (c). A new subsection (d) is proposed to authorize the Department to waive or modify applicable regulations for closure, other than bonding and insurance requirements, if the operator can demonstrate that an existing system or design performs at a level that is equivalent to the applicable regulations. Subsection (c) is renumbered as subsection (e). Subsection (d) is renumbered as subsection (f) and improved upon structurally. Subsection (e) is deleted because it has become obsolete. Subsection (g) has been added to identify the remediation standards that apply to solid waste facilities that ceased receiving waste between September 7, 1980, and October 9, 1993, the effective date of the Federal Subtitle D regulations.

Section 271.122. Form of application.

Several proposed changes to subsection (d) are intended to improve the sentence structure. In addition, the proposed revisions require that the geology and groundwater sections of a permit application shall be completed under the supervision of a registered professional geologist licensed in this Commonwealth. As in the existing regulation, the entire application shall be prepared by or under the supervision of a registered professional engineer.

Section 271.123. Right of entry.

This section is proposed to be modified to indicate that consent shall be applicable for "up to" 10 years after final closure of a facility, consistent with the existing residual waste regulations.

Section 271.124. Identification of interests.

Minor structural revisions are proposed to clarify this section.

Section 271.125. Compliance information.

Minor structural revisions are proposed to clarify this section.

Section 271.126. Requirement for environmental assessment.

Revisions are proposed to subsection (b) to clarify the requirements of this section and to update the section in accordance with the new regulatory authority in the January 25, 1997, rulemaking to issue general permits for the beneficial use and processing for beneficial use of municipal waste under Subchapter I.

Section 271.127. Environmental assessment.

Changes have been proposed to this section to clarify the permit application requirements for an environmental assessment and to add a balancing test which identifies how the Department will evaluate the benefits and harms of a facility. These proposed amendments are consistent with recent changes that were made in the municipal waste program. The environmental assessment carries out the Department's obligation under section 102(10) of SWMA to implement PA.CONST. Art. I, § 27 (relating to

natural resources and the public estate) which mandates that the Commonwealth protect public resources. This mandate is viewed as requiring a balancing of interests and was further developed in *Payne v. Kassab*, 312 A.2d 86 (Pa. Cmwlth. 1973), aff'd, 361 A.2d 263 (Pa. 1976); *P.E.M.S. v. DER*, 503 A.2d 477 (Pa. Cmwlth. 1986) and various later cases.

This section applies to all municipal waste permit applications described in § 271.126. In subsection (a), the existing regulations identify factors, such as traffic, air quality, water quality, wildlife and land use, that must be analyzed in the environmental assessment for potential impacts on the environment, public health and public safety. The proposed regulations include three new factors that must be considered: scenic rivers, municipal waste management plans and National landmarks. In subsection (b), the proposed amendments specify that the environmental assessment submitted by the applicant must describe the known and potential environmental harms of the proposed project and must include a mitigation plan for each harm. The Department will assess whether all harms will be mitigated, and the effect of the mitigation measures collectively. This will include evaluating harm that is created in the process of mitigation and harm that is the direct result of the location of the proposed facility.

Proposed subsections (c) and (d) set forth the test that the Department will use to evaluate the information provided in the environmental assessment. The test requires the applicant to demonstrate that the benefits of the project to the public clearly outweigh the known and potential environmental harms that will remain after mitigation. The benefits that will be considered are any social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project, and any environmental benefits of the project.

Under to subsection (c), the test described above is required for every application for a municipal waste landfill, construction/demolition waste landfill or resource recovery facility because these facilities present a greater threat of long-term harm. Under subsection (d), the test is required of other facilities only if the other facility has not demonstrated that it will mitigate all environmental harms.

Proposed subsection (e) allows the Department or any other person or municipality to identify potential harms and benefits.

Under new subsection (f), the environmental assessment, including the Department's evaluation under subsections (c) and (d), will occur in Phase I of the permit review. New subsection (g) allows the Department to require submission of a revised environmental assessment if additional harms or potential harms are discovered at a later time in the permit review process.

The reference to the "need" for the facility in existing subsections (f)—(h) has been deleted as "need" is considered one type of "benefit" and, therefore, already covered by subsections (c)—(e). Reference to county plans has been deleted because county plans are covered by subsections (a)—(e).

Section 271.128. Permit application fee.

Recalculated permit fees have been proposed to reflect current reasonable costs to the Department for providing technical review of applications. The cross reference in subsection (a) to § 271.111 is deleted as that section is proposed to be deleted in this rulemaking.

The proposed revisions to subsection (a) would result in the following fee changes for permit applications for new facilities.

A municipal waste landfill permit application fee will be increased from \$11,400 to \$18,500.

A construction/demolition waste landfill permit application fee will be increased from \$6,000 to \$19,250.

A transfer facility permit application fee will be increased from \$1,400 to \$4,400.

An incinerator or resource recovery facility permit application fee will be decreased from \$3,000 to \$1,900.

Other municipal waste processing facility permit application fees will be increased from \$2,400 to \$4,000.

A demonstration facility permit application fee will be increased from \$10,300 to \$17,300.

The proposed revisions to subsection (b) would result in the following fee changes for "major" permit modification, namely applications made under § 271.144 (relating to public notice and public hearings for permit modifications):

An application for the addition of types of waste not approved in the permit will be decreased from \$600 to \$300.

An application for a modification to a municipal waste landfill or construction/demolition waste landfill will increase from \$4,600 to \$7,800.

An application for a modification to a transfer facility will increase from \$400 to \$700.

An application for a modification to an incinerator or resource recovery facility will increase from \$900 to \$1,500.

An application for a modification to another municipal waste processing facility will increase from \$400 to \$700.

An application for a modification to a demonstration facility permit will increase from \$4,000 to \$6,700.

Under subsection (b)(8), an application for a minor permit modification will increase from \$200 to \$300.

Under subsection (d), an applicant for permit renewal under § 271.223 (relating to permit renewal) will be increased from \$200 to \$300.

Section 271.141. Public notice by applicant.

Additional notice requirements have been proposed for subsections (a) and (d) to include information in a public notice by the applicant for submission or modification of a closure plan. The following information must be included in a public notice if groundwater degradation exists at closure or occurs after closure: a list of contaminants; identification of abatement measures taken prior to closure, if any; proposed remediation measures and proposed remediation standards to be met. Under this proposed rulemaking package, the operator will have the option of selecting one of three remediation standards to address releases that are present after a facility ceases accepting waste. The changes in this notice section inform the public of the option chosen. If the alternative groundwater protection standard is chosen to remediate a release, a 30-day public and municipal comment period must be included in the notice. During this period, a municipality may request to be involved in the development of the remediation and reuse plans for the site.

Section 271.142. Public notice by Department.

Additional notice requirements have been proposed for subsections (a) and (b) to include information in a public notice by the Department for a submission or modification of a closure plan. The following information must be included in a public notice if contamination exists at closure or occurs during postclosure: a list of contaminants; identification of ongoing abatement measures; proposed remediation measures and the proposed abatement or remediation standards to be met. Under this proposed rulemaking package, the operator will have the option of selecting one of three standards for remediating releases that are present after a facility ceases accepting waste. The changes in this notice section inform the public of the option chosen. If the alternative groundwater protection standard is chosen to remediate a release, a 30-day public and municipal comment period must be included in the notice. During this period, a municipality may request to be involved in the development of the remediation and reuse plans for the site.

Section 271.144. Public notice and public hearings for permit modifications.

This section has been amended to revise those activities that necessitate a major permit modification. A major permit modification is necessary where there will be a significant change to the design or operation of a disposal or processing facility. Several proposed changes have been made to this section.

Existing subsection (a)(2) identifies an application for any change in daily waste volume as a major permit modification. This paragraph is proposed to be revised to clarify that a "change in daily waste volume" refers to a change in the average or maximum daily volume. This clarification is intended to address questions that have arisen in implementation of this paragraph.

In subsection (a)(3), the current regulation requires a major modification when there are changes proposed to the design contours. In many instances minor changes to facility contours are necessary during construction of the facility. The proposed amendments modify this requirement to require a major modification for contour changes when the redesign will result in increased capacity or impact to groundwater.

In subsections (a)(5) and (7) and (b)(2), the replacement of groundwater monitoring wells and the addition of gas monitoring wells will no longer require major permit modifications since these measures will improve the existing design or operation of the facility. In proposed subsection (a)(6), minor changes to the design and operation of the leachate collection and treatment plan will no longer be considered major permit modifications. An example of a minor change to the design and operation is a change to the leachate collection piping configuration. Changes to the leachate treatment method, however, will be major permit modifications since they represent significant changes.

Existing subsection (a)(8), requiring a major modification for changes to daily, intermediate or final cover, has been deleted because in many instances changes in cover are necessary due to economic considerations or design and material availability considerations and do not affect the operation of the facility.

Under proposed revisions to subsection (a)(12) (renumbered as (a)(11)) and (b)(6), changes to a design that have been approved through a major permit modification for an equivalency review will no longer require additional major modifications for use at other facilities. This change

will streamline the approval process for commonly used alternative materials, as long as the operator demonstrates that the alternative design will work at a particular facility.

A new subsection (a)(12) has been added that requires a major permit modification for the submission of an abatement plan. These plans will require detailed review by the Department. Input from the public is necessary since the public may be directly affected by the abatement standard chosen.

In subsection (b)(1), the requirement has been modified to require a major permit modification for a change in specifications or dimensions of waste storage areas if the change results in an increase in processing or storage capacity. A new subsection (b)(7) is proposed to require a major permit modification for a change in average or maximum daily volume at a processing facility. This change is designed to allow greater input and scrutiny of increased volumes by the Department and the local municipalities given the potential for environmental impacts.

Subsection (c) is deleted because modifications are no longer authorized for Chapter 275 (relating to land application of sewage sludge).

Permit Review Procedures and Standards

Section 271.201. Criteria for permit issuance or denial.

Paragraph (1) is proposed to be revised to indicate the entities to which a disposal or processing permit will be issued.

A proposed change to paragraph (3) deletes reference to "the act" (in other words, SWMA) because the next phrase, "environmental protection acts," is defined in § 271.1 to include "the act."

Another proposed change to paragraph (3) deletes the requirement to balance harms and needs of a proposed facility. The new test, found in proposed revisions to § 271.127(c) and (d), requires that for a permit application for a municipal waste landfill, construction/demolition waste landfill or resources recovery facility, or another facility if the other facility has not demonstrated that it will mitigate all environmental harms, a demonstration be made that the benefits of the project to the public clearly outweigh the known and potential environmental harms. The benefits to be considered will be any social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and will also include any environmental benefits of the project.

A new subsection (a)(4) is proposed to require that mitigation plans required by § 271.127 be implemented prior to obtaining a permit if required by the Department. This requirement is designed to help ensure proper and effective mitigation of harms and potential harms that can and should be mitigated prior to permitting.

Existing subsection (a)(6), concerning a proposed facility being expressly provided for in an approved municipal waste management plan, is proposed to be deleted. This paragraph was originally designed to help ascertain the "need" for a facility whereas under the proposed regulations the applicant may show "need" as one aspect of the "benefits" of the facility and there is no longer a prescriptive requirement stating how to do it.

Much of subsection (b) is proposed to be deleted because under the proposed regulations the suitability analysis will be satisfied by the environmental assess-

ment performed under § 271.127 (relating to environmental assessment). Subsections (c)(2)(i) and (b)(2)(ii) remain, renumbered as subsection (a)(7) and (8), because they are still relevant and are not part of the suitability analysis.

Section 271.202. Completeness review.

Subsection (a) is proposed to be restructured into two paragraphs. Subsection (a)(1) explains when an application will be considered administratively complete. Language is added to require that an "alternative project timeline" be established for a municipal waste landfill or construction/demolition waste landfill before an application will be administratively complete. Subsection (a)(2) explains how the alternative project timeline will be established. The explanation reflects current practice of the Department as set forth in the "Money-Back Guarantee Permit Review Program Expansion" published in 26 Pa.B. 3038 (June 29, 1996).

A new subsection (d) is proposed which would preclude the Department from accepting a permit application for expansion of a landfill if more than 5 years of disposal capacity remains at the landfill. Capacity is to be measured at the rate of disposal at the time of submission of the application. This provision provides consistency with other existing requirements promoting technologically current permits. Specifically, a permit becomes void if no municipal waste is processed or disposed within 5 years under § 271.211(e) (relating to term of permits). Similarly, under § 271.211(d), the Department reviews municipal waste permits every 5 years to determine whether they reflect current operating, technological and management practices and may modify, suspend or revoke a permit when necessary. In addition, this provision is added in order to make more efficient use of the time of Department staff who review permit applications by stemming the practice of some operators to submit applications frequently for expansions.

Section 271.203. Review period.

Subsection (a) is proposed to be revised to delete the 9-month limit on the Department's review time for municipal waste and construction/demolition waste landfill permit applications in accordance with section 15(a) of Act 57, which repealed the statutory 9-month limit that existed in section 512(b) of Act 101. The 9-month time limit will be replaced in these regulations with reference to the time period established in the alternative project timeline under the Department's Money Back Guarantee program. The 6-month review period for other facility applications was also repealed by Act 57, and consequently subsection (a)(2) is proposed to be deleted. Review times for these other permit applications will continue to be subject to the Department's Money Back Guarantee Program. Subsection (b) is revised to refer to calculation of the alternative project timeline.

Section 271.211. Term of permits.

Proposed changes to subsection (c) clarify that a permit term, which is specified as a condition in a permit, is that period of time when disposal, processing or beneficial use activities are authorized. The permit continues to exist after expiration of the permit term for purposes of completing closure and postclosure activities and all other requirements under SWMA and the other environmental protection acts.

Proposed changes to subsection (e) clarify that if no municipal waste is processed or disposed under a permit within 5 years of the date of issuance by the Department, the permit is void. For example, if an operator has both a disposal and a processing permit for one facility, but has

only operated under the processing permit (that is, has not received waste for disposal), the disposal permit will become void.

Section 271.212. Conditions of permits.

A new paragraph (4) has been added to this section that requires, as a condition of a permit, that a permittee notify the Department of the transfer of a controlling interest in the permittee. The notice will alert the Department to potential compliance history problems. By including this permit condition, the Department will be kept apprised of changes of parties in control of facility operations.

Section 271.221. Permit reissuance.

Subsection (a) is proposed to be revised to clarify that a transfer, assignment or sale of rights granted under a permit may not be made without obtaining permit reissuance. Subsection (b)(3) is proposed to be deleted because it has become obsolete.

Section 271.222. Permit modification.

Subsection (a)(3) is proposed to be deleted because it has become obsolete. A new subsection (c) has been proposed to allow the Department to make timely decisions in the field regarding modifications to the construction of liner systems or of erosion and sedimentation control devices. These decisions on minor permit modifications may only be made if it is impracticable to comply with subsections (a) and (b) and if the modification will improve the permitted design.

Section 271.231. Equivalency review procedure.

Proposed subsection (e) will allow an alternative design that is approved once through a major permit modification for one applicant to be applied to another applicant through a minor permit modification. This change was made because the first equivalency review demonstrates that the design meets the performance standards of the regulations. Subsequent reviews are limited to the application of that design to a particular facility and can adequately be accomplished through a minor permit modification.

Financial Assurances Requirements

Section 271.312. Existing facilities.

Subsection (b) is proposed to be revised by deleting the now obsolete reference to § 271.111, which is proposed to be deleted in this rulemaking.

Section 271.341. Release of bonds.

Several changes have been proposed for subsection (g). In paragraph (1), the phrase "including long-term maintenance of remediation measures" has been added to clarify that a bond will not be released if the remediation measure chosen when a release exists at closure will require ongoing maintenance. For example, a bond amount must be maintained that covers the maintenance costs of an ongoing pump and treat system for contaminated water. Subsection (g)(2) has been revised to state that release of a bond does not discharge an owner or operator from liability to restore groundwater to remediation standards or from monitoring groundwater quality, at a minimum.

Section 271.342. Final closure certification.

Proposed changes in subsection (b) identify the new demonstration that must be made by an applicant to receive final closure certification. This new demonstration is consistent with the Federal Subtitle D criteria. If groundwater degradation exists at closure or occurs after

closure, compliance with one of the remediation standards must be demonstrated for final closure certification.

Subsection (e) contains changes to the conditions of an owner or operator's liability to restore groundwater to reflect consistency with the land recycling program. The operator has the obligation to restore the groundwater to remediation standards and to maintain groundwater quality, at a minimum, at those levels.

Proposed subsection (g) has been added to address when additional remediation must be performed after a final closure certification has been issued. The circumstances are limited to an increase in the risk level beyond the acceptable range due to substantial changes in exposure conditions, such as a change in land use from a nonresidential to a residential use, or the existence of new information about a substance associated with the facility which revises the exposure assumptions beyond the acceptable range. The conditions of this reopener are consistent with the land recycling program.

Civil Penalties and Enforcement

Section 271.413. Assessment of penalties—minimum penalties.

Subsection (j) is proposed to be added to this section because it was inadvertently deleted in the January 25, 1997, rulemaking. At that time, it was labeled subsection (g). This subsection concerns civil penalties for unabated violations that were included as a basis for an administrative order. The word "shall" is changed to "will" for stylistic reasons, but the substance is not altered: the penalty remains mandatory.

Section 271.421. Administrative inspections.

Subsection (b) is proposed to be revised to indicate that inspections will be routine, and to delete the reference to land disposal of sewage sludge because this waste management practice was eliminated in the January 25, 1997, rulemaking. The requirement in existing subsection (b)(1)(iv) that the Department conduct inspections of facilities for the utilization of sewage sludge for land reclamation at least twice per year is proposed to be deleted. Under proposed subsection (c)(1), the Department and its agents intend to conduct inspections of all facilities at which sewage sludge is land applied under an existing Chapter 275 permit or an existing beneficial use order (no longer issued) at least twice a year. Similarly, proposed subsection (c)(7), which is consistent with the proposed residual waste regulations (§ 287.421(b)(5) (relating to administrative inspections)) states that the Department and its agents intend to conduct inspections of all facilities and beneficial use areas subject to a permit, including a general permit, for the land application of sewage sludge under Subchapter J (relating to beneficial use of sewage sludge by land application) at least once a year. More frequent inspections may be made. Subsection (c)(7) also states that the Department intends to conduct inspections of facilities and beneficial use areas subject to permit by rule (other than for infectious or chemotherapeutic waste) or a general permit for beneficial use or processing, or both, of municipal waste under Subchapter I (relating to beneficial use) at least once per year.

Demonstration Facilities

Section 271.501. Scope.

Proposed changes to this section authorize the approval of a demonstration project for processing or disposal of municipal waste at a permitted processing or disposal

facility under a permit modification, rather than under an application for a new permit.

Section 271.502. Relationship to other requirements.

Changes have been proposed to the application and operating requirements that apply to demonstration projects. Under the proposed amendments, the Department has greater flexibility to decide when to waive or modify the application or operating requirements under this article. Deletion of the existing regulation has been proposed because it does not allow any exceptions or variances from the requirements.

Section 271.504. Operating requirements.

Proposed changes to paragraph (1) delete the requirement that a demonstration facility may not exceed 1 acre in size. This change has been proposed because in many instances larger acreage is necessary to demonstrate the technology. The word "annual" has been deleted in paragraph (6) to eliminate redundancy.

Section 271.505. Public notice of analysis.

Minor revisions to this section restructure it to read the same as the existing residual waste regulations, § 287.505 (relating to public notice of analysis).

Residual Waste

Section 271.611. Chemical analysis of waste.

Proposed changes to subsection (a) allow a waiver or modification of the chemical analysis for municipal-like residual waste received at a permitted facility. Other modifications to this section expand the opportunity for the Department to waive or modify chemical analysis requirements for municipal-like residual waste that is received at a permitted facility (such as, waste used as cover material).

Section 271.612. Source reduction strategy.

The requirement that an applicant for a processing or disposal facility obtain a copy of a source reduction strategy from each residual waste generator has been clarified by referring to waste "received," to clarify, for example, that waste used at the facility as cover material falls within this requirement.

Section 271.613. Waste analysis plan.

Subsection (a) has been modified to clarify that a waste analysis plan is required for waste proposed to be received at a permitted facility. The existing regulations only refer to a waste analysis plan requirement for waste that is disposed. Subsection (b) has been modified to clarify that the management of waste must be consistent with Article VIII.

General Permits

Section 271.711. Authorization for general permits.

A new subsection (c) has been added to allow the issuance of general permits for the mixing of disinfection products with infectious waste to perform processing. For example, a person who proposes to distribute disinfection products, such as a chlorine-based polymer for the solidification and disinfection of body fluids, may apply for a general permit.

A new subsection (d) has been added to allow certain mixtures of residual waste and infectious waste to be covered under one general permit. For infectious and residual wastes that are similar except for the infectious nature of part of the waste, a general permit may be issued that includes mixtures of these wastes.

Section 271.712. Nature of a general permit; substitution for individual applications and permits.

In subsection (b)(2), language was added to state that a person may be authorized to operate under a general permit at the time that the Department issued the general permit or under a registration or determination of applicability. Operation at the time the permit is issued, by the original applicant, was inadvertently omitted from the existing regulations.

Section 271.721. Application for general permit.

Subsection (d) has been added to provide flexibility in the application requirements for a general permit for the mixing of disinfection products with infectious waste to perform processing.

Section 271.731. Contents of general permits.

The proposed amendments include a new paragraph (18) that identifies performance standards for autoclaves to ensure that bulk fluids are properly treated and to clarify that autoclaving is not appropriate for pathological waste.

Section 271.732. Waiver or modification of certain requirements.

This section has been revised to provide greater flexibility in determining how to apply the right of entry provisions. The right of entry provisions currently require landowner consent forms to be filed with each application and require the recording of all landowner consent forms. This requirement has been difficult to implement in cases where mobile facilities are widely used. Therefore, the Department is proposing a regulation that allows a waiver or modification of the provisions contained in § 271.123 (relating to right of entry). The changes proposed in this section are consistent with the current requirements in both the municipal and residual waste general permit regulations.

Section 271.741. Authorization for persons or municipalities to be included in a general permit.

The proposed amendments include a deletion of subsection (a)(3) because it references a section that is proposed to be deleted.

Section 271.742. Determination of applicability.

An increased fee for an application for a determination of applicability has been proposed. The proposed fee of \$500 reflects the current costs of reviewing an application in conjunction with inspections conducted at approved facilities.

Section 271.743. Registration.

An increased fee for an application for a registration has been proposed. The proposed fee of \$250 reflects the current costs of reviewing an application in conjunction with inspections conducted at approved facilities.

Section 271.744. Waiver of registration or determination of applicability requirements.

The proposed amendments delete this section and the "me too" process from the general permits program. The "me too" process was originally intended for use by a person who has a similar operation as another person who has applied for a general permit. In that situation, the person with the similar operation could apply to be covered under the other person's general permit if the person notified the Department during the public comment period of the proposed general permit. Although it was intended to streamline the general permit process, experience with the "me too" process has shown that the

time period for issuance of a general permit for the original applicant has actually been lengthened. The registration and determination of applicability processes are more efficient, since the "me too" process generally results in one company's incomplete application holding up another company's complete application.

Beneficial Use

Section 271.811. Authorization for general permit.

In subsection (g)(5) a new category of unauthorized activity has been proposed under the general permit program: the use of waste for construction or operations at a resource recovery facility or a disposal facility. Instead, such an approval must be obtained as part of an equivalency demonstration under § 271.231 (relating to equivalency review procedure). This change was made because the use of waste at landfills and resource recovery facilities requires a site-specific determination and should be approved under a mechanism such as equivalency demonstration that allows for a site-specific analysis. A site-specific analysis is appropriate because waste used for construction or operations at a resource recovery facility or landfill is waste when it is received and remains waste when it is used. Like other waste at the facility, it is subject to the waste acceptance plan. It is also subject to the host municipality benefit fee of Act 101, section 1301 and the recycling fee of Act 101, section 701. In an effort to encourage use of waste materials at landfills, the Department does not currently seek payment of the recycling fee for waste used in construction activities or operation of a facility if the use is approved under a § 271.231 equivalency approval.

Section 271.832. Waiver and modification of requirements.

This section is proposed to be revised to correct a cross reference.

Beneficial Use of Sewage Sludge by Land Application

Section 271.915. Management practices.

The reference to the annual whole sludge application rate is proposed to be deleted from subsection (h). This phrase was inadvertently included in the existing section because it is in the Federal standards for land application of sewage sludge (40 CFR Part 503) and those standards formed the framework of this subchapter in the January 25, 1997, rulemaking. Due to a variation of those standards adopted by the Board in the January rulemaking, the annual whole sludge application rate is irrelevant.

Chapter 272. Municipal Waste Planning, Recycling and Waste Reduction

Host Counties

Section 272.101. Site-specific postclosure fund.

Several revisions are proposed to this section. For clarity, subsection (a) includes new language indicating that a trust fund established under this section must comply with all of the requirements of the subchapter. Subsection (b) is obsolete and is therefore deleted. Similarly, obsolete language is deleted from subsection (c), which is now renumbered as subsection (b).

Section 272.104. Withdrawals from trust fund.

Subsection (a) of this section is corrected to cross reference § 272.105 (relating to county withdrawals from trust fund) instead of § 272.104. An additional cross reference is added to subsection (a) to bolster the requirement that withdrawals may not be made prior to certification by the Department of closure of the landfill. (This is a statutory requirement of Act 101, section 1108(f).)

The new cross reference is to § 273.203(d), which is, itself, new language stating that closure activities will not be deemed complete until the Department has certified completion of closure.

A new subsection (f) is proposed to address a situation currently existing in a number of locations in this Commonwealth. Proposed subsection (f) would authorize release of moneys from a site-specific postclosure trust fund for municipal waste landfills that have little or no bond in place and that were operating prior to 1988, which is when the municipal waste regulations added the requirement that operators of municipal waste landfills submit a bond or an updated bond to the Department. Some facilities chose to close instead of meeting this requirement, leaving no bond or an insufficient bond in place. Some closed immediately; and others continued to operate for a short time before closing. Those that continued operating for a short time began contributing 25¢ per ton of waste disposed to a site-specific postclosure fund required by Act 101 and the 1988 regulations and closed with only a small corpus in that fund.

Today, these facilities are in postclosure. Their postclosure trust funds, designed for "remedial measures and emergency actions," often contain too little money to be useful for remedial measures or emergency actions. Their bonds, if they have them, are likewise insufficient. Specifically, of the 17 inactive trusts containing less than \$10,000, 8 have no closure bond, 8 have insufficient closure bonds, and 1 has no closure bond due to its release. Therefore, to facilitate proper closure of these sites, the proposed revision authorizes the trustee to release the trust funds for specified postclosure activities. While this may deplete the fund of any surplus that may have remained after final closure certification and which would have been divided equally between the host county and host municipality, the amounts are de minimis and are intended to stave off environmental problems which may cost the county and municipality far more money in the long run.

Subsection (f) is renumbered subsection (g).

Section 272.105. County withdrawals from trust fund.

Currently, administration fees for site-specific postclosure trust funds exceed the earning power of 88% of inactive trusts. When this happens, either the county pays the difference or the payment from the trust fund depletes the corpus of the fund, neither of which scenario was envisioned by the Legislature. To remedy this situation, new language is proposed to be added to subsection (c) which will prohibit the payment to a county for trust fund administration fees from being withdrawn from the trust corpus once the facility is in postclosure. Under the proposed language, payments may not exceed earnings and profits credited during the billing period. This revision is likely to have practical effect only upon the very small trust funds (that is, those described under § 272.104) and is designed to prevent the corpus of those trusts from being diminished for administrative reasons during the time period in which the funds are intended to be available for use at the site. It is hoped that this revision will also encourage counties to negotiate affordable trust administration fees and consider low maintenance investment instruments.

Subsection (d) is proposed to be revised to delete the requirement that calculation of the 0.5% reimbursement authorized for the county for trust administration (at any time, not just in postclosure) be based only upon the trust corpus. Under the proposed revision, it will be based on

all of the funds in the trust. The proposed revision interprets section 1108(b) of Act 101 (53 P. S. § 4000.1108(b)), which refers to "moneys deposited in the fund," as including all moneys in the fund. This revision reflects current practice of many fund trustees. When a trustee does this under the current regulations, the difference is paid either by the county or out of the corpus of the fund, both of which situations are inappropriate.

Section 272.106. Termination of trust.

This section is proposed to be renamed "termination of trust" instead of "final closure of the facility" to reflect more accurately the contents of the section.

Subsection (a) is proposed to be revised to distinguish more clearly between the release of a bond (for any facility) and the termination of a trust (for a municipally operated landfill). This revision implements the current intent of the regulation.

Subsection (b) is proposed to be revised to clarify that the trustee will take steps necessary to terminate the trust when the trustee receives not only notice of the certification of final closure but also notification of the release of bond or termination of trust. This revision also implements the current intent of the regulation. In addition, new language is proposed to be added to subsection (b) to authorize a trustee to terminate a trust when all of the money in it has been withdrawn. Without this authorization, counties continue to pay trust administration fees even after the trust is depleted. There is no need to continue the trust once the corpus is depleted, since no more money is added to the trust corpus when the trust moneys are available for use (that is, after certification of closure).

The language in subsection (b) relating to distribution of the trust property after termination of the trust has been relabelled as subsection (c) for clarity.

Municipal Waste Planning

Section 272.211. General requirement.

This section contains the requirement that counties submit municipal waste management plans to the Department. The obsolete deadlines in both subsections are proposed to be deleted, and the reference to a county plan is revised to plan "revision," since all counties have submitted an original plan and future submissions will be of plan revisions.

Section 272.223. Description of waste.

This section addresses the information that should be included in a plan revision concerning the waste generated by the county. Added to the express list of waste types in subsection (b) is "construction/demolition waste other than waste from demolition of an industrial site." This phrase is added to resolve confusion expressed by some counties in the past as to whether information about construction/demolition waste was to be included in the plan. This phrase is also added to encourage counties to maximize the proper management of the waste and to encourage counties to maximize alternatives to disposal of the waste. The Board is specifically seeking comments on the potential impact of this revision on counties and municipalities.

Section 272.224. Description of facilities.

Several revisions are proposed to this section. The requirement in subsection (a)(1) that the plan identify facilities located within the county is deleted as unnecessary. The description of an "existing facility" in subsection (d) is revised to delete reference to a "planning area,"

which is not a defined term, and to delete obsolete deadlines. Proposed language describes an "existing facility" as one which was designated to receive waste in the existing county plan or which has submitted a complete permit application as of the date of the notice of plan revision. The purpose of this proposed revision is to make the term "existing facility" relevant to plan revisions.

Section 272.225. Estimated future capacity.

This section is proposed to be revised to make it relevant to the development of plan revisions.

Section 272.226. Description of recyclable materials.

The requirement that the plan consider the results of a 1989 market development study is proposed to be deleted from subsection (a)(7) because market conditions have changed since the study was performed. In addition, there are now many other sources of information available to the counties. An obsolete date in subsection (a)(11) is proposed to be deleted and replaced by the date that the county issues its notice of plan revision. Reference to a "plan" is updated in subsection (c) to be reference to a "plan revision."

Section 272.227. Selection and justification of municipal waste management program.

This section is proposed to be revised in accordance with a recommendation of the Municipal Waste Stakeholders Committee. The revision confirms that these regulations do not require a county to select the lowest bid when selecting facilities for the county's municipal waste management plan. The requirement that a county use a fair, open and competitive process to select facilities remains, however.

Section 272.228. Location.

Proposed revisions to this section are intended to simplify it and remove overly prescriptive and unnecessary requirements. The revised section requires the plan to indicate the location of the facilities selected for the plan and, for facilities not yet selected, an explanation of how they will be selected. Detailed criteria and cross references are removed. Additionally, the requirement to give a detailed explanation for selecting a facility outside the county is deleted as unnecessary.

Section 272.233. Facilities developed pursuant to sub-county plans.

Subsection (a) of this section is proposed to be deleted as being an unnecessary introduction to subsection (b). Subsection (b) is refined by deleting many references to obsolete deadlines, thereby simplifying the description of a municipal processing or disposal facility with which the plan is not to interfere. Under the proposal, a plan is to explain how it will not interfere with a municipal facility that is part of an approved plan that was submitted by a municipality prior to the effective date of Act 101. The intent of this revision is to clarify the protection of a municipality plan. Existing facilities that receive protection under the existing version of this regulation will receive protection under the proposed revision to § 272.224.

Section 272.245. Submission of implementing documents.

This section is revised to remove a cross reference to a subsection which is proposed to be deleted by this rulemaking.

Section 272.251. Submission of revisions.

The lead-in language to this subsection (a) is modified to reflect that a plan revision will be due when the earliest of the plan revision requirements stated in this subsection is triggered.

The trigger in paragraph (1) relates to the capacity assurance mechanisms. Paragraph (1) is clarified to reflect the meaning of the term "remaining available permitted capacity" in accordance with the definition of that phrase in § 271.1. The clarification provides that a county will be required to submit a revised plan to the Department at least 3 years prior to the expiration of the capacity assurances that the county relied upon to implement its approved plan during the term of the plan. The expiration of capacity assurance will ordinarily coincide with the expiration of the planning term. But where, for unforeseen reasons, the capacity assurances will expire early, a plan revision will be required. An example would be the early closure of a facility relied upon by the county for capacity assurance.

The trigger in paragraph (2) to submit a revised plan to the Department by September 26, 1990, is proposed to be deleted because it is obsolete.

The trigger in new paragraph (2) relates to the expiration of the planning term. Most approved county plans have a term of 10 years and most counties are submitting plan revisions approximately 3 years prior to the expiration of that 10-year period. Revising a plan when its expiration is approaching makes good sense, allows for a fair, open and competitive reconsideration and selection of facilities to occur and generally provides for orderly extension of the plan. This proposed regulatory revision is authorized by section 501(c)(3) of Act 101 (53 P. S. § 4000.501(c)(3)), which states that a county must submit a plan revision when required by the Department.

Section 272.252. Development of plan revisions.

Cross reference to § 272.202 is added to subsection (c)(2) to clarify that a solid waste advisory committee must be involved in the preparation of a nonsubstantial plan revision. This requirement is indicated by section 501(d) of Act 101 and helps to clarify the existing requirement in subsection (c)(3) that the county submit a copy of a proposed nonsubstantial plan revision to its advisory committee before submitting it to the Department. A requirement that a county include comments received from the municipalities and the county's solid waste advisory committee in its submission to the Department of a nonsubstantial plan revision is proposed to be added to subsection (c)(3) in order to increase the level of input to and accountability by counties for nonsubstantial plan revisions. The statement in subsection (c)(3) that a nonsubstantial plan revision will be deemed approved within 30 days of receipt by the Department, unless the Department responds in writing, is proposed to be moved into new subsection (g) in order to improve the structure of the section. Subsection (d) is revised to reflect that even if the Department does not consider a plan revision to be substantial, the county may independently determine that it is substantial and will be processed as such; however, if the Department determines that a revision is substantial, the county may not override that determination. A new subsection (f) restates the statutory requirement that the Department review a substantial plan revision within 30 days unless the Department requests in writing 30 additional days. Subsection (f) is added to point out the distinction between review of substantial and nonsubstantial revisions.

Section 272.261. Annual report by county.

Fundamental to county plans is the statutory requirement that counties assure the availability of adequate processing and disposal capacity for the waste generated within their boundaries. (Act 101, section 303(a)). To help

the counties and the Department to ensure that this statutory mandate is met and that necessary revisions are made in a timely manner, subsection (b)(4) is proposed to be added to require that the county include in its annual report documentation that the assumptions the county made in developing capacity assurance in the plan remain valid.

Grants

Section 272.311. Financial management.

Section 272.311 is proposed to be revised to reflect and clarify the authority granted to the Department in Act 101 and in sections 204 and 208 of the SBHPPP (35 P. S. §§ 6029.204 and 6029.208) to approve grants for educational programs on pollution prevention and household hazardous waste and for other technical assistance to small businesses for pollution prevention.

Section 272.313. General requirements for grant applications.

A new subsection (d) is proposed to require an applicant for a planning grant or a recycling program grant to participate in a pre-application conference with the Department prior to development of the grant application. Experience has shown that grant applications submitted after a pre-application conference are superior in quality and result in significant savings to the Department and the applicant.

Section 272.314. Limits on Department's authority to award grants.

Changes are proposed to subsection (b) to restructure the language to accommodate a new limitation on the Department's authority to award a grant under this section. The new limitation requires the applicant to demonstrate that it has not previously been reimbursed under Act 101 for the same expenses. This provision is based on information learned in audits conducted under this program. A new subsection (c) precludes activities reimbursed under one Act 101 grant program from being eligible as a match under any other Act 101 grant program.

Existing subsection (c) requires the Department to withhold grant funds in certain specified situations. The proposed changes relabel it as subsection (d), add three items to the list of grounds for withholding funds and change the mandatory nature of the subsection to a discretionary one to account for the new items and for variations in the nature and degree of violations. The first new item, in paragraph (2), applies when an applicant has abused past grant moneys by using equipment purchased with previous grant funds in a manner not in compliance with program requirements. The second, in paragraph (3), authorizes the Department to withhold grant money if a community which is required to implement a source separated recycling program fails to meet the regulatory requirements of that program. And the third, in paragraph (4), authorizes withholding the money if the applicant's documentation of the use of past grant money is inadequate.

A new subsection (f) is proposed to limit the Department's authority to award a grant if the pre-application conference required under the previous section is not held.

Section 272.316. Performance audit.

A proposed revision to this section states that the Department's review of a disbursement request will satisfy the obligation of the applicant to have an indepen-

dent performance audit conducted on the disbursement, unless the Department notifies the applicant to the contrary in writing due to improper or inadequate documentation of grant expenditures. This revision is proposed to make the audit program more effective in reducing costs to the counties and the Department and in obtaining accurate results.

Section 272.321. Scope of grant.

The authority in paragraph (1) to issue grants for plan implementation is deleted under *City of Harrisburg v. Department of Environmental Resources*, 1994 EHB 1309. Paragraph (5) is added to clarify that grants may be issued to a county in accordance with Act 101 and sections 204 and 208 of the SBHPPP for educational programs on pollution prevention and household hazardous waste and for other technical assistance to small business for pollution prevention.

Section 272.322. Eligible costs.

This section is proposed to be amended to state that "indirect costs," as defined in Office of Management and Budget Circular A-87, as amended, are not subject to approval for a grant issued under § 272.321. This restriction is intended to reduce or eliminate requests for duplicate reimbursements for costs and implements a recommendation of the Department's Comptroller's Office based on past audits.

Section 272.323. Grant application.

This section is proposed to be revised to reflect the new opportunity to obtain grants under the SBHPPP. If a grant is sought under that act, the grant application must describe how the proposed project will further the purposes of that act.

Section 272.332. Eligible costs.

A new subsection is proposed to be added as subsection (f), with existing subsection (f) being revised and renumbered (g). The new subsection (f) is proposed to increase accountability on the part of municipalities using the equipment or property.

Subsection (g) is revised to require a municipality to notify the Department in writing if it no longer uses the equipment or property for the intended purposes. This will help facilitate the pro rata reimbursement of the value of the equipment or property.

Section 272.333. Grant application.

A revision to subsection (c) is proposed to delete the \$200 trigger for newspaper notification and other application requirements for a recycling grant application for mechanical processing equipment because the \$200 figure has become obsolete. The requirements in subsection (c) will now apply to all grant applications for mechanical processing equipment. A revision to subsection (c)(1)(i) is proposed to require a municipality seeking a grant for mechanical processing equipment to include in its newspaper notice reference to the fact that funding is sought from the Recycling Fund to assist with the purchase of mechanical processing equipment. This is intended to strengthen the public notice requirements.

Section 272.341. Scope of grant.

This section is proposed to be revised to specify in greater detail the activities for which a county recycling coordinator grant may be used. This list replaces a shorter, more general, list, and is not exclusive. The detailed list is added based on the Department's experience running this program and on concern expressed by some members of the Department's Recycling Fund Advi-

sory Committee that the standards for providing reimbursement for county coordinators should be clearer. This revision also provides a clearer understanding to the counties of the duties of the recycling coordinator.

Section 272.342. Eligible costs.

Subsection (b)(2), which prohibits costs for administrative, management or clerical activities of a county recycling coordinator from being approved for a grant, is proposed to be deleted. The Department's experience has shown that it is not necessary or practicable to distinguish these responsibilities from other responsibilities of county recycling coordinators and that payment for them is appropriate. Under the proposal, however, as under the existing regulations, only activities of the recycling coordinator are reimbursable and activities of clerical staff are not.

Section 272.353. Grant application.

The requirement that an application for a recycling performance grant contain the name and mailing address of each market for recycled materials is proposed to be deleted because the submittal of this information with each grant application is not necessary. The Department will request this information on an as-needed basis to implement its audit plan.

Section 272.362. Eligible costs.

The time limit in subsection (a) for the duration of a grant for a host municipality inspector is proposed to be deleted in accordance with Act 105 of 1996. Subsection (b)(7) is proposed to be revised to indicate that the Department will not approve for a grant costs incurred by the municipality or the inspector after decertification of the inspector, if decertification occurs. This statement is added because a new section is proposed in the regulations authorizing the Department to decertify host municipality inspectors. See § 272.364.

Section 272.364. Maintaining certification; decertification; recertification.

This section is proposed to be added to strengthen the existing host municipality inspector program which has been in existence for nearly 10 years and is authorized under section 1102 of Act 101 (53 P. S. § 4000.1102).

Subsection (a) will require a certified host inspector to complete advanced training once every 3 years and to conduct a facility inspection at least once a year to remain certified.

Subsection (b) will authorize the Department to decertify a host municipality inspector who violates a condition of certification, violates the law or an order of the Department, endangers the health and safety of a resident of the host municipality or of a person connected with the facility, distributes confidential business information without prior written approval, submits false information to the Department or its agent, exceeds the scope of authority or fails to complete successfully the training or annual inspection required in subsection (a).

Subsection (c) explains that when the Department decertifies a host municipality inspector, the Department will notify the host municipality and the facility of the effective date of the decertification, the reason for decertification, and the date (if any) upon which the inspector will be eligible for recertification.

Subsection (d) explains that to become recertified a host municipality inspector must go through the training process established in Act 101 to become an inspector for the first time. (Act 101, section 1102(a)). An inspector will

become eligible for recertification 2 years after being decertified. He may not qualify for recertification if the nature and gravity of his misconduct are too severe.

Municipal Recycling Programs

Section 272.411. Affected municipalities.

Subsection (d) is revised to reference the 2000 census instead of the 1990 census.

Section 272.426. Alternative to curbside program.

A typographical error is corrected in subsection (e).

Chapter 273. Municipal Waste Landfills

Application Requirements

The application requirements in these regulations are more stringent than the Federal Subtitle D criteria in the sense that the Subtitle D criteria identify mainly the operating, not the application, requirements for municipal waste landfills. While Subtitle D gives occasional guidance to the Director of an approved State, such as Pennsylvania, for approving a design, the application requirements in Pennsylvania's Chapter 273 are more specific to assure the Department of receiving sufficient information in a permit application to demonstrate the manner in which the operator plans to comply with SWMA and all other applicable laws and regulations, in accordance with PA. CONST. Art. I, § 27 and sections 502(d) and 503(c) of the SWMA.

Section 273.112. Facility plan.

Amendments have been proposed to this section to reduce unnecessary and redundant information. Paragraph (2) will now focus on the amount of soil needed to construct and operate the facility because this information is important for purposes of calculating the bond.

Section 273.113. Maps and related information.

A requirement is added to subsection (a)(1) that the boundaries of the land within the proposed permit area be identified in the application. A new subsection (b) is proposed to allow an applicant to use a different scale for the topographic map if approved by the Department. In addition, deletion of subsection (c), the requirement for a map or aerial photograph of the soil types, test pits and excavations taken under § 273.117 (relating to soil description) on the proposed permit area and adjacent area, has been proposed because the information has not proven useful for purposes of making a permit decision.

Section 273.115. Geology and groundwater description.

New subsection (a)(8) and (9) have been proposed to require the identification of wellhead protection areas that may be impacted by the facility and to require the submission of a groundwater contour map to describe the groundwater flow patterns. These provisions have been added to address wellhead protection regulations in Chapter 109 (relating to safe drinking water), promulgated since the municipal waste regulations were promulgated, and to address questions frequently raised by applicants and operators on background hydrogeologic information.

Section 273.116. Groundwater quality description.

Revisions are proposed to subsections (a) and (b) to make them similar to their existing residual waste counterparts (§ 288.123(a) and (b) relating to groundwater quality description). Included in this revision is the change from requiring 1 full year of groundwater monitoring data to requiring two quarters of data, one of which must include the season of the highest local groundwater

levels. Requiring two quarters of data has proven acceptable in the residual waste program and should prove acceptable in the municipal waste program because two quarters provide sufficient data to design a facility. Subsection (b) still requires the applicant to submit 1 full year of background monitoring data prior to the storage or disposal of waste to account for seasonal variability.

In addition, subsection (b) is proposed to be updated to delete obsolete date references. Subsection (c) is deleted because it has become obsolete.

Section 273.117. Soil description.

Subsection (a) has been revised to replace the requirement to provide a description of the soils in the permit application with the requirement for applications to describe the depth to the seasonal high water table to demonstrate that it will not be in contact with the liner system. The soil information currently required is not necessary for municipal waste landfills because lined landfills do not rely on soil attenuation. In subsection (a)(1), the demonstration that there is no contact with water is necessary to preserve the integrity of the liner system.

Section 273.120. Mineral deposits information.

Subsection (a) addresses the potential for mine subsidence. The proposed revisions modify it to read the same as its counterpart in the existing residual waste program (§ 288.127 relating to mineral deposits information). Subsection (b) currently requires a permit applicant to demonstrate that it owns the recoverable or mineable coals underlying the permit area and to warrant that the applicant will not mine the coal as long as waste remains on the site. Subsection (b) has been revised to expand the coverage to adjacent areas and to include all mineable minerals to protect landfills from potential instability problems associated with mining activities.

Section 273.121. Notification of proximity to airport.

This proposed rulemaking includes a new section to require that a municipal waste landfill permit applicant notify the Federal Aviation Administration, the Department and the airport if the proposed facility is within 5 miles of an airport runway end. This proposed regulation is added to be consistent with the Federal Subtitle D criteria for municipal waste disposal facilities (40 CFR Pt. 258) and to facilitate greater input on the feasibility of the location of the landfill.

Section 273.132. Operation plan.

Proposed changes to paragraph (1) require the applicant to include a plan for the inspection and monitoring of incoming waste to help ensure that waste not approved for receipt by the facility is not received and that waste will be rejected or specially addressed if it poses a problem. Paragraphs (3) and (4), which are the requirements to describe the type and size of equipment to be used at the facility and the plan for hiring and training personnel, have been deleted in this proposed rulemaking. Proposed changes to paragraph (6) clarify that the operating hours of the facility include time during which construction and operation activities will occur. This requirement will help the operator and the Department to minimize noise complaints.

Section 273.134. Plan for access roads.

Amendments to this section have been proposed to require that access roads be designed and constructed to handle truck traffic adequately. This requirement sets a performance standard by which to gauge the adequacy of proposed access roads.

Section 273.136. Nuisance minimization and control plan.

Several proposed changes have been made to this section. The title of this section has been amended to reflect the need to minimize nuisances during the facility planning stages. Subsection (a) has been modified to require that a plan be submitted that describes how nuisances will be minimized and controlled. By planning to control and minimize all nuisances, the expectation is that conditions that give rise to public nuisances will be abated. The Department's focus will be on ensuring the effectiveness of the operator's plan to minimize and control nuisances. Subsection (b) has been added to identify specific items that must be addressed in the plan. The plan must include the following: routine assessment and control of vector infestations; methods to minimize and control nuisances from odors, dustfall and noise levels off the property boundary from the facility; and for odors, a determination of normal and adverse weather conditions, based on site-specific meteorological data. The plan continues to allow the inclusion of contractual arrangements for the services of nuisance control professionals.

Section 273.139. Relationship to county plans.

The phrase "expressly provided for" is proposed to be revised to "provided for" in subsection (b). This is consistent with section 507(a)(1) of Act 101 (53 P. S. § 4000.507(a)(11)). Language is proposed to be added to subsection (b) to clarify what is meant by "provided for." A new subsection (b)(2)(iii) is proposed to require that an application for a facility not provided for in the host county plan include a detailed written response to objections that may have been filed by the host county. This is consistent with section 507(a)(2)(iv) of Act 101 and section 504 of SWMA. Subsections (c)—(f) are proposed to be deleted. Under the proposed regulations, the suitability analysis will be satisfied by the environmental assessment performed under §§ 271.127 and 271.201(a)(4).

Section 273.140. Daily volume.

Minor structural changes are proposed to subsection (a). Several changes are proposed to subsection (c) to clarify the subsection to reflect current practice. In the first change, the words "for disposal" are proposed to be deleted to remove any confusion about whether waste which is used at a facility under an equivalency approval is to be included in the calculation of daily volume. The waste is currently required to be included, because it is being disposed, and under the revision it will continue to be required to be included. In addition, this revision is consistent with section 1112(a) of Act 101 (53 P. S. § 4000.1112(a)), which bases daily volume on solid waste received. In the second change, the words "quarterly" and "quarter" are added to indicate that daily volume will be computed quarterly based upon waste received during the quarter. Calculating volume on a quarterly basis helps the operator and the Department to identify and prevent exceedances in the permitted waste volumes in a timely manner. Section 1112(f) of Act 101 requires the Department to assess a civil penalty of at least \$100 per ton for each ton of waste received by a landfill in excess of the maximum or average daily volume limits in the permit. Experience has shown that quarterly calculations help prevent large penalties.

Calculating volume on a quarterly basis has been Department policy for many years. This is reflected in the quarterly report which a municipal waste landfill operator must submit to the Department under § 273.213 (relating to quarterly operation report). The quarterly

report requires the operator to report the type and weight or volume of solid waste received in each month of the reported quarter. Quarterly calculations are required independently under Act 101 for inclusion in quarterly reports sent to the host municipalities of municipal waste landfills for purposes of calculating and paying the host municipality benefit fees.

Section 273.141. Compaction and cover plan.

Revisions are proposed to this section to make it consistent with its counterpart in the residual waste program (§ 288.141 relating to compaction and cover plan). In addition, revisions are proposed to paragraph (3) that reflect changes being made in the operating requirements for cover materials that largely eliminate design requirements in favor of performance standards. Specifically, this section will now require that an applicant specify the materials that will be used as cover and demonstrate that the materials and procedures for applying them will meet the performance standards in §§ 273.232—273.234 (relating to daily cover; intermediate cover and slopes; and final cover and grading). A cross reference to the operating requirements is amended to reflect the deletion of an existing section in the operating requirements. Additionally, in paragraph (5), the requirement that an applicant provide copies of contracts for the cover materials that will be used at the landfill is eliminated.

Section 273.152. Water quality monitoring plan.

Subsection (a)(2) is proposed to be changed to refer to existing groundwater quality to avoid confusion with the term "background standard," which is now a defined term.

Section 273.161. Liner system and leachate control plan.

In subsection (c), the requirement that the leachate demonstration be based on the EPA Method 9090 compatibility test has been replaced with language that allows the demonstration to be based on EPA or ASTM guidelines approved by the Department. This change will allow applicants to keep up with changing standards and technology. A change is proposed to the language of subsection (d)(13) to require the applicant to provide information on the friction angle for any component that may be in contact with the liner. Also, in subsection (d)(19), a requirement has been added to identify in the permit application the percent of recycled material in the proposed primary and secondary liners.

Section 273.163. Modifications of leachate treatment plan.

The cross reference to § 273.277 (relating to departmental notice and remedial action) is proposed to be revised to reflect the proposed revision to the title of § 273.277.

Section 273.192. Closure plan.

This section requires that a closure plan describe measures that will be taken toward and after closure. In subsection (a), the proposed regulations delete the reference to a postclosure period and clarify that the plan includes activities that occur toward and after closure. Subsection (b)(3) has been deleted because activities such as capping of cells in stages are considered activities that occur toward closure. Closure occurs only once at a landfill, the date the facility permanently ceases to accept waste. Subsection (b)(4) has been similarly revised to refer to activities that occur toward and after closure. A correlating change has been made to § 273.322(b) (relating to closure).

In subsection (b)(5)(vi), renumbered as (b)(4)(vi), additional language has been proposed to specify that the plan include a description of maintenance of access control after closure. This amendment addresses questions concerning maintenance that have been raised in the field.

Section 273.196. Recycling plan.

An obsolete date reference is proposed to be deleted from this section. The analysis requirements in paragraph (1) are proposed to be deleted because they are redundant since to prepare a plan under paragraph (2) an applicant has to conduct an analysis.

Section 273.197. Plan for recycled materials collection center.

An obsolete date reference is proposed to be deleted from this section.

Operating Requirements

Section 273.201. Basic limitations.

Subsection (b) is proposed to be revised to clarify that information obtained by a person or municipality monitoring groundwater quality under § 273.116 (relating to groundwater quality description) without a permit may be used for a permit application for the proposed facility.

In subsection (i), the phrase “generated outside the host county for a facility” is proposed to be deleted because the origin of the waste is not relevant to this prohibition. Subsection (j) is also proposed to be deleted. An obsolete date has been deleted from subsection (k), which is also renumbered as subsection (j).

A new subsection (k) has been added that requires all approved mitigation measures identified in the application to be completed before waste may be accepted, unless a later date is authorized in writing by the Department for technical reasons. This requirement bolsters the importance of effective mitigation, which is stressed in the environmental assessment of § 271.127.

Section 273.202. Areas where municipal waste landfills are prohibited.

Several changes are proposed to this section to modify certain isolation distances for municipal waste landfills and to clarify existing language. Landfills permitted prior to the date of publication of this regulation as final in the *Pennsylvania Bulletin* are not intended to be affected by the more stringent isolation distances proposed in this section when reissuance or renewal of the permit, or expansion of the permit area, is sought.

The lead-in language in subsection (a) is revised to clarify that the areas exempted from this regulation are those that were permitted as a municipal waste landfill prior to 1988. Subsection (a)(1) is given the title “Floodplain.”

Subsection (a)(2) is given the title “Wetland.” It is proposed to be divided into two subparagraphs, the first containing the current 300 foot setback from an exceptional value wetland and the second adding a 100 foot setback from a wetland other than an exceptional value wetland. The 100 foot setback is applicable to landfills permitted on or after the date of publication of this regulation as final in the *Pennsylvania Bulletin*, but is not applicable to permit modifications for expansions issued after that date if the permit being modified was issued before that date. The 100 foot setback is added to protect valuable wetland resources and makes the municipal waste regulations consistent with the existing residual waste regulations (§ 288.422 relating to areas

where Class I residual waste landfills are prohibited). As in the existing residual waste regulations, the 100 foot setback will not apply if storage, processing and disposal will not occur within that distance from the wetland and if either the operator has received the necessary permit under Chapter 105 (relating to dam safety and waterway management) to operate in or along the wetland or, for an operation not in or along a wetland, no adverse hydrologic or water quality impact will result from the landfill operation. The isolation distances to wetlands are more stringent than the Federal Subtitle D criteria, which prohibit the operation of the landfill from degrading a wetland. (40 CFR 258.12 (relating to wetlands)). The isolation distances to wetlands in this proposed rulemaking are necessary and have proven effective in preventing impacts such as dust, litter and vectors that occur during the operation of landfills.

Subsection (a)(3) is given the title “Minerals,” because it now applies to more minerals than just coal. It is proposed to be divided into two subparagraphs. Subparagraph (i) will retain the current prohibition against operating a landfill in coal bearing areas underlain by recoverable or mineable coals unless the operator does not own the coal nor have an agreement with the coal owner to provide support. A revision to subparagraph (i) indicates that this prohibition will have applied to landfill permits issued prior to the date of publication of this final regulation in the *Pennsylvania Bulletin* and will apply to expansions of facilities already permitted as of that date. Proposed subparagraph (ii), which will apply to landfill permits issued on or after publication of the final regulation, will prohibit operation of a landfill in areas underlain by mineable minerals, unless the operator owns the underlying minerals. The expanded coverage from coal to all mineable minerals will better protect landfills from potential instability problems associated with mining activities. Requiring the operator to own the underlying minerals is more stringent than the Federal Subtitle D criteria, which require the applicant to identify unstable areas. (40 CFR 258.15 (relating to unstable areas)). By owning the underlying minerals the operator can eliminate the potential for unstable areas to be created by mining activities after the landfill is operating. This will significantly reduce the potential for liner system failure due to unstable subgrade conditions.

Subsection (a)(4) is proposed to be revised by the insertion of the title “Valley, ravine or head of hollow,” and subsection (a)(5) is given the title “Limestone or carbonate formation.” No changes are proposed to the text of these two paragraphs.

A substantive change is proposed to subsection (a)(6), which will now be entitled “Occupied dwelling.” This subsection is proposed to be divided into two subparagraphs. Subparagraph (i) will retain the current prohibitions against operating a landfill within 300 feet of an occupied dwelling unless the owner of the dwelling provides written consent, and against having the disposal area of a landfill within 500 feet of an occupied dwelling unless the owner of the dwelling provides written consent. A revision to subparagraph (i) indicates that this prohibition will have applied to landfill permits issued prior to the date of publication of this final regulation in the *Pennsylvania Bulletin* and will apply to expansions of facilities already permitted as of that date. Proposed subparagraph (ii), which will apply to landfill permits issued on or after publication of the final regulation, will prohibit operation of a landfill within 300 yards of an occupied dwelling unless the owner of the dwelling provides written consent. While the Federal Subtitle D

criteria do not include an isolation distance from occupied dwellings, the Department is proposing this revision to reduce complaints that currently are received from nearby dwellings concerning noise, odors and nuisances despite the current 300-foot setback. The 300-yard requirement is drawn from the isolation distance in section 511 of Act 101 (53 P. S. § 4000.511), of 300 yards from a school, park or playground for municipal waste landfills, resource recovery facilities and commercial residual waste treatment facilities. Section 511 of Act 101, in subsection (c), expressly authorizes the Department to establish site limitations in addition to or more stringent than the 300-yard distance from schools, parks and playgrounds.

Subsection (a)(7) is proposed to be revised by the insertion of the title "Perennial stream," and subsection (a)(8) is given the title "Property line." No changes are proposed to the text of these two paragraphs.

Several changes are proposed to the portions of this regulation concerning isolation distances from airports to conform the regulation to the Federal Subtitle D standards. (40 CFR Part 258, at 258.10.) Subsection (a)(9), which will now be entitled "Airport," will contain three subparagraphs. Proposed subparagraph (i) will contain the text of existing subsection (a)(9), modified to reflect Subtitle D as follows: the isolation distance will be measured from a runway end, not from a runway; the phrase "or will be" will be deleted; the phrase "turbine-powered" aircraft will be replaced with "turbojet" aircraft; the phrase "Federal Aviation Administration (FAA) certified airport" will be deleted; the phrase "term of the permit" will be replaced by "life of disposal operations under the permit"; and an exception will be added for situations in which the operator can demonstrate that the landfill is designed and operated so that the landfill does not pose a bird hazard to aircraft. Proposed subparagraph (ii) will contain the text of existing subsection (a)(10) with similar revisions to those proposed for subparagraph (i), which are also consistent with Subtitle D. A new subparagraph (iii) is proposed, which will contain language from Subtitle D defining "airport" and "bird hazard" for purposes of this subsection.

The existing prohibition in subsection (a)(11) against operating a landfill within "the conical area at 14 CFR Part 77 (relating to objects affecting navigable airspace) . . ." is proposed to be deleted because it is more stringent than the Subtitle D requirements and has not proven useful in practice. Subsection (c), which currently applies to landfills other than those in areas permitted prior to January 25, 1997, is proposed to be deleted. It is replaced by the new proposed subsection (a)(9).

Existing subsection (a)(12), which prohibits operation of a landfill within 25 feet of a coal seam, a coal outcrop or coal refuse, is proposed to be deleted because its purpose—adequate protection from fires—can be adequately addressed in the design of a facility. To address fire protection in the facility design, the Department proposes in § 273.291 (relating to mineral resources) to require a landfill operator to isolate coal seams, coal outcrops and coal refuse from waste deposits in a manner that prevents combustion of the waste.

Existing subsection (a)(13), which is renumbered as subsection (a)(10) and entitled "Water source," is modified to be consistent with its existing residual waste corollary (§ 288.422(a)(11)) by adding subparagraphs (i)—(iii), which currently exist in subsection (e). Requiring the quarter-mile upgradient and 300 feet downgradient isolation distances from water sources is more stringent than the Federal Subtitle D criteria. These isolation distances

are necessary to provide a distance between the detection monitoring wells and water supplies to allow the operator to take corrective action prior to affecting offsite wells.

Two existing subsections of the regulation relating to schools, parks and playgrounds are combined in this proposal. Subsection (b) is renumbered as subsection (a)(11) and is entitled "School, park, playground." It clarifies in subparagraph (i) that it applies to a municipal waste landfill permit issued on or after September 26, 1988, except an expansion of a municipal waste landfill permitted prior to September 26, 1988, by deleting the language "Except for areas that were permitted prior to." The isolation distance from schools, parks and playgrounds is more stringent than the Federal Subtitle D criteria, which do not contain an isolation distance from schools, parks or playgrounds, but is necessary to be consistent with section 511 of Act 101. The remaining revisions to this paragraph are structural. Subparagraph (ii) is a modification of existing subsection (d), which includes the waiver language. This language is proposed to be revised to eliminate the cross reference to subsection (b), to replace it with: "school building, park or playground," and to indicate that the Department will waive the 300-yard prohibition upon "receipt of" the waiver.

Subsection (e) is deleted because it has been incorporated into subsection (a)(10). Subsections (f) and (g) have been renumbered and a cross reference has been corrected.

Section 273.203. Certification.

The proposed change to this section adds one item to the list of major construction activities for which the operator must submit a certification by a professional engineer upon completion. The item, in subsection (a)(9), is the construction of the landfill gas extraction system. This is being added because this is a major construction activity. Subsection (a)(9) and (10) are renumbered accordingly. The certification of each major construction activity is not required under the Federal Subtitle D criteria. The certification of each major construction activity is necessary because the incorrect construction of one component in many instances will adversely affect the performance of the other components associated with the landfill design and operation. Section 502 of the SWMA (35 P. S. § 6018.502) requires that plans, designs and data be prepared by a registered professional engineer.

A new subsection (d) is proposed to clarify that closure and final closure activities will not be deemed complete until the Department has certified completion of closure and final closure of a landfill.

Section 273.211. Signs and markers.

In subsection (a), proposed changes eliminate the prescriptive language about the size and content of signs and replace the requirement with a performance standard that the sign can be easily seen and read. The signage requirement is also applied to recycling drop-off centers. Subsection (b) is modified slightly to comport with its existing residual waste counterpart (§ 288.211(a) relating to signs and markers). The Federal Subtitle D criteria do not contain a signage requirement. This requirement is necessary to provide information and directions to persons using the landfill. It also facilitates recycling and provides information to persons who would like to contact the Department concerning the operation of the facility.

Section 273.212. Access control.

The requirement for an operator to construct a fence or other barrier around the site is proposed to be deleted as being redundant. The requirement is expressed in the remaining requirement that the operator "maintain" a fence or other barrier.

Section 273.213. Access roads.

Protection of wetlands is proposed to be added to subsection (b). The proposed language is taken from the existing residual waste regulations, at § 288.213(b) (relating to access roads). Deletion of the phrase "sediment control" from subsection (c) is proposed because not all of the measures to be considered concern sediment control.

Proposed changes to subsections (e) and (f) differentiate between access roads leading to the disposal area and those leading to ancillary structures. Subsection (e) has been changed to apply to access roads leading to the disposal area. As a result, there will be no specified minimum cartway width for access roads not leading to the disposal area. Subsection (f) has been changed to remove the requirement that an access road to a treatment facility, impoundment or groundwater monitoring point be negotiable by loaded collection vehicles.

Subsection (g), which requires that an access road be constructed on a dry and stable area, has been deleted. The performance standards in this section are sufficient to direct the safe construction of access roads. Subsection (h), which contains the prescriptive requirements that any topsoil be removed prior to construction of an access road and be immediately used as final cover or stored, has been deleted. The landfill operator may determine the best use for the soil.

The Federal Subtitle D criteria do not include specific standards for the design and construction of access roads. There is significant traffic associated with the operation of a municipal waste landfill, however, and the access road requirements in this section provide minimum design criteria necessary to prevent unsafe or unstable conditions.

Section 273.214. Measurement and inspection of waste.

This section is proposed to be changed to require inspection of waste in addition to measurement of waste. The title is changed and a new subsection (c) is proposed to require inspection to insure that disposal of the waste is consistent with Article VIII—particularly the waste analysis plan—including screening of waste for radioactive isotopes. The allowable level of radioactive isotopes should be addressed in the waste acceptance plan. The requirement to screen for radioactive isotopes has been added to address questions that have arisen during the operation of existing facilities.

The inspection of incoming waste for PCBs and hazardous materials is required by the Federal Subtitle D criteria. (40 CFR 258.20 (relating to procedures for excluding the receipt of hazardous waste)). In the Subtitle D criteria, and largely in this proposed rulemaking, the design of the facility is based upon the volume and the physical and chemical characteristics of the waste to be received. By measuring and inspecting incoming waste, the operator can make sure that the facility is being operated as designed.

Section 273.215. Equipment.

In subsection (b), the requirement that standby equipment must be located on the site or at a place where it can be available within 24 hours has been deleted. This

requirement is redundant of the requirement in subsection (a) that the operator maintain on the site equipment necessary for the operation of the facility in accordance with the permit.

Section 273.216. Unloading and compaction.

The requirement that waste be spread and compacted in layers not to exceed 2 feet is proposed to be deleted. The requirement is not necessary because of improvements in unloading and compacting methods and equipment.

Section 273.217. Air resources protection.

Proposed changes to this section clarify the requirements that currently exist in this section. In subsection (a), the changes include cross referencing Article III (relating to air resources) and the nuisance minimization and control requirements of § 273.218 (relating to nuisance minimization and control). In subsection (a)(3), a requirement to minimize the generation of fugitive dust emissions from the facility has been added. In subsection (b), new language has been added requiring that the operator comply with the terms and conditions of any air quality plan approval and air quality operating permit issued to the facility.

Section 273.218. Nuisance minimization and control.

Several proposed changes have been made to this section. The title of this section has been amended to reflect the need to minimize nuisances during the operational phase of the facility. The nuisance minimization and control plan approved under § 271.136 (relating to nuisance minimization and control plan) should be implemented to control and minimize all nuisances such that conditions that give rise to public nuisances will be abated. Subsection (b) has been modified to require that an operator minimize and control public nuisances. The Department's focus will be on ensuring that the operator implement its nuisance minimization and control plan effectively. The operator will be responsible for minimizing and controlling nuisances as they arise during operations. A new subsection (c) has been added to specifically address the minimization and control of odors. In addition to implementing the nuisance minimization and control plan, the operator must perform site inspections to evaluate the effectiveness of its waste management practices in reducing the potential for offsite odor creation. Also, the operator must promptly address any problems or deficiencies discovered in the course of the site inspections.

The Federal Subtitle D criteria include standards for disease vector control which are similar to those in the existing and proposed Chapter 273 regulations. (40 CFR 258.22 (relating to disease vector control)). Subtitle D also provides for air quality protection under the State Implementation Plan (SIP) approved or promulgated under section 110 of the Clean Air Act, as amended. (40 CFR 258.24 (relating to air criteria)). The proposed revisions to Chapter 273 of Pennsylvania's regulations provide more specificity than the Federal criteria but offer protection against odors in a manner that is generally consistent with existing requirements. The site inspections and prompt correction of problems or deficiencies discovered during the inspections are designed in response to the frequent odor complaints received by the Department.

Section 273.221. Daily volume.

This section is proposed to be revised to be consistent with the proposed revisions to the application requirements in § 273.140, and for the same reasons. Although the Federal Subtitle D criteria do not specifically require

the landfill to identify or keep records of the incoming waste volumes, this information is necessary during the permit application phase to ensure that the landfill is designed appropriately for the anticipated waste volumes and during the landfill operation phase to ensure that the landfill is operating in compliance with the permit upon which the design is based.

Section 273.231. Topsoil storage.

This section has been deleted in this proposed rulemaking because the volume of topsoil at these sites is inadequate or, in some cases, nonexistent for use as final cover. The operator is required upon closure to supply the necessary soil. The bond calculations include the price of purchasing acceptable soil, if necessary.

Section 273.232. Daily cover.

The requirement that daily cover be placed on exposed waste at the completion of every lift is proposed to be deleted from subsection (a) because it is redundant, since the regulation also requires placement of daily cover each working day.

The design requirements in subsection (c) have been deleted and replaced with performance standards. The detailed soil requirements are no longer necessary for purposes of daily cover, especially because the proposed regulations allow for alternatives to soil to be used for daily cover, consistent with the Subtitle D criteria. (40 CFR 258.21 (relating to cover material requirements)). In addition, a new performance standard, paragraph (5), has been added to require that the cover material be consistent with the waste acceptance plan for the facility. While no Federal counterpart to the requirement for consistency with the waste acceptance plan exists, the requirement takes into consideration the use of wastes as cover materials.

Subsection (d) is renumbered as subsection (c). Subsection (e) is proposed to be deleted because the requirement relates to intermediate cover, not daily cover. Subsection (f) is renumbered as subsection (d) and the requirement that intermediate slopes constructed during daily landfilling activities be covered, compacted with 1 foot of intermediate cover material and revegetated is proposed to be deleted because it relates to intermediate cover, which is addressed in § 273.233 (relating to intermediate cover).

Section 273.233. Intermediate cover and slopes.

The requirement that intermediate cover be at least 12 inches in thickness is proposed to be moved from subsection (a) to subsection (c) to allow other materials and methods to be used under the equivalency review process. Revision of this section is intended to provide for the use of soil and materials other than soil as intermediate cover. The requirement in subsection (a)(3) that intermediate cover be placed on each completed lift is proposed to be deleted because it is unnecessary and, in many cases, obsolete. A performance standard is proposed to be added to subsection (b)(5) requiring that intermediate cover control infiltration of precipitation and erosion and sedimentation. A proposed revision to subsection (b)(6) indicates that germination and propagation of vegetative cover will only be required if necessary to control infiltration of precipitation and erosion and sedimentation. Subsection (b)(7) is proposed to be added to require that the cover material be consistent with the waste acceptance plan for the facility. This takes into account, among other things, the use of waste as cover material.

Changes are also proposed to the design standards in subsection (c) by deleting most of the design standards for

soil and replacing them with the performance standards. The detailed soil requirements are no longer necessary for purposes of intermediate cover, especially because the proposed amendments allow for alternatives to soil to be used for intermediate cover. This proposed revision only maintains two design requirements for intermediate cover that are applicable to soil and soil-like materials: the requirements that the soil or soil-like material be at least 12 inches in thickness and uniformly graded. Changes in subsection (e) clarify that if vegetation is to be used it must be established within 30 days. Changes in subsection (f) require that slopes constructed during intermediate cover activities (not just during landfilling) may not exceed 50%.

The Federal Subtitle D criteria do not require any intermediate cover, although they do require a daily cover. (40 CFR 258.21 (relating to cover material requirements)). This proposed rulemaking requires intermediate cover to prevent the exposure of waste in areas where the daily cover will be subject to rain, wind and erosion for extended periods of time. The requirement to have intermediate cover has proven beneficial under the existing regulations.

Section 273.234. Final cover and grading.

In subsection (a), the prescriptive design standards for the cap have been reduced and performance standards have been added to provide greater flexibility. A new subsection (c) enables an operator to obtain an equivalency review for alternative cap designs. In subsection (d), the layer of material placed over the drainage layer will now have to be capable of controlling fires and will have to ensure slope stability, in addition to the other requirements. The requirements that the layer cover solid waste without change in its properties and without regard to weather, and that it compact well and not crack excessively when dry, are deleted because they have not proven necessary. Subsection (e) is revised to read the same as its residual waste counterpart, § 288.234 (relating to final cover and grading), including proposed revisions thereto.

The Federal Subtitle D criteria require an operator to install a final cover system that is designed to minimize infiltration and erosion, and that meets certain design requirements. (40 CFR 258.60 (relating to closure criteria)). The proposed final cover and grading requirements in this rulemaking are more stringent than the Subtitle D criteria to account for weather conditions unique to this Commonwealth. A drainage layer is required above the cap to remove the precipitation that will occur and at least 2 feet of final cover above the drainage layer is required to prevent frost damage to the cap.

Section 273.241. General requirements.

Subsection (c) is proposed to be revised to protect all waters, not just groundwater, from pollution and to read consistently with its existing residual waste counterpart, § 288.241(c) (relating to general requirements).

Section 273.245. Water supply replacement.

Revisions are proposed to subsections (a)—(c) to clarify that this section applies to activities that “adversely” affect the water supply. This is consistent with the existing and proposed residual waste regulations, § 288.245 (relating to water supply replacement).

Section 273.251. Scope and requirements.

Revisions are proposed to subsections (b)(3) and (b)(5) to allow the use of materials other than soil or earthen materials in the landfill liner’s leachate detection zone,

protective cover and leachate collection zone within the protective cover. Subsection (b) will now be consistent with its existing residual waste counterparts in §§ 288.431 and 288.531 (relating to scope and requirements; and scope and requirements).

A new subsection (c) is proposed which would add the requirement that either the primary or secondary liner of a municipal waste landfill be constructed as a composite liner. The composite liner provides extraordinary protection against leaks at a reasonable cost. Many landfills already install a composite component in their liner system. In addition, having a composite component in the liner system will enable a facility to recirculate leachate under Subtitle D.

The Federal Subtitle D criteria require that the operator install a single composite liner (a synthetic "plastic" membrane directly underlain by a layer of clay). (40 CFR 258.40 (relating to design criteria)). The liner system proposed in this rulemaking will require a double liner system, with at least one of the liners constructed as a composite liner. The liner system design, including the subbase, secondary liner and leachate detection zone, in this proposed rulemaking will be more stringent than the Federal Subtitle D criteria. These components of the liner system are necessary to prevent leachate from leaking from the facility. The EPA single composite liner has a much greater potential to leak. The double liner system (one composite) design included in this proposed rulemaking is best available technology and is commonly used by many landfills currently operating in this Commonwealth.

Section 273.252. General limitations.

In subsection (a), a change has been proposed to the requirement that 4 feet exist between the top of the subbase of the liner system and the seasonal high water table. The revision requires that the bottom of the subbase cannot be in contact with the seasonal high water table or perched water table. The prescriptive buffer between the liner system and the seasonal high water table has been replaced with a performance standard to prevent contact between the two. In subsection (a)(2), the drainage systems may now be used to prevent contact between the bottom of the subbase and the water tables rather than to maintain the 4-foot isolation distance. This change is consistent with the other changes in subsection (a). Subsection (b) is adjusted to indicate that the regional groundwater table may not be artificially lowered. Subsection (c) is added to be consistent with the proposed residual waste regulations. It requires an 8-foot isolation distance for confined aquifers from the top of the subbase to the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs.

The 8 foot isolation distance proposed in subsection (c) is not required by the Federal Subtitle D criteria, but is necessary to account for fluctuations that may occur in the groundwater table, thus preventing contact with the liner system. It is best engineering practice to prevent contact between the liner system and the groundwater table. This prevents the rapid dispersion of leaks and prevents unstable conditions from affecting the performance of the liner system. This isolation distance also provides some level of attenuation should a small leak occur.

Section 273.253. Subbase.

The design requirements in subsection (b) are proposed to be revised. Subsection (b)(2) is proposed to be deleted

because the necessary minimum bearing capacity of the subbase is determined by the design of the facility. Subsection (b)(5) is proposed to be revised to increase the permissible subbase slopes from 25% to 33% because construction on steeper slopes has proven to be effective. A maximum percentage is not identified in the Federal Subtitle D criteria, but is necessary to prevent liner system construction and operating stability problems. The design requirement in subsection (b)(3), now subsection (b)(2), is revised to exempt from its applicability situations in which the clay component of a composite liner is designed and constructed directly above the subbase because the clay component will provide sufficient protection.

Section 273.254. Secondary liner.

The heading "Performance standards" is proposed to be added to subsection (a).

In subsection (b), the words "at a minimum" were added to allow for the use of liners that meet or exceed the design requirements in Table I of § 273.256 (relating to primary liner) without an equivalency demonstration.

Changes in subsections (c), (f) and (g) are proposed to make them read the same as their existing residual waste counterparts in § 288.434 (relating to secondary liner). The changes in subsection (c) are only structural. The changes in subsection (f) describe the necessary components of a composite secondary liner and other requirements for a composite secondary liner. The prohibition in existing subsection (f), that no facility or component of it that is subject to this chapter may have a secondary liner based upon natural attenuation of leachate, is moved into new subsection (g).

Subsection (d) is proposed to be revised to authorize, upon proper demonstration, a secondary liner made of clay, bentonite or bentonite-like material to be constructed in lifts not exceeding 6 inches in depth. This change is proposed because of improvements in methods and equipment.

Section 273.255. Leachate detection zone.

The design requirement in subsection (b)(2) is proposed to be revised to allow materials up to 0.5 inch in particle size to be contained in the leachate detection zone of a liner system, from the current limit of 0.25 inch. The revision would correlate with the 0.5 inch restriction in the residual waste program, which has proven successful. A maximum size for aggregates in the protective cover is not included in the Federal Subtitle D criteria. This maximum size is included in this proposed rulemaking based upon industry practice and the potential for larger particles to cause damage to the liners. Alternatives can be proposed through the equivalency review process.

The design requirement in subsection (b)(5)(ii), prohibiting the distance between pipes from exceeding 100 feet, is proposed to be deleted because it has not proven necessary for an effective system. A minimum postsettlement grade of 2% is proposed to be added to new subsection (b)(5)(ii) to be consistent with the existing residual waste regulations. Additionally, the requirement in subsection (b)(5)(v) that rounded noncarbonate stones or aggregates be placed around the piping system is proposed to be revised and moved to subsection (b)(7) to indicate that noncarbonate stone or aggregates without sharp edges are to be used.

Subsection (d) is proposed to be modified to indicate that the operator shall take steps when average flow of liquid in the leachate detection zone exceeds 10 gallons

per acre per day. This modification is proposed because liquid in an amount less than this may be present due to minor imperfections in the liner installation, but does not indicate a threat to the performance of the liner system.

Subsection (d)(3) is proposed to be revised to indicate that the Department may require sampling and analysis for constituents other than those indicated in this section, and to require sampling and analysis of the total alkalinity, ammonia-nitrogen and chemical oxygen demand in the liquid. These have been added as common indicators of the presence of leachate.

Subsection (e) is proposed to be revised to state that the operator shall take certain steps when the volume of leachate in the leachate detection zone exceeds 100 gallons per acre per day or more than 10% of leachate generation. These are generally accepted levels based upon historic liner installation and operation experience.

Subsections (d) and (e) are more stringent than the Federal Subtitle D criteria, but are based upon EPA guidance and the Department's experience with operating facilities.

Section 273.256. Primary liner.

Most of the changes in this section are proposed to restructure the section to be consistent with its residual waste counterpart, § 288.436 (relating to primary liner), as revised. In subsection (b), the words "at a minimum" were added to allow for the use of liners that meet or exceed the design requirements in Table I without an equivalency demonstration.

In subsection (d), components of a composite primary liner are identified. These are the same as the residual waste requirements, except for the addition of the requirement that the municipal waste liner's lower component must also meet the requirements of Table 1. Subsection (e) has been revised to prohibit the use of a primary liner based upon natural attenuation of leachate. This revision is proposed to eliminate the risk of failure of a natural attenuation "liner" for municipal waste.

Section 273.257. Protective cover.

A performance standard is proposed to be added to subsection (a) to indicate that the protective cover shall cover the bottom and sidewalls of the disposal area. This change is proposed to clarify the area where protective cover is required, and is consistent with the existing residual waste counterpart, § 288.437 (relating to protective cover).

The design requirements in subsection (b) are proposed to be revised to increase the allowable diameter of solid material from one quarter inch to one half inch, based on acceptable industry practices that have been approved through the equivalency review process, and to delete the requirement that the protective cover be uniformly compacted and smooth because in some instances compacting protective cover may reduce desired infiltration and may damage the leachate detection zone within the protective cover.

Section 273.258. Leachate collection system within protective cover.

The proposed regulations amend subsection (a)(2) to authorize the Department to condition a permit to allow the depth of leachate on or above the primary liner to exceed 1 foot for sump areas because a sump area is used for collection of leachate and frequently exceeds one foot of head. An exceedance may also occur for a 25-year, 24-hour precipitation event where the 1 foot of head will

be exceeded for less than 3 days to address exceptional precipitation events. This revision is intended to address two situations in which exceedance of the 1-foot limit should not pose a problem.

In addition, subsections (b)(4) and (5) are proposed to be revised to be consistent with the existing requirements in the residual waste regulations concerning pipes and noncarbonate stones or aggregates. These requirements for municipal waste landfills are more stringent than the Federal Subtitle D criteria at 40 CFR 258.40(a)(2) (relating to design criteria) and are necessary to ensure the long term performance of the leachate collection system within the protective cover. The noncarbonate aggregates are required to prevent the dissolution of the drainage media and the minimum grade is necessary to make sure that leachate can flow out of the collection system to the treatment system.

Section 273.272. Basic treatment methods.

Subsection (a) is proposed to be revised to clarify the pretreatment condition so as to read consistently with the existing residual waste regulation, § 288.452 (relating to basic treatment methods).

Section 273.274. Leachate recirculation.

Subsection (a) is slightly restructured and a prohibition against recirculating leachate which is a hazardous waste is proposed to be added to comport with the existing residual waste counterpart, § 288.454 (relating to leachate recirculation). Subsection (b) is proposed to be added to allow the Department to authorize an alternative leachate recirculation method for a facility. This proposed revision will allow, for example, an alternative design where intermediate cover may not be necessary or a piping system is not used.

Section 273.275. Leachate collection and storage.

Subsection (b), concerning the onsite leachate storage system, is proposed to be revised to be consistent with its existing residual waste counterpart for Class I residual waste landfills, § 288.455 (relating to leachate collection and storage). This proposed revision requires that sufficient storage exist for the maximum volume of leachate to be produced for any 30-day period for the life of the facility. This applies to the storage system for leachate prior to and after treatment. Revisions to subsections (c) and (d) authorize changes in the size of the leachate storage impoundments and tanks if approved or required by the Department. A new subsection (g) has been added to require secondary containment for pipes that are located outside the lined areas of the facility. This requirement has been added to reduce the likelihood of leaks or releases from the pipes. The sizing of leachate storage facilities is not specified in the Federal Subtitle D criteria. The 30-day storage capacity has proven to be a very effective number based upon experience at existing facilities. The requirement in the proposed rulemaking that no more than 25% of this storage capacity be used for flow equalization on a regular basis ensures that sufficient storage is available in case of an unusual precipitation event.

Section 273.276. Leachate analysis and sludge handling.

Subsection (a) is proposed to be revised to be consistent with its residual waste counterpart, § 288.456 (relating to leachate analysis and sludge handling). This shifts the quarterly leachate analysis requirement predominantly to a performance standard. In addition, proposed changes in subsection (a)(2) allow the Department to modify the frequency or chemical constituents of leachate testing if

the facility operator demonstrates after four quarters of testing that this will not compromise groundwater protection. While the Federal Subtitle D criteria require the chemical characterization of the leachate to be considered, specific sampling frequencies are not specified. (40 CFR 258.40 (relating to design criteria)). The testing required in the proposed rulemaking is necessary to ensure that the treatment facility is capable of processing the leachate and will ensure that the leachate is compatible with the liner.

Section 273.277. Departmental notice and remedial action.

The title and paragraph (1) are proposed to be revised to be consistent with the existing residual waste counterpart, § 288.457 (relating to departmental notice and remedial action). This does not involve substantive changes.

Section 273.281. General requirements.

This section is proposed to be revised to be consistent with the existing residual waste counterpart, § 288.251 (relating to general requirements) by adding the word "contaminants" and "groundwater" to subsection (a) and by restructuring subsection (b).

Section 273.282. Number, location and depth of monitoring points.

Subsections (a) and (e) are proposed to be revised to be consistent with the existing residual waste counterpart, § 288.252 (relating to number, location and depth of monitoring points).

Subsection (b)(3) has been modified to require that additional wells be located at the compliance points, which are different from the existing monitoring points. Existing subsection (e) has been deleted because it is no longer necessary to require that monitoring and compliance wells be drilled by drillers licensed under the Water Well Drillers License Act. Section 273.152 (relating to water quality monitoring plan) requires that an applicant demonstrate that the monitoring wells will accurately measure groundwater quality. The details of well construction are included in this demonstration. Without specifying who must drill the wells, the Department has maintained the design and performance standards that must be met.

Section 273.283. Standards for wells and casing of wells.

This section is proposed to be revised to reflect improvements in technology and to be consistent with its existing residual waste counterpart, § 288.253 (relating to standards for casing of wells), as revised, although it is structured somewhat differently. The revisions involve adding requirements in subsection (a) for the monitoring well screen, adding a requirement in subsection (b) that a monitoring well be filter-packed, adding a requirement in subsection (c)(1) that the casing material not react with groundwater, deleting the requirement in subsection (c)(3) that the casing be screened or perforated, adding a requirement to subsection (d)(2) that the protective casing have a maximum stick up of 3 feet unless otherwise approved, and adding a performance standard to subsection (d)(4) that the protective casing be numbered for identification with a label capable of withstanding field conditions.

In addition, several changes are proposed which are also being proposed in the residual waste regulations. Specifically, subsection (c)(4) is proposed to be revised by adding that the monitoring well casing be clearly visible, subsection (c)(5) is proposed to be revised to prevent cross

contamination between surface water and groundwater, and subsection (d)(5) is proposed to be revised to delete the prescriptive requirement that the protective casing protrude 1 inch higher than the monitoring well casing.

Some of the well construction and design standards identified in this section are in addition to those required by the Federal Subtitle D criteria. (40 CFR 258.51 (relating to groundwater monitoring systems)). These proposed requirements are necessary to ensure that the wells are capable of detecting groundwater degradation and will not be damaged or contaminated during the operation of the facility.

Section 273.284. Sampling and analysis.

Several changes to the quarterly and annual sampling analysis requirements for each monitoring point are proposed in paragraphs (1) and (3) to make this regulation consistent with the existing residual waste counterpart, § 288.254 (relating to sampling and analysis). The Federal Subtitle D criteria require groundwater sampling and analysis to be done on a less frequent basis, but for more parameters than specified in this proposed rulemaking. (40 CFR 258.53(f) and 258.54(b) (relating to groundwater sampling and analysis requirements; and detection monitoring program)). The quarterly analyses required in this section are necessary to adequately monitor groundwater. Action can quickly be taken to modify operations should degradation be detected. This in many instances may remedy the problem before more serious remediation is necessary.

Section 273.286. Groundwater assessment plan.

In subsection (a), the time available to prepare and submit a groundwater assessment plan has been extended from 30 to 60 days. The Federal Subtitle D criteria, which allow for a period of 90 days, is unnecessarily long and will not provide the necessary information to make a timely decision. The proposed revision was made because field experience has demonstrated that more than 30 days is necessary to evaluate the causes of degradation and to prepare a report explaining exceedances at the monitoring points. Also, a fate and transport analysis must be performed to determine the rate and direction of migration of contaminants in the groundwater. In subsection (a)(2), the requirement that the water supply degradation that could trigger assessment be contiguous is deleted because assessment should occur if the landfill affects a water supply, regardless of its location. This is the approach currently taken in the residual waste regulations, § 288.256 (relating to groundwater assessment plan).

Subsection (b) is revised to be consistent with § 288.256(b) of the existing residual waste regulations through minor revisions to paragraph (1) and through addition of paragraph (2) concerning degradation from facility construction or seasonal variations.

A new subsection (c)(5) has been added to require the identification in the assessment plan of the abatement standard that will be met. By requiring this information in an assessment plan, the operator must plan for the likelihood of implementing abatement where the fate and transport analysis indicates there will be a problem.

Language is proposed to be added to subsection (d) requiring the landfill operator to notify in writing each water supply owner located within 1/2 mile downgradient when an assessment has been initiated. This requirement is added to provide adequate notification to water supply owners whose water supply may be affected in the future by contamination. This requirement currently exists in

the residual waste regulations, § 288.256, but is not required by the Federal Subtitle D criteria.

Section 273.287. Abatement plan.

In subsection (a)(1), the triggers for requiring abatement have been revised. Abatement is required when one of the following occurs: 1) the groundwater assessment plan shows the presence of groundwater degradation at the monitoring points (within 200' of the permitted disposal area) and the fate and transport analysis indicates that an abatement standard will not be met; or 2) monitoring by the Department or the operator shows the presence of an abatement standard exceedance from one or more compliance points.

A new subsection (c) is proposed to establish a deadline for submittal of an abatement plan to the Department. This is consistent with the existing residual waste requirement in existing § 288.257(d) (relating to abatement plan).

The proposed regulations include a new subsection (d) which establishes the abatement standards that must be met. The point of compliance for the abatement standards is 150 meters or the property boundary, whichever is closer. The abatement standards are identified as follows: 1) the Federal or State MCL for a constituent; 2) the background standard for a constituent for which no MCL has been promulgated; 3) the background standard for constituents for which that standard is higher than the MCL or a risk-based standard; and 4) the risk-based standard for constituents for which there are no MCLs.

The risk-based standard has been developed to be consistent with 40 CFR 258.55(i) (relating to assessment monitoring program). The proposed regulations include several factors that must be considered when using a risk-based standard for abatement. The factors identified are as follows: 1) the risk assessment used to establish the standard must assume that human receptors exist at the property boundary; 2) the level must be derived in a manner consistent with Department guidelines for assessing the health risks of environmental pollution; 3) the level must be based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards or other scientifically valid studies approved by the Department; and 4) for carcinogens, the level must represent a concentration associated with an excess lifetime cancer risk of 1×10^{-5} at the property boundary. The risk-based standard may not be used if a State or Federal MCL exists for the contaminant in question.

Section 273.291. Mineral resources.

Proposed changes to subsection (a) delete the prescriptive 25-foot coal seam and coal outcrop isolation distance, replacing it with a requirement that the operator isolate a coal seam, coal outcrop and coal refuse in a manner that prevents combustion of the waste and damage to the liner system. The requirement that the liner system be isolated from coal seams is not required by the Federal Subtitle D criteria, but is necessary to address conditions unique to the Commonwealth.

Section 273.292. Gas control and monitoring.

Proposed deletion of subsection (e)(3) deletes the standard for gas monitoring in areas adjacent to the permit area. The regulation continues to require the operator to control decomposition gases onsite to prevent danger to occupants of adjacent properties. The onsite monitoring serves as an early warning indicator of potential offsite migration.

Proposed changes in subsection (f) would require vents to be located at least 3 feet above the landfill surface if active forced ventilation is required. In addition, the two situations which trigger active forced ventilation are proposed to be stated in the alternative, a correction of the existing regulation. The Federal Subtitle D criteria include extensive requirements for explosive gas control, but do not include specific vent criteria. (40 CFR 258.23 (relating to explosive gases control)). This minimal criterion is necessary to vent the gas effectively without causing damage during landfill operations.

Section 273.293. Gas recovery.

The vent height for active forced ventilation is proposed to be deleted from subsection (a)(3) because it is redundant of proposed § 273.292(f). The requirement that gas, condensates or other residues that are hazardous must be managed under Chapters 260—265 and 270 is added to clarify questions that have arisen concerning management of residues that have resulted from the recovery of gas at operating facilities, and is the same as the existing residual waste regulations, § 288.263 (relating to gas recovery).

Section 273.301. Hazard prevention.

The emergency procedures in this section have been modified to delete information already required in the Preparedness, Prevention and Contingency (PPC) Plan.

Section 273.302. Emergency equipment.

Subsection (a)(3) has been amended to require that an adequate water supply be available for fire fighting equipment. The Federal Subtitle D criteria do not specify the type of emergency equipment that must be maintained at the site. The requirements in this proposed rulemaking are added to address concerns voiced by the Pennsylvania Fire Institute in discussions about the potential for fire with alternative daily cover.

Section 273.303. Implementation of contingency plan.

Subsections (b) and (c) are proposed to be restructured slightly to read the same as their existing residual waste counterparts in § 288.273 (relating to implementation of contingency plan). In addition, new language is proposed to be added to subsection (c)(2) to require Department approval of the resumption of operation after cleanup of an area affected by an emergency.

Section 273.311. Daily operational records.

Language is proposed to be added to subsection (b) requiring that the daily operational record include a record of rejected waste loads and the reasons for rejecting the loads. This requirement is not a requirement of the Federal Subtitle D recordkeeping requirements, 40 CFR 258.29 (relating to recordkeeping requirements), but has been added to help identify and track problem wastes that are rejected at municipal waste landfills.

Section 273.313. Annual operation report.

The proposed addition of language to subsection (b)(1) would authorize the Department to require an operator to include in its annual operation report plans showing cross-sections of the permit area every 100 feet showing the permitted elevations and the actual elevations. This authorization is proposed to assist the Department in verifying, among other things, that waste volumes reported are accurate and to help assure that capacity will not run out unexpectedly at the landfill. A proposed change in subsection (c) increases the fee that accompanies the annual operation report from \$1,800 to \$2,800 to cover increases in administrative costs.

Section 273.315. Recycling fee.

The termination date in subsection (a) for payment of the \$2 per ton recycling fee has been revised to extend the fee for an additional 5 years, in accordance with a recent Administrative Code revision made in the act of November 26, 1997 (P. L. 530, No. 57). The fee will now terminate on October 25, 2003.

Language from section 701(a) of Act 101 (53 P. S. § 4000.701(a)), is proposed to be added to subsection (b) concerning the exception for payment of the fee on process residue and nonprocessable waste from a resource recovery facility. Subsection (d), concerning payment of the fee for certain process residues, is proposed to be deleted in accordance with the Environmental Hearing Board's decision in *Mountain View Reclamation and Geological Reclamation Operations Waste Systems, Inc. v. Commonwealth of Pennsylvania, Department of Environmental Resources*, 1994 EHB 1790, striking it down.

Section 273.322. Closure.

In subsection (b), the reference to "partial closure" has been deleted and the language has been conformed to be consistent with the changes made to § 273.192 (relating to closure plan).

A new subsection (c) has been added to the proposed rulemaking that gives a person the option to continue to implement an approved abatement plan or modify a closure plan to address groundwater degradation that exists at closure or occurs after closure. If a person chooses to submit an application for a permit modification, the application must identify the remediation standards that will be met in accordance with the final closure certification requirements in § 271.342 (relating to final closure certification). The Department will accept the selection of remediation standards if the requirements of new subsection (d) are met, namely that: (1) technical information and supporting documentation of the remediation activities demonstrate that the standards will be met and maintained; and (2) if documentation of cooperation or an agreement is in place with a third party where a remedy relies on access to or use of a third party's property for remediation or monitoring.

*Additional Operating Requirements for Special Handling and Residual Wastes**Section 273.501. Scope.*

Subsections (a) and (c) are proposed to be revised to clarify that all special handling or residual waste "received" at a landfill must comply with the subchapter to clarify, for example, that waste used at the facility as cover material falls within this requirement. Additionally, subsection (c)(3)—(6) are proposed to be added as good management practices and are consistent with the existing and proposed residual waste regulations at § 288.423 (relating to minimum requirements for acceptable waste).

Section 273.513. Sewage sludge.

This section is proposed to be deleted and replaced with the requirement that sewage sludge received at a municipal waste landfill must first be stabilized.

*Chapter 277. Construction/Demolition Waste Landfills Application Requirements**Section 277.102. Modification to expand existing landfill.*

This new section is proposed to be added to the municipal waste regulations to authorize the expansion of construction/demolition waste landfills constructed with attenuating soil in limited situations. Other construction/

demolition waste landfills, both new landfills and expansions, will be required under this proposed rulemaking to be constructed with a liner.

Section 277.112. Facility plan.

The reference to an optional liner system is proposed to be deleted from paragraph (1) because this proposed rulemaking will eliminate the option to construct a construction/demolition waste landfill without a liner. In addition, paragraph (2) is proposed to be revised to focus on the amount of soil needed to construct and operate the facility because this information is important for purposes of calculating the bond.

Section 277.113. Maps and related information.

A requirement is added to subsection (a)(1) that the boundaries of the land within the proposed permit area be identified in the application. The proposed addition of a new subsection (b) would allow an applicant to use a different scale for the topographic map if approved by the Department. In addition, deletion of subsection (c), the requirement for a map or aerial photograph of the soil types, test pits and excavations taken under § 277.117 (relating to soils description) on the proposed permit area and adjacent area, has been proposed because the information has not proven useful for purposes of making a permit decision.

Section 277.115. Geology and groundwater description.

New subsections (a)(8) and (9) have been proposed to require the identification of wellhead protection areas that may be impacted by the facility and to require the submission of a groundwater contour map to describe the groundwater flow patterns. These provisions have been added to address wellhead protection regulations in Chapter 109 (relating to safe drinking water), promulgated since the municipal waste regulations were promulgated, and to address questions frequently raised by applicants and operators on background hydrogeologic information.

Section 277.116. Groundwater quality description.

Subsection (d) is revised to reflect a change in the title of § 277.283 (relating to standards for wells and casing of wells).

Section 277.117. Soils description.

Subsection (a)(1) has been revised to replace the requirement to provide a description of the soils in the permit application with the requirement for the application to describe the depth to the seasonal high water table to demonstrate that the seasonal high water table will not be in contact with the liner system. The soil information currently required is not necessary for new construction/demolition waste landfills because new facilities will require liners and lined landfills do not rely on soil attenuation. The demonstration that there is no contact with water is necessary to preserve the integrity of the liner system. The soils description is moved to proposed subsection (a)(3), where it is applied to an application for an expansion of an existing facility. Subsection (c) is revised to reflect that it applies only to expansions of facilities constructed with natural attenuation which meet the requirements of § 277.102 (relating to modification to expand existing landfill).

Section 277.120. Mineral deposits information.

Subsection (a) addresses the potential for mine subsidence. The proposed revisions modify it to read the same as § 273.120 (relating to mineral deposits information). Subsection (b) currently requires a permit applicant to

demonstrate that it owns the recoverable or mineable coals underlying the permit area and to warrant that the applicant will not mine the coal as long as waste remains on the site. Subsection (b) has been revised to expand the coverage to include the adjacent area and to include all mineable minerals to protect landfills from potential instability problems associated with mining activities.

Section 277.121. Notification of proximity to airport.

This proposed rulemaking includes a new section to require that a construction/demolition waste landfill permit applicant notify the Federal Aviation Administration, the Department and the airport if the proposed facility is within 5 miles of an airport runway end. This proposed regulation is added to be consistent with the Federal Subtitle D criteria for municipal waste disposal facilities (40 CFR Part 258) and to facilitate greater input on the feasibility of the location of the landfill.

Section 277.131. Basic requirements.

Subsection (c) is proposed to be revised to reflect the proposed deletion of § 277.164 (relating to application requirements for noncoal mine disposal).

Section 277.132. Operation plan.

Proposed changes to paragraph (1) require the applicant to include a plan for the inspection and monitoring of incoming waste to help ensure that waste not approved for receipt by the facility is not received and that waste will be rejected or specially addressed if it poses a problem. Paragraphs (3) and (4), which are the requirements to describe the type and size of equipment to be used at the facility and the plan for hiring and training personnel, have been deleted in this proposed rulemaking. Proposed changes to paragraph (6) clarify that the operating hours of the facility include time during which construction and operation activities will occur. This requirement will help the operator and the Department to minimize noise complaints.

Section 277.134. Plan for access roads.

Amendments to this section have been proposed to require that access roads be designed and constructed to handle truck traffic adequately. This requirement sets a performance standard by which to gauge the adequacy of proposed access roads.

Section 277.136. Nuisance minimization and control plan.

Several proposed changes have been made to this section. The title of this section has been amended to reflect the need to minimize nuisances during the facility planning stages. Subsection (a) has been modified to require that a plan be submitted that describes how nuisances will be minimized and controlled. By planning to control and minimize all nuisances, the expectation is that conditions that give rise to public nuisances will be abated. The Department's focus will be on ensuring the effectiveness of the operator's plan to minimize and control nuisances. Subsection (b) has been added to identify specific items that must be addressed in the plan. The plan must include the following: routine assessment and control of vector infestations; methods to minimize and control nuisances from odors, dustfall and noise levels off the property boundary from the facility; and for odors, a determination of normal and adverse weather conditions, based on site-specific meteorological data. The plan continues to allow the inclusion of contractual arrangements for the services of nuisance control professionals.

Section 277.138. Recycling plan.

An obsolete date reference is proposed to be deleted from this section. The analysis requirements in paragraph (1) are proposed to be deleted because they are redundant since to prepare a plan under paragraph (2) an applicant has to conduct an analysis.

Section 277.139. Daily volume.

This section is proposed to be added to codify a practice already in place, which is the setting of a limit on the amount of waste that may be received at a construction/demolition waste landfill on a daily basis. The proposed section requires the setting of a maximum and average daily volume, consistent with the requirements of § 273.140 (relating to daily volume) for municipal waste landfills. Establishing daily volumes involves, in part, analyzing odors, facility traffic and other factors under the environmental assessment of § 271.127 (relating to environmental assessment).

Section 277.141. Compaction and cover plan.

Revisions are proposed to this section to make it consistent with its counterpart governing municipal waste landfills, § 273.141 (relating to compaction and cover plan). This includes proposed revisions to paragraph (3) that reflect changes being made in the operating requirements for cover materials that largely eliminate design requirements in favor of performance standards. Specifically, this section will now require that an applicant specify the materials that will be used as cover and demonstrate that the materials and procedures for applying them will meet the performance standards in §§ 277.232 and 277.233 (relating to intermediate cover and slopes; and final cover and grading). A cross reference to the operating requirements is amended to reflect the deletion of an existing section in the operating requirements. Additionally, in paragraph (5), the requirement that an applicant provide copies of contracts for the cover materials that will be used at the landfill is eliminated.

Section 277.152. Water quality monitoring plan.

Subsection (a)(2) is proposed to be changed to refer to existing groundwater quality to avoid confusion with the term "background standard," which is now a defined term.

Section 277.161. Liner system and leachate control plan.

Subsection (a) is proposed to be revised to remove the precondition of a potential for water pollution because it relates to natural attenuation landfills which will not be authorized under this rulemaking. In subsection (c), the requirement that the leachate demonstration be based on the EPA Method 9090 compatibility test has been replaced with language that allows the demonstration to be based on EPA or ASTM guidelines approved by the Department. This change will allow applicants to keep up with changing standards and technology. A change is proposed to the language of subsection (d)(13) to require the applicant to provide information on the friction angle for any component that may be in contact with the liner. Also, in subsection (d)(19), a requirement has been added to identify in the permit application the percent of recycled material in the proposed liner.

Section 277.162. Leachate treatment plan.

Subsection (a) is proposed to be revised to remove the precondition of a potential for water pollution because it relates to natural attenuation landfills which will not be authorized under this rulemaking.

Section 277.163. Modifications in leachate treatment plan.

The cross reference to § 277.277 (relating to departmental notice and remedial action) is proposed to be revised to reflect the proposed revision to the title of § 277.277.

Section 277.164. Application requirements for noncoal mine disposal.

This section has been revised to apply only to existing facilities and expansions of existing facilities because new natural attenuation facilities will not be authorized under this rulemaking.

Section 277.192. Closure plan.

This section requires that a closure plan describe measures that will be taken toward and after closure. In subsection (a), the proposed regulations delete the reference to a postclosure period and clarify that the plan includes activities that occur toward and after closure. Subsection (b)(3) has been deleted because activities such as capping of cells in stages are considered activities that occur toward closure. Closure occurs only once at a landfill, the date the facility permanently ceases to accept waste. Subsection (b)(4) has been similarly revised to refer to activities that occur toward and after closure. A correlating change has been made to § 277.322(b) (relating to closure).

In subsection (b)(5)(vi), additional language has been proposed to specify that the plan include a description of maintenance of access control after closure. This amendment addresses questions concerning maintenance that have been raised in the field.

Operating Requirements

Section 277.201. Basic limitations.

Subsection (b) is proposed to be revised to clarify that information obtained by a person or municipality monitoring groundwater quality under § 277.116 (relating to groundwater quality description) without a permit may be used for a permit application for the proposed facility. An obsolete date has been deleted from subsection (j). In subsection (k), the phrase "generated outside the host county for a facility" is proposed to be deleted because the origin of the waste is not relevant to this prohibition. A new subsection (l) has been added that requires all approved mitigation measures identified in the application to be completed before waste may be accepted, unless a later date is authorized in writing by the Department for technical reasons. This requirement bolsters the importance of effective mitigation, which is stressed in the environmental assessment of § 271.127 (relating to environmental assessment).

Section 277.202. Areas where construction/demolition waste landfills are prohibited.

Several changes are proposed to this section to modify certain isolation distances for construction/demolition waste landfills and to clarify existing language. Landfills permitted prior to the date of publication of this regulation as final in the *Pennsylvania Bulletin* are not intended to be affected by the more stringent isolation distances proposed in this section when reissuance or renewal of the permit, or expansion of the permit area, is sought.

The lead-in language in subsection (a) is revised to clarify that the areas exempted from this regulation are those that were permitted as a construction/demolition waste landfill prior to 1988. Subsection (a)(1) is given the title "Floodplain."

Subsection (a)(2) is given the title "Wetland." It is proposed to be divided into two subparagraphs, the first containing the current 300-foot setback from an exceptional value wetland and the second adding a 100-foot setback from a wetland other than an exceptional value wetland. The 100-foot setback is applicable to construction/demolition waste landfills permitted on or after the date of publication of this regulation as final in the *Pennsylvania Bulletin*, but is not applicable to permit modifications for expansions issued after that date if the permit being modified was issued before that date. The 100-foot setback is added to protect valuable wetland resources and makes this isolation distance for construction/demolition waste landfills consistent with the proposed isolation distance for other municipal waste facilities. As in the proposed municipal waste landfill regulation, the 100-foot setback would not apply if storage, processing and disposal would not occur within 100 feet from the wetland and if either the operator has received the necessary permit under Chapter 105 to operate in or along the wetland or, for an operation not in or along a wetland, no adverse hydrologic or water quality impact will result from the landfill operation.

Subsection (a)(3) is given the title "Minerals," because it now applies to more minerals than just coal. It is proposed to be divided into two subparagraphs. Subparagraph (i) will retain the current prohibition against operating a construction/demolition waste landfill in coal bearing areas underlain by recoverable or mineable coals unless the operator does not own the coal nor have an agreement with the coal owner to provide support. A revision to subparagraph (i) indicates that this prohibition will have applied to landfill permits issued prior to the date of publication of this final regulation in the *Pennsylvania Bulletin* and will apply to expansions of facilities already permitted as of that date. Proposed subparagraph (ii), which will apply to landfill permits issued on or after publication of the final regulation, will prohibit operation of a landfill in areas underlain by mineable minerals, unless the operator owns the underlying minerals. The expanded coverage from coal to all mineable minerals will better protect landfills from potential instability problems associated with mining activities.

Subsection (a)(4) is proposed to be revised by the insertion of the title "Valley, ravine or head of hollow," and subsection (a)(5) is given the title "Limestone or carbonate formation." No changes are proposed to the text of these two paragraphs.

A substantive change is proposed to subsection (a)(6), which will now be entitled "Occupied dwelling." This paragraph is proposed to be divided into two subparagraphs. Subparagraph (i) will retain the current prohibition against operating a construction/demolition waste landfill within 300 feet of an occupied dwelling unless the owner of the dwelling provides written consent and against having the disposal area of a landfill within 500 feet of an occupied dwelling unless the owner of the dwelling provides written consent. A revision to subparagraph (i) indicates that this prohibition will have applied to landfill permits issued prior to the date of publication of this final regulation in the *Pennsylvania Bulletin* and will apply to expansions of facilities already permitted as of that date. Proposed subparagraph (ii), which will apply to landfill permits issued on or after publication of the final regulation, will prohibit operation of a landfill within 300 yards of an occupied dwelling unless the owner of the dwelling provides written consent. This proposed revision will help to reduce complaints from nearby dwellings concerning noise, odors and nuisances.

It is drawn from the isolation distance in section 511 of Act 101, of 300 yards from a school, park or playground for municipal waste landfills, resource recovery facilities and commercial residual waste treatment facilities.

Subsection (a)(7) is proposed to be revised by the insertion of the title "Perennial stream," and subsection (a)(8) is given the title "Property line." No changes are proposed to the text of these two paragraphs.

Subsection (a)(9) is entitled "Water source," and is modified to be consistent with the water source isolation distance proposed for municipal waste landfills in § 273.202 by adding subparagraphs (i)—(iii). (Subparagraphs (i)—(iii) currently exist in subsection (b)).

Subsection (a)(10), which prohibits operation of a landfill within 25 feet of a coal seam, a coal outcrop or coal refuse, is proposed to be deleted because its purpose—adequate protection from fires—can be adequately addressed in the design of a facility. To address fire protection in the facility design, the Department proposes in § 277.291 (relating to mineral resources) to require a landfill operator to isolate coal seams, coal outcrops and coal refuse from waste deposits in a manner that prevents combustion of the waste.

A new subsection (a)(10) is proposed to be added to the regulation relating to schools, parks and playgrounds. It is entitled "School, park, playground." It prohibits operation of a new construction/demolition waste landfill permitted on or after the date of publication of this final rulemaking in the *Pennsylvania Bulletin* within 300 yards of a school, park or playground. The property owner of the park, playground or school may provide a written waiver consenting to the facility being closer than 300 yards. This requirement is drawn from the isolation distance in Act 101 of 300 yards from a school, park or playground for municipal waste landfills, resource recovery facilities and commercial residual waste treatment facilities.

Subsection (b) is deleted because it has been incorporated into subsection (a)(9). Subsections (c) and (d) are renumbered and a cross reference corrected. A correction of the word "municipal" to "construction/demolition" is made in subsection (c).

Section 277.203. Certification.

Subsection (a)(6) is revised to indicate that natural attenuation is only available at existing permitted landfills and expansions thereto. Another proposed revision to this section adds "construction of the landfill gas extraction system" to the list of major construction activities for which the operator must submit a certification by a professional engineer upon completion, in subsection (a)(11). A new subsection (d) is proposed to clarify that closure and final closure activities will not be deemed complete until the Department has certified completion of closure and final closure of a landfill.

Section 277.211. Signs and markers.

In subsection (a), proposed changes eliminate the prescriptive language about the size and content of signs and replace the requirement with a performance standard that the sign can be easily seen and read.

Section 277.212. Access control.

The requirement in subsection (b) for an operator to construct a fence or other barrier around the site is proposed to be deleted as being redundant. The requirement is expressed in the remaining requirement that the operator "maintain" a fence or other barrier.

Section 277.213. Access roads.

Protection of wetlands is proposed to be added to subsection (b). This change is consistent with a proposed change in the other chapters in Article VIII. Deletion of the phrase "sediment control" from subsection (c) is proposed because not all of the measures to be considered concern sediment control.

Proposed changes to subsections (e) and (g) differentiate between access roads leading to the disposal area and those leading to ancillary structures. Subsection (e) has been changed to apply to access roads leading to the disposal area. As a result, there will be no specified minimum cartway width for access roads not leading to the disposal area. Subsection (g) has been changed to remove the requirement that an access road to a treatment facility, impoundment or groundwater monitoring point be negotiable by loaded collection vehicles.

Subsection (h), which requires that an access road be constructed on a dry and stable area, has been deleted. The performance standards in this section are sufficient to direct the safe construction of access roads. Subsection (i), which contains the prescriptive requirements that any topsoil be removed prior to construction of an access road and be immediately used as final cover or stored, has been deleted. The landfill operator may determine the best use for the soil.

Section 277.214. Measurement and inspection of waste.

This section is proposed to be changed to require inspection of waste in addition to measurement of waste. The title is changed to reflect this.

Section 277.215. Equipment.

In subsection (b), the requirement that standby equipment must be located on the site or at a place where it can be available within 24 hours has been deleted. This requirement is redundant of the requirement in subsection (a) that the operator maintain on the site equipment necessary for the operation of the facility in accordance with the permit.

Section 277.216. Unloading and compaction.

The 8-foot depth of each lift is proposed to be deleted from subsection (c) as an unnecessarily prescriptive regulation. Subsection (e) is proposed to be deleted because the requirement is addressed in § 277.246 (relating to attenuating soil base).

Section 277.217. Air resources protection.

Proposed changes to this section clarify the requirements that currently exist in this section. In subsection (a), the changes include cross referencing Article III (relating to air resources) and the nuisance minimization and control requirements of § 277.218 (relating to nuisance minimization and control). In subsection (a)(3), a requirement to minimize the generation of fugitive dust emissions from the facility has been added. In subsection (b), new language has been added requiring that the operator comply with the terms and conditions of any air quality plan approval and air quality operating permit issued to the facility.

Section 277.218. Nuisance minimization and control.

Several proposed changes have been made to this section. The title of this section has been amended to reflect the need to minimize nuisances during the operational phase of the facility. The nuisance minimization and control plan approved under § 271.136 should be implemented to control and minimize all nuisances such that conditions that give rise to public nuisances will be

abated. Subsection (b) has been modified to require that an operator minimize and control public nuisances. The Department's focus will be on ensuring that the operator implement its nuisance minimization and control plan effectively. The operator will be responsible for minimizing and controlling public nuisances as they arise during operations. A new subsection (c) has been added to specifically address the minimization and control of odors. In addition to implementing the nuisance minimization and control plan, the operator must perform site inspections to evaluate the effectiveness of its waste management practices in reducing the potential for offsite odor creation. Also, the operator must promptly address any problems or deficiencies discovered in the course of the site inspections.

Section 277.221. Daily volume.

This section is proposed to be added to be consistent with the proposed addition to the application requirements of § 277.139 (relating to daily volume).

Section 277.231. Topsoil storage.

This section has been deleted in this proposed rulemaking because the volume of topsoil at these sites is inadequate or, in some cases, nonexistent for use as final cover. The operator is required upon closure to supply the necessary soil. The bond calculations include the price of purchasing acceptable soil, if necessary.

Section 277.232. Intermediate cover and slopes.

The requirement that intermediate cover be at least 1 foot in thickness is proposed to be moved from subsection (a) to subsection (c) to allow other materials and methods to be used under the equivalency review process. The performance standard in subsection (b)(3), that intermediate cover be noncombustible and prevent the spread of combustion, is proposed to be revised to require that cover be capable of controlling fires. This is consistent with existing requirements for daily cover at municipal waste landfills and with proposed revisions to intermediate and final cover requirements for municipal waste landfills. Subsection (b)(4) is proposed to be added to require that the cover material be consistent with the waste acceptance plan for the facility. This takes into account, among other things, the use of waste as cover material. Subsection (b)(6) is proposed to be added to require that intermediate cover control infiltration of precipitation and erosion and sedimentation. Proposed subsection (b)(7) indicates that germination and propagation of vegetative cover will be required if necessary to control infiltration of precipitation and erosion and sedimentation.

Changes are also proposed to the design standards in subsection (c) by deleting most of the design standards for soil and replacing them with the performance standards. The detailed soil requirements are no longer necessary for purposes of intermediate cover, especially because the proposed regulations allow for alternatives to soil to be used for intermediate cover. This proposed revision only maintains two design requirements for intermediate cover that are applicable to soil and soil-like materials. Changes in subsection (e) clarify that if vegetation is to be used it must be established within 30 days. Changes in subsection (f) require that slopes constructed during intermediate cover activities (not just during landfilling) may not exceed 50%.

Section 277.233. Final cover and grading.

In subsection (a), the prescriptive design standards for the cap have been reduced and performance standards

have been added to provide greater flexibility. Subsection (a)(3) is modified to indicate that a layer of soil shall be placed over the drainage layer. This is consistent with the municipal waste landfill requirements. Authority in subsection (b) for the Department to waive the cap and drainage layer requirements is proposed to be revised to apply only to existing facilities and expansions of existing facilities based on natural attenuation. A new subsection (c) enables an operator to obtain an equivalency review for alternative cap designs. In subsection (d), the layer of material placed over the drainage layer will now have to be capable of controlling fires and will have to ensure slope stability, in addition to the other requirements. The requirements that the layer cover waste without change in its properties and without regard to weather, and that it compact well and not crack excessively when dry, are deleted because they have not proven necessary. Subsection (e) is revised to read the same as the proposed revision to the municipal waste landfill requirements found in § 273.234(d) (relating to final cover and grading).

Section 277.241. General requirements.

Subsection (c) is proposed to be revised to protect all waters, not just groundwater, from pollution and to read consistently with the proposed revision for the other municipal waste facilities.

Section 277.245. Water supply replacement.

Revisions are proposed to subsections (a)—(c) to clarify that this section applies to activities that "adversely" affect the water supply. This is consistent with the proposed revisions for the other municipal waste facilities.

Section 277.251. Scope and requirements.

Subsection (a) is revised to indicate that a liner is required for all construction/demolition waste landfills other than an existing landfill based on natural attenuation or an expansion thereof.

Revisions are proposed to subsections (b)(2) and (4) to allow the use of materials other than soil or earthen materials in the landfill liner's leachate detection zone, protective cover and leachate collection zone.

Section 277.252. General limitations.

In subsection (a), a change has been proposed to the requirement that 4 feet exist between the top of the subbase of the liner system and the seasonal high water table. The revision requires that the bottom of the subbase cannot be in contact with the seasonal high water table or perched water table. The prescriptive buffer between the liner system and the seasonal high water table has been replaced with a performance standard to prevent contact between the two. In subsection (a)(2), the drainage systems may now be used to prevent contact between the bottom of the subbase and the water tables rather than to maintain the 4-foot isolation distance. This change is consistent with the other changes in subsection (a). Subsection (b) is adjusted to indicate that the regional groundwater table may not be artificially lowered. Subsection (c) is added to be consistent with the proposed revision to the municipal waste landfill regulations, § 273.252 (relating to general limitations). It requires an 8-foot isolation distance for confined aquifers from the top of the subbase to the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs.

Section 277.253. Subbase.

The design requirements in subsection (b) are proposed to be deleted. Existing subsection (b)(2) is proposed to be deleted because the necessary minimum bearing capacity of the subbase is determined by the design of the facility. The design requirement in subsection (b)(3), now subsection (b)(2), is revised to exempt from its applicability situations in which the clay component of a composite liner is designed and constructed directly above the subbase because the clay component will provide sufficient protection. Subsection (b)(5), renumbered as (b)(4), is proposed to be revised to increase the permissible subbase slopes from 25% to 33% because construction on steeper slopes has proven to be effective.

Section 277.254. Leachate detection zone.

The design requirement in subsection (b)(2) is proposed to be revised to allow materials up to 0.5 inch in particle size to be contained in the leachate detection zone of a liner system, from the current limit of 0.25 inch. The revision would correlate with the 0.5 inch restriction in the residual waste program, which has proven successful. The design requirement in subsection (b)(4)(ii), prohibiting the distance between pipes from exceeding 100 feet, is proposed to be deleted because it has not proven necessary for an effective system. A minimum postsettlement grade of 2% is proposed to be added to new subsection (b)(4)(ii) to be consistent with the proposed revisions to the municipal waste landfill regulations, at § 273.255 (relating to leachate detection zone). Additionally, the requirement in subsection (b)(4)(v) that rounded noncarbonate stones or aggregates be placed around the piping system is proposed to be revised and moved to subsection (b)(6) to indicate that noncarbonate stone or aggregates without sharp edges are to be used.

Subsection (d) is proposed to be modified to indicate that the operator shall take steps when average flow of liquid in the leachate detection zone exceeds 10 gallons per acre per day. This modification is proposed because liquid in an amount less than this may be present due to minor imperfections in the liner installation, but does not indicate a threat to the performance of the liner system. Subsection (d)(3) is proposed to be revised to indicate that the Department may require sampling and analysis for constituents other than those indicated in this section depending upon the specific characteristics of waste approved for disposal at the facility.

Subsection (e) is proposed to be revised to state that the operator shall take certain steps when the volume of leachate in the leachate detection zone exceeds 100 gallons per acre per day or more than 10% of leachate generation. These are generally accepted levels based upon historic liner installation and operation experience. Subsection (f) is proposed to be revised to change "pollution" to "degradation" of groundwater, consistent with the rest of this proposed rulemaking.

Section 277.255. Liner.

In subsection (b), the words "at a minimum" were added to allow for the use of liner that meet or exceed the design requirements in Table I without an equivalency demonstration. Subsection (f) is added to state that a construction/demolition waste landfill or a component thereof may not have a liner based upon natural attenuation of leachate. This change is proposed to eliminate the risk of failure of a natural attenuation "liner" for construction/demolition waste. Note that for existing facilities constructed with attenuating soil and expansions of

those facilities, this requirement may be waived under proposed § 277.102 (relating to modification to expand existing landfill).

Section 277.256. Protective cover.

The design requirements in subsection (b) are proposed to be revised to increase the allowable diameter of solid material from one quarter inch to one half inch, based on acceptable industry practices that have been approved through the equivalency review process, and to delete the requirement that the protective cover be uniformly compacted and smooth because in some instances compacting protective cover may reduce desired infiltration and may damage the leachate detection zone within the protective cover.

Section 277.257. Leachate collection system within protective cover.

The proposed rulemaking amends subsection (a)(2) to authorize the Department to condition a permit to allow the depth of leachate on or above the primary liner to exceed 1 foot for sump areas because a sump area is used for collection of leachate and frequently exceeds 1 foot of head. An exceedance may also occur for a 25-year, 24-hour precipitation event where the 1 foot of head will be exceeded for less than 3 days to address exceptional precipitation events. This revision is intended to address two situations in which exceedance of the 1-foot limit should not pose a problem.

Section 277.259. Noncoal mine disposal.

This section has been revised to apply only to existing facilities and expansions of existing facilities because new natural attenuation facilities will not be authorized under this rulemaking.

Section 277.272. Basic treatment methods.

Subsection (a) is proposed to be revised to clarify the pretreatment condition so as to read consistently with the proposed revision to the municipal waste landfill regulation, § 273.272 (relating to basic treatment methods).

Section 277.274. Leachate recirculation.

Subsection (a) is slightly restructured and a prohibition against recirculating leachate which is a hazardous waste is proposed to be added to comport with proposed revisions to the municipal waste landfill regulation, § 273.274 (relating to leachate recirculation).

Section 277.275. Leachate collection and storage.

Subsection (b), concerning the onsite leachate storage system, is proposed to be revised to be consistent with the proposed revision to the municipal waste landfill regulation, § 273.275 (relating to leachate collection and storage).

Section 277.276. Leachate analysis and sludge handling.

Subsection (a) is proposed to be revised to be consistent with the proposed revision to the municipal waste landfill regulation, § 273.276 (relating to leachate analysis and sludge handling). This shifts the quarterly leachate analysis requirement predominantly to a performance standard. In addition, proposed changes in subsection (a)(2) allow the Department to modify the frequency or chemical constituents of leachate testing if the facility operator demonstrates after four quarters of testing that this will not compromise groundwater protection.

Section 277.277. Departmental notice and remedial action.

The title and paragraph (1) are proposed to be revised to be consistent with the proposed revision to the municipal waste landfill regulation, § 273.277 (relating to departmental notice and remedial action). This does not involve substantive changes.

Section 277.281. General requirements.

This section is proposed to be revised to be consistent with the proposed revisions to the municipal waste landfill regulation, § 273.281 (relating to general requirements) by adding the word "contaminants" and "groundwater" to subsection (a) and by restructuring subsection (b).

Section 277.282. Number, location and depth of monitoring points.

Subsections (a) and (e) are proposed to be revised to be consistent with the proposed revisions to the municipal waste landfill regulation, § 273.282 (relating to number, location and depth of monitoring points).

Subsection (b)(3) has been modified to require that additional wells be located at the compliance points, which are different from the existing monitoring points. Existing subsection (e) has been deleted because it is no longer necessary to require that monitoring and compliance wells be drilled by drillers licensed under the Water Well Drillers License Act. Section 277.152 (relating to water quality monitoring plan) requires that an applicant demonstrate that the monitoring wells will accurately measure groundwater quality. The details of well construction are included in this demonstration. Without specifying who must drill the wells, the Department has maintained the design and performance standards that must be met.

Section 277.283. Standards for wells and casing of wells.

This section is proposed to be revised to reflect improvements in technology and to be consistent with the proposed revisions to the municipal waste landfill regulation, § 273.283 (relating to standards for wells and casing of wells). The revisions involve adding requirements in subsection (a) for the monitoring well screen; adding a requirement in subsection (b) that a monitoring well be filter-packed; adding a requirement in subsection (c)(1) that the casing material not react with groundwater; deleting the requirement in subsection (c)(3) that the casing be screened or perforated and adding a requirement that the monitoring well casing be clearly visible; adding a requirement in subsection (c)(4) to prevent cross contamination between surface water and groundwater; adding a requirement to subsection (d)(2) that the protective casing have a maximum stick up of 3 feet unless otherwise approved; adding a performance standard to subsection (d)(4) that the protective casing be numbered for identification with a label capable of withstanding field conditions; and deleting the prescriptive requirement in subsection (d)(5) that the protective casing protrude 1 inch higher than the monitoring well casing.

Section 277.284. Sampling and analysis.

Several changes to the quarterly and annual sampling analysis requirements for each monitoring point are proposed in paragraphs (1) and (3) to make this regulation consistent with the proposed revisions to the municipal waste landfill regulation, § 273.284 (relating to sampling and analysis).

Section 277.286. Groundwater assessment plan.

In subsection (a), the time available to prepare and submit a groundwater assessment plan has been extended from 30 to 60 days because field experience has demonstrated that more than 30 days is necessary to evaluate the causes of degradation and to prepare a report explaining exceedances at the monitoring points. Also, a fate and transport analysis must be performed to determine the rate and direction of migration of contaminants in the groundwater. In subsection (a)(2), the requirement that the water supply degradation that could trigger assessment be contiguous is deleted because assessment should occur if the landfill affects a water supply, regardless of its location. This is the approach currently taken in the residual waste regulations, § 288.256 (relating to groundwater assessment plan).

Subsection (b) is revised to be consistent with § 288.256(b) of the residual waste regulations through minor revisions to paragraph (1) and through addition of paragraph (2) concerning degradation from facility construction or seasonal variations.

A new subsection (c)(5) has been added to require the identification in the assessment plan of the abatement standard that will be met. By requiring this information in an assessment plan, the operator must plan for the likelihood of implementing abatement where the fate and transport analysis indicates there will be a problem.

Language is proposed to be added to subsection (d) requiring the landfill operator to notify in writing each water supply owner located within 1/2 mile downgradient when an assessment has been initiated. This requirement is added to provide adequate notification to water supply owners whose water supply may be affected in the future by contamination. This requirement currently exists in the residual waste regulations, § 288.256.

Section 277.287. Abatement plan.

In subsection (a)(1), the triggers for requiring abatement have been revised. Abatement is required when one of the following occurs: 1) the groundwater assessment plan shows the presence of groundwater degradation at the monitoring points (within 200' of the permitted disposal area) and the fate and transport analysis indicates that an abatement standard will not be met; or 2) monitoring by the Department or the operator shows the presence of an abatement standard exceedance from one or more compliance points.

A new subsection (c) is proposed to establish a deadline for submittal of an abatement plan to the Department. This is consistent with the residual waste requirement in existing § 288.257(d) (relating to abatement plan).

The proposed amendments include a new subsection (d) which establishes the abatement standards that must be met. The point of compliance for the abatement standards is 150 meters or the property boundary, whichever is closer. The abatement standards are identified as follows: 1) the Federal or State MCL for a constituent; 2) the background standard for a constituent for which no MCL has been promulgated; 3) the background standard for constituents for which that standard is higher than the MCL or a risk-based standard; and 4) the risk-based standard for constituents for which there are no MCLs.

The risk-based standard has been developed to be consistent with 40 CFR 258.55(i) (relating to assessment monitoring program). The proposed amendments include several factors that must be considered when using a risk-based standard for abatement. The factors identified

are as follows: 1) the risk assessment used to establish the standard must assume that human receptors exist at the property boundary; 2) the level must be derived in a manner consistent with Department guidelines for assessing the health risks of environmental pollution; 3) the level must be based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards or other scientifically valid studies approved by the Department; and 4) for carcinogens, the level must represent a concentration associated with an excess lifetime cancer risk of 1×10^{-5} at the property boundary. The risk-based standard may not be used if a State or Federal MCL exists for the contaminant in question.

Section 277.291. Mineral resources.

Proposed changes to subsection (a) delete the prescriptive 25-foot coal seam and coal outcrop isolation distance, replacing it with a requirement that the operator isolate a coal seam, a coal outcrop and coal refuse in a manner that prevents combustion of the waste and damage to the liner system.

Section 277.292. Gas control and monitoring.

This section is proposed to be revised to state the standard by which the need to implement a gas control and monitoring program is triggered. The trigger is if waste disposed at the facility generates, or is likely to generate, gas.

Section 277.301. Hazard prevention.

The emergency procedures in this section have been modified to delete information already required in the PPC Plan.

Section 277.302. Emergency equipment.

Subsection (a)(3) has been amended to require that an adequate water supply be available for fire fighting equipment.

Section 277.303. Implementation of contingency plan.

Subsections (b) and (c) are proposed to be restructured slightly to read the same as the proposed revisions to § 273.303 (relating to implementation of contingency plan). In addition, new language is proposed to be added to subsection (c)(2) to require Department approval of the resumption of operation after cleanup of an area affected by an emergency.

Section 277.311. Daily operational records.

Language is proposed to be added to subsection (b) requiring that the daily operation record include a record of rejected waste loads and the reasons for rejecting the loads. This requirement has been proposed to help identify and track problem wastes that are rejected at construction/demolition waste landfills.

Section 277.312. Annual operation report.

A proposed change in subsection (c) increases the fee that accompanies the annual operation report from \$1,100 to \$2,800 to cover increases in administrative costs.

Section 277.322. Closure.

In subsection (b), the reference to "partial closure" has been deleted and the language has been conformed to be consistent with the changes made to § 277.192 (relating to closure plan).

A new subsection (c) has been added to the proposed rulemaking that gives a person the option to continue to implement an approved abatement plan or modify a

closure plan to address groundwater degradation that exists at closure or occurs after closure. If a person chooses to submit an application for a permit modification, the application must identify the remediation standards that will be met in accordance with the final closure certification requirements in § 271.342 (relating to final closure certification). The Department will accept the selection of remediation standards if the requirements of new subsection (d) are met, namely that: (1) technical information and supporting documentation of the remediation activities demonstrate that the standards will be met and maintained; and (2) if documentation of cooperation or an agreement is in place with a third party where a remedy relies on access to or use of a third party's property for remediation or monitoring.

Chapter 279. Transfer Facilities

General

Section 279.1. Scope.

The proposed amendments include a new subsection (b) that allows the Department to waive or modify a requirement of this chapter for permitted transfer facilities at which no actual loading, unloading or transferring of waste occurs, if the absence of the loading, unloading or transferring activity renders the requirement unnecessary.

Application Requirements

Section 279.101. General requirements.

The proposed revision to subsection (b) would allow an applicant to use a different scale for the maps, plans and cross sections submitted in the application, if approved by the Department.

Section 279.102. Operating plan.

The proposed revision to subsection (c) deletes the requirement that an application contain a plan for hiring certain personnel. As revised, the regulation requires an application to contain a plan for training the personnel and comports with the existing residual waste transfer facility counterpart, § 293.102(c) (relating to operating plan).

Section 279.103. Maps and related information.

Several changes are proposed to subsection (a). Subsection (a)(4) is proposed to be revised to require the application to identify water sources located on or within 1/4 mile of the proposed facility instead of identifying those located on the proposed permit area and adjacent area. This revision describes the "adjacent area" for purposes of this subsection as 1/4 mile beyond the permit area. Given the limited potential of transfer facilities to affect local water supplies and based on experience in the municipal and residual waste programs, a 1/4 mile radius calls for sufficient permit information to determine the suitability of the site location. Subsection (a)(4) also has provisions to limit the number of wells specifically identified when a large number of wells exists. Language is proposed to be added to subsection (a)(7) to indicate that anticipated locations of water quality monitoring points must only be identified in the application if the Department requires monitoring. Subsection (a)(14) is amended to clarify that the application needs to show proposed "unloading" areas. Subsection (a)(16) is amended to require the horizontal and vertical dimensions of buildings and related facilities to be stated in the application.

Deletion of subsection (b), the requirement for a map or aerial photograph of the site boundaries and soil types,

has been proposed because the information has not proven useful for purposes of making a permit decision.

Section 279.104. Plan for access roads.

Amendments to this section have been proposed to require that access roads be designed and constructed to handle truck traffic adequately. This requirement sets a performance standard by which to gauge the adequacy of proposed access roads.

Section 279.105. Soil erosion and sedimentation control plan.

The title of this section is proposed to be changed to make it the same as that in the other chapters in Article VIII.

Section 279.106. Soil and groundwater monitoring plan.

In subsection (a), the word "pollution" has been changed to "groundwater degradation" to provide clarity to the monitoring program. "Groundwater degradation" is a defined term in § 271.1.

Section 279.109. Contingency plan.

A typographical error is proposed to be corrected in this section.

Section 279.121. Recycling plan.

An obsolete date reference is proposed to be deleted from this section. The analysis requirements in paragraph (1) are proposed to be deleted because they are redundant since to prepare a plan under paragraph (2) an applicant has to conduct an analysis.

Operating requirements

Section 279.201. Basic limitations.

Subsection (d) is proposed to be revised to prohibit storage and processing of explosive waste at a transfer facility. In subsection (f), the phrase "generated outside the host county for a facility" is proposed to be deleted because the origin of the waste is not relevant to this prohibition. A new subsection (h) has been added that requires all approved mitigation measures identified in the application to be completed before waste may be accepted, unless a later date is authorized in writing by the Department for technical reasons. This requirement bolsters the importance of effective mitigation, which is stressed in the environmental assessment of § 271.127 (relating to environmental assessment).

Section 279.202. Areas where transfer facilities are prohibited.

Several changes are proposed to this section to modify certain isolation distances for transfer facilities and to clarify existing language. Transfer facilities permitted prior to the date of publication of this regulation as final in the *Pennsylvania Bulletin* are not intended to be affected by the more stringent isolation distances proposed in this section when reissuance or renewal of the permit, or expansion of the permit area, is sought.

The lead-in language in subsection (a) is revised to clarify that the areas exempted from this regulation are those that were permitted as a transfer facility prior to 1988. Subsection (a)(1) is given the title "Floodplain."

Subsection (a)(2) is given the title "Wetland." It is proposed to be divided into two paragraphs, the first containing the current 300-foot setback from an exceptional value wetland and the second adding a 100-foot setback from a wetland other than an exceptional value wetland. The 100-foot setback is applicable to transfer facilities permitted on or after the date of publication of

this regulation as final in the *Pennsylvania Bulletin*, but is not applicable to permit modifications for expansions issued after that date if the permit being modified was issued before that date. The 100-foot setback is added to protect valuable wetland resources and makes this isolation distance for transfer facilities consistent with the proposed isolation distance for other municipal waste facilities. The 100-foot setback would not apply if storage and processing would not occur within 100 feet from the wetland and if either the operator has received the necessary permit under Chapter 105 to operate in or along the wetland or, for an operation not in or along a wetland, no adverse hydrologic or water quality impact will result from the landfill operation.

Subsection (a)(3), which will now be entitled "Occupied dwelling," is clarified to read that a waiver of the 300-foot isolation distance from an occupied dwelling may be obtained from the property owner, as opposed to the "current" property owner. This revision is consistent with the existing residual waste transfer facility regulation, § 293.202 (relating to areas where transfer facilities are prohibited).

Subsection (a)(4) is proposed to be revised by the insertion of the title "Perennial stream." As in subsection (a)(2)(ii), an exception to this isolation distance is added to cover situations in which the storage and processing take place in an enclosed facility and no adverse impacts to the perennial stream will result. A proposed alternative exception is available if the facility transfers wastes to barges at the transfer facility location.

Subsection (a)(5) is given the title "Property line." This subsection, as it currently exists, establishes a 50-foot setback from a property line and allows an exception if actual processing of waste is not occurring within 50 feet. This exception is proposed to be replaced by an exception that applies if storage and processing take place in an enclosed facility or if the adjacent property owner has consented in writing to the facility being closer to reflect current industry practice. In addition, the exception for processing in an enclosed facility is proposed because the adverse impacts which this subsection is designed to prevent—for example, noise, dust, odors—should not occur if storage and processing are fully enclosed. The exception for adjacent property owner consent is proposed because adjacent property owners are the intended beneficiaries of this subsection and should be able to waive the protection if they wish. The adjacent property owner consent is also proposed in response to the Petition for Rulemaking submitted by Waste Management East, Inc., December 12, 1995, under § 23.6 (relating to Department report), and ruled on by the Board on August 20, 1996.

A new buffer requirement has been added to the proposed rulemaking. Under subsection (a)(6), a facility may not be located within 300 yards of a park, school or playground. The property owner of the park, playground or school may provide a written waiver consenting to the facility being closer than 300 yards. This requirement is drawn from the isolation distance in Act 101 of 300 yards from a school, park or playground for municipal waste landfills, resource recovery facilities and commercial residual waste facilities.

Section 279.211. Signs and markers.

In subsection (a), proposed changes eliminate the prescriptive language about the size and content of signs and replace the requirement with a performance standard that the sign can be easily seen and read. The signage requirement is also applied to recycling drop-off centers.

Proposed structural modifications to subsection (b) make it read the same as its corollaries in other chapters of this Article.

Section 279.212. Access control.

The requirement for an operator to construct a fence or other barrier around the site is proposed to be deleted as being redundant. The requirement is expressed in the remaining requirement that the operator "maintain" a fence or other barrier.

Section 279.213. Access roads.

Protection of wetlands is proposed to be added to subsection (b). This proposed revision is consistent with the revisions proposed for other municipal waste facilities. The specific requirements in subsection (c) for construction of the drainage systems for access roads are proposed to be deleted because the performance standards in subsection (c) and the proposed requirement that the drainage system comply with Chapter 102 offer sufficient guidance.

In subsection (d), language has been added that requires Departmental approval in a permit for the use of materials equivalent to asphalt, gravel or cinders in paving access roads. This requirement was added to allow the Department to review materials proposed for use prior to their application to the site. A requirement has also been added to subsection (d) to require an access road to be capable of withstanding the load limits of the vehicles that will be using it. This is consistent with the existing residual waste transfer facility requirements in § 293.213 (relating to access roads).

A new performance standard, subsection (h), has been added to require that an access road be maintained to control dust and to prevent and control the tracking of mud on and off site.

Section 279.215. Operations and equipment.

In subsection (c), the requirement that standby equipment be located on the site or at the place where it can be available within 24 hours has been deleted. This requirement is redundant of the requirement in subsection (b) that the operator maintain on the site equipment necessary for the operation of the facility in accordance with the permit. In subsection (e), a separate frequency for cleaning equipment used to handle putrescible waste has been eliminated to allow for flexibility in the cleaning frequency based on the specific waste type. The proposed regulations include a new subsection (f) that requires an operator of a transfer facility to inspect and monitor incoming waste for consistency with this article and the permit and to monitor for radioactive isotopes. This new requirement was added to address problems that have occurred at landfills that receive problem wastes from transfer facilities.

Section 279.216. Unloading area.

A proposed change to subsection (b) authorizes drains or treatment systems to be connected to a sanitary sewer system if certain conditions are met. This is consistent with the existing residual waste regulations, § 293.216 (relating to unloading area). For areas where a facility cannot be feasibly connected to a sanitary sewer system, additional language authorizes leachate to be collected in holding tanks prior to its transport to a sewage treatment plant.

Section 279.217. Cleaning and maintenance.

A proposed change to subsection (d) authorizes drains or treatment systems to be connected to a sanitary sewer

system if the same conditions proposed in § 279.216(b) are met. This is consistent with the existing residual waste regulations, § 293.217 (relating to cleaning and maintenance).

Section 279.218. Air resources protection.

Proposed revisions to this section are intended to clarify it.

Section 279.219. Nuisance control.

The performance standard in subsection (a) of the proposed regulations has been changed from a prohibition against causing or allowing vectors to an affirmative requirement that vectors be controlled and minimized. In subsection (b), the performance standard prohibiting an operator from causing or allowing conditions that are harmful or that create nuisances has been changed to a performance standard requiring the control and minimization of the conditions which could give rise to a nuisance. The level of protection the public will receive is the same under the existing and the proposed requirements. This proposed regulation more accurately reflects standard practices for nuisance control.

Section 279.221. Litter.

A minor revision to this section is intended to clarify it.

Section 279.231. General requirements.

Proposed revisions clarify this section and are consistent with the existing and proposed revisions to this section in the residual waste regulation, § 293.231 (relating to general requirements).

Section 279.232. Soil erosion and sedimentation control.

A cross reference to Chapter 102 has been added to paragraph (1) to indicate that compliance with that chapter is required.

Section 279.233. Soil and groundwater monitoring.

A minor revision to this section is intended to clarify it.

Section 279.234. Water supply replacement.

This section is proposed to be added to be consistent with existing requirements for municipal waste landfills and construction/demolition waste landfills and revisions thereto, as well as proposed revisions applicable to other municipal and residual waste facilities. Subsection (a) requires an operator adversely affecting a water supply to restore or replace it at no cost to the owner. Subsections (b) and (c) state time restrictions for providing temporary and permanent water supplies. Subsection (d) explains what qualifies as a permanent water supply for purposes of water supply replacement. Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply. A permanent water supply does not include provision of bottled water or a water tank supplied by a bulk water hauling system.

Section 279.242. Emergency equipment.

The proposed revision to subsection (a)(3) deletes the requirement that a transfer facility have self-contained breathing apparatus because this level of protection may not be necessary for all transfer facilities. If it is necessary, the operator may make it available or use equipment supplied by emergency response crews.

Section 279.243. Implementation of contingency plan.

Subsections (b) and (c) are proposed to be restructured slightly to read the same as their existing residual waste counterparts in § 293.243 (relating to implementation of

contingency plan). In addition, new language is proposed to be added to subsection (c)(2) to require Department approval of the resumption of operation after cleanup of an area affected by an emergency.

Section 279.251. Daily operational records.

Language is proposed to be added to subsection (b) requiring that the daily operational record include a record of rejected waste loads and the reasons for rejecting the loads. This requirement has been added to help identify and track problem wastes that are rejected at municipal waste landfills.

Section 279.252. Annual operation report.

A proposed change in subsection (c) increases the fee that accompanies the annual operation report from \$600 to \$700 to cover increases in administrative costs.

Section 279.262. Cessation of operations.

Standards for determining whether to allow discontinuance of monitoring are proposed to be added to subsection (b) to guide the Department in its decisions. The proposed language is consistent with existing language in the residual waste regulations, § 293.262 (relating to cessation of operations).

Chapter 281. Composting Facilities

Application requirements for general composting facilities

Section 281.101. General requirements.

The proposed revision to subsection (b) would allow an applicant to use a different scale for the maps, plans and cross-sections submitted in the application, if approved by the Department.

Section 281.111. Operating plan.

The proposed revision to paragraph (9) deletes the requirement that an application contain a plan for hiring certain personnel. As revised, the regulation requires an application to contain a plan for training the personnel and comports with the existing residual waste transfer facility counterpart, § 293.102(c) (relating to operating plan).

Section 281.112. Maps and related information.

Subsection (a) is proposed to be restructured slightly to comport with its existing and proposed residual waste counterpart, § 295.112 (relating to maps and related information). A requirement is added to subsection (a)(1) that the boundaries of the land within the proposed permit area be identified in the application. In subsection (a)(4), the word "sources" has been substituted for "supplies" because not all water supplies are readily available by mapping or by field survey. In subsection (a)(14), the proposed regulations require loading and unloading areas to be identified on maps. Deletion of subsection (b), the requirement for a map or aerial photograph of the site boundaries and soil types, is proposed to be deleted because the information has not proven useful for purposes of making a permit decision.

Section 281.115. Plan for access roads.

Amendments to this section have been proposed to require that access roads be designed and constructed to handle truck traffic adequately. This requirement sets a performance standard by which to gauge the adequacy of proposed access roads.

Section 281.121. Composting pad and vessel design.

The proposed regulations allow for the use of vessels for composting. The changes in this section (including the title) incorporate existing performance and design standards for vessels.

Section 281.132. Soil erosion and sedimentation control plan.

Language is proposed to be added to subsection (a) to authorize the Department to impose more stringent design standards based on the most recent edition of the United States Department of Agriculture Soil Conservation Service's "Engineering Field Manual For Conservation Practices." This authorization currently exists in the residual waste management regulations for composting facilities, § 295.132 (relating to soil erosion and sedimentation control plan).

Section 281.134. Soil and groundwater monitoring plan.

In subsection (a), the word "pollution" has been changed to "groundwater degradation" to provide clarity to the monitoring program. "Groundwater degradation" is a defined term in § 271.1.

Operating requirements for general composting facilities

Section 281.201. Basic limitations.

A new subsection (f) has been added that requires all approved mitigation measures identified in the application to be completed before waste may be accepted, unless a later date is authorized in writing by the Department for technical reasons. This requirement bolsters the importance of effective mitigation, which is stressed in the environmental assessment of § 271.127.

Section 281.202. Areas where general composting facilities are prohibited.

Several changes are proposed to this section to modify certain isolation distances for general composting facilities and to clarify existing language. Landfills permitted prior to the date of publication of this regulation as final in the *Pennsylvania Bulletin* are not intended to be affected by the more stringent isolation distances proposed in this section when reissuance or renewal of the permit, or expansion of the permit area, is sought.

The lead-in language in subsection (a) is revised to clarify that the areas exempted from this regulation are those that were permitted prior to 1988. Subsection (a)(1), proposed to be entitled "Floodplain," is modified to add an exception to the prohibition against operating a general composting facility in a 100-year floodplain. The exception would apply if the operator demonstrates that the compost facility can be protected during flooding. A composting facility does not provide for permanent placement of waste and measures can easily be undertaken to prevent impacts from flooding.

Subsection (a)(2) is given the title "Wetland." It is proposed to be divided into two paragraphs, the first containing the current 300-foot setback from an exceptional value wetland and the second adding a 100-foot setback from a wetland other than an exceptional value wetland. The 100-foot setback is applicable to general composting facilities permitted on or after the date of publication of this regulation as final in the *Pennsylvania Bulletin*, but is not applicable to permit modifications for expansions issued after that date if the permit being modified was issued before that date. The 100-foot setback is added to protect valuable wetland resources and makes this isolation distance for general composting facilities consistent with the proposed isolation distance for other municipal waste facilities. The 100-foot setback would not apply if storage and processing would not occur within 100 feet from the wetland and if either the operator has received the necessary permit under Chapter 105 to operate in or along the wetland or, for an

operation not in or along a wetland, no adverse hydrologic or water quality impact will result from the composting operation.

Subsection (a)(3), which contains a 100-foot setback requirement from a sinkhole or area draining into a sinkhole, is proposed to be deleted because all water collected on the pad or in the vessel is contained and managed to prevent surface water contamination.

Newly renumbered subsection (a)(3) is entitled "Occupied dwelling" and is clarified to provide that a waiver of the 300-foot isolation distance from an occupied dwelling may be obtained from the property owner, as opposed to the "current" property owner. This revision is consistent with the existing residual waste composting facility regulation, § 295.202 (relating to areas where composting facilities are prohibited). Subsection (a)(5) is renumbered to subsection (a)(4) and is entitled "Perennial stream." The buffer in subsection (a)(4) between a composting facility and a perennial stream has been revised to allow a smaller buffer if the storage and processing take place in an enclosed facility.

In newly renumbered subsection (a)(5), entitled "property line," the buffer between a property line and a general composting facility has been revised to allow storage and processing closer than 50 feet from the property line if the activities take place in an enclosed facility. In newly renumbered subsection (a)(7), entitled "water table," the prohibition for siting a facility in an area that has a seasonal high water table less than 4 feet from the surface has been replaced with a requirement that the pad or vessel not be in contact with the seasonal high water table. This change was made because all water collected on the pad or vessel will be contained and managed to prevent contamination.

A new buffer requirement has been added to the proposed rulemaking. Under subsection (a)(8), a facility may not be located within 300 yards of a park, school or playground. The property owner of the park, playground or school may provide a written waiver consenting to the facility being closer than 300 yards. This requirement is drawn from the isolation distance in Act 101 of 300 yards from a school, park or playground for municipal waste landfills, resource recovery landfills and commercial residual waste facilities.

Section 281.211. Signs and markers.

Proposed changes in subsection (a) eliminate the prescriptive language about the size and content of signs and replace the requirement with a performance standard that the sign can be easily seen and read.

Section 281.212. Access roads.

Protection of wetlands is proposed to be added to subsection (b). This change is consistent with a proposed change in the other chapters of Article VIII.

The specific requirements in subsection (c) for construction of the drainage systems for access roads are proposed to be deleted because the performance standards in subsection (c) and the proposed requirement that the drainage system comply with Chapter 102 offer sufficient guidance. In subsection (d), language has been added that requires Departmental approval in a permit for the use of materials equivalent to asphalt, gravel or cinders in paving access roads. This requirement was added to allow the Department to review materials proposed for use prior to their application to the site. A requirement has also been added to subsection (d) to require an access road to be capable of withstanding the load limits of the

vehicles that will be using it. This is consistent with the existing residual waste composting facility requirements in § 295.212 (relating to access roads).

Section 281.214. Measuring and inspection of waste.

The title of this section is proposed to be changed to reflect the new language requiring inspection of waste. A revision is proposed to subsection (a) to clarify that all solid waste, not just municipal waste, received at the facility is to be measured. A new subsection (c) has been added that requires an operator to inspect incoming waste to ensure that the waste received is consistent with this article and the permit and to monitor for radioactive isotopes to prevent problems from occurring.

Section 281.215. Equipment.

In subsection (b), the requirement that standby equipment be located on the site or at the place where it can be available within 24 hours has been deleted. This requirement is redundant of the requirement in subsection (a) that the operator maintain on the site equipment necessary for the operation of the facility in accordance with the permit. In subsection (d), a separate frequency for cleaning equipment used to handle putrescible waste has been eliminated to allow for flexibility in the cleaning frequency based on the specific waste type.

Section 281.217. Air resources protection.

Proposed revisions to the section are intended to clarify it. An amendment to subsection (a) includes a new cross reference to § 281.218 (relating to nuisance control).

Section 281.218. Nuisance control.

The performance standard in subsection (a) of the proposed amendments has been changed from a prohibition against causing or allowing vectors to an affirmative requirement that vectors be controlled and minimized. In subsection (b), the performance standard prohibiting an operator from causing or allowing conditions that are harmful or that create nuisances has been changed to a performance standard requiring the control and minimization of the conditions which could give rise to a nuisance. The level of protection the public will receive is the same under the existing and the proposed requirements. This proposed amendment more accurately reflects standard practices for nuisance control.

Section 281.220. Litter.

A new subsection (c) is proposed to require collection of blown off and intercepted litter at least weekly.

Section 281.231. Composting pad or vessel.

This section has been modified throughout (including the title) to allow for the use of a vessel for composting. In subsection (c)(1), the permeability standard has been deleted and replaced with a requirement that the pad or vessel be capable of preventing the migration of waste or leachate generated from the composting process. This change was made because materials used for a pad or vessel may not meet the existing permeability standard but may prevent contamination.

Section 281.234. Sale or utilization of compost.

This section is proposed to be revised to reflect the January 25, 1997, rulemaking authorizing the Department to issue general permits for beneficial use of municipal waste.

Section 281.251. General requirements.

Proposed revisions clarify this section and are consistent with the existing requirements in the residual waste regulations, § 295.251 (relating to general requirements).

Section 281.253. Sedimentation ponds.

Subsection (b) has been amended to include a requirement that sedimentation ponds be operated and maintained in accordance with this section, Chapters 102 and 105 and the minimum criteria in the United States Soil Conservation Service's Engineering Standard, 378, "Pond" Pa., as amended.

Section 281.255. Water supply replacement.

This section is proposed to be added to be consistent with existing requirements for municipal waste landfills and construction/demolition waste landfills and revisions thereto, as well as proposed revisions applicable to other municipal and residual waste facilities. Subsection (a) requires an operator adversely affecting a water supply to restore or replace it at no cost to the owner. Subsections (b) and (c) state time restrictions for providing temporary and permanent water supplies. Subsection (d) explains what qualifies as a permanent water supply for purposes of water supply replacement. Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply. A permanent water supply does not include provision of bottled water or a water tank supplied by a bulk water hauling system.

Section 281.263. Implementation of contingency plan.

Subsections (b) and (c) are proposed to be restructured slightly to read the same as their existing residual waste counterparts in § 295.263 (relating to implementation of contingency plan).

Section 281.271. Daily operational records.

Language is proposed to be added to subsection (b) requiring that the daily operational record include a record of rejected waste loads and the reasons for rejecting the loads. This requirement has been added to help identify and track problem wastes that are rejected at municipal waste landfills.

Section 281.272. Annual operation report.

A proposed change in subsection (c) increases the fee that accompanies the annual operation report from \$600 to \$700 to cover increases in administrative costs.

Section 281.282. Cessation of operations.

Standards for determining whether to allow discontinuance of monitoring are proposed to be added to subsection (c) to guide the Department in its decisions. The proposed language is consistent with existing and proposed language in the residual waste regulations, § 295.282 (relating to cessation of operations).

*Chapter 283. Resource Recovery and Other Processing Facilities**Application requirements**Section 283.102. Operating plan.*

The proposed revision to paragraph (5) deletes the requirement that an application contain a plan for hiring certain personnel. As revised, the regulation requires an application to contain a plan for training the personnel and comports with the existing residual waste processing facility requirement, § 297.102 (relating to operating plan). A revision to paragraph (8) reflects a revision to a title of a cross referenced regulation.

Section 283.103. Maps and related information.

Several changes are proposed to this section, which is clarified to apply to the proposed permit area and adjacent area. A requirement is added to paragraph (1) that

the boundaries of the land within the proposed permit area be identified in the permit application. Paragraph (4) is proposed to be revised to require the application to identify water sources located on or within 1/4 mile of the proposed facility instead of identifying only those located on the proposed permit area. This revision describes the adjacent area and has provisions to limit the number of wells specifically identified when a large number of wells exists. Language is proposed to be added to paragraph (7) to indicate that anticipated locations of water quality monitoring points must only be identified in the application if the Department requires monitoring. Paragraph (15) is amended to clarify that the application needs to show proposed "unloading" areas.

Section 283.105. Plan for access roads.

Amendments to this section have been proposed to require that access roads be designed and constructed to handle truck traffic adequately. This requirement sets a performance standard by which to gauge the adequacy of proposed access roads.

Section 283.107. Soil and groundwater monitoring plan.

In subsection (a), the word "pollution" has been deleted to provide clarity to the monitoring program. "Groundwater degradation" is a defined term in § 271.1.

Section 283.112. Relationship to county plans.

The phrase "expressly provided for" is proposed to be revised to "provided for" in subsection (b). This is consistent with section 507(a)(1) of Act 101. Language is proposed to be added to subsection (b) to clarify what is meant by "provided for." A new subsection (b)(2)(iii) is proposed to require that an application for a facility not provided for in the host county plan include a detailed written response to objections that may have been filed by the host county. This is consistent with section 507(a)(2)(iv) of Act 101 and section 504 of SWMA. Subsections (c)—(g) are proposed to be deleted. Under the proposed amendments, the suitability analysis will be satisfied by the environmental assessment performed under §§ 271.127 and 271.201(a)(4).

Section 283.121. Recycling plan.

An obsolete date reference is proposed to be deleted from this section. The analysis requirements in paragraph (1) are proposed to be deleted because they are redundant since to prepare a plan under paragraph (2) an applicant has to conduct an analysis.

*Operating requirements**Section 283.201. Basic limitations.*

Subsection (d) is revised to prohibit explosive waste from being stored, processed or disposed at a processing facility. A new subsection (j) has been added that requires all approved mitigation measures identified in the application to be completed before waste may be accepted, unless a later date is authorized in writing by the Department for technical reasons. This requirement bolsters the importance of effective mitigation, which is stressed in the environmental assessment of § 271.127.

Section 283.202. Areas where resource recovery facilities and other processing facilities are prohibited.

Several changes are proposed to this section to modify certain isolation distances for municipal waste landfills and to clarify existing language. Landfills permitted prior to the date of publication of the regulation as final in the *Pennsylvania Bulletin* are not intended to be affected by the more stringent isolation distances proposed in this

section when reissuance or renewal of the permit, or expansion of the permit area, is sought.

The lead-in language in subsection (a) is revised to clarify that the areas exempted from this regulation are those that were permitted prior to 1988. Subsection (a)(1) is given the title "Floodplain."

Subsection (a)(2) is given the title "Wetland." It is proposed to be divided into two paragraphs, the first containing the current 300-foot setback from an exceptional value wetland and the second adding a 100-foot setback from a wetland other than an exceptional value wetland. The 100-foot setback is applicable to landfills permitted on or after the date of publication of this regulation as final in the *Pennsylvania Bulletin*, but is not applicable to permit modifications for expansions issued after that date if the permit being modified was issued before that date. The 100-foot setback is added to protect valuable wetland resources and makes the processing facility regulations consistent with the existing residual waste regulations in § 297.202 (relating to areas where incinerators and other processing facilities are prohibited). The 100-foot setback will not apply if storage and processing will not occur within that distance from the wetland and if either the operator has received the necessary permit under Chapter 105 to operate in or along the wetland or, for an operation not in or along a wetland, no adverse hydrologic or water quality impact will result from the facility operation.

A substantive change is proposed to subsection (a)(3), which will now be entitled "Occupied dwelling." This subsection is proposed to be divided into two paragraphs. Subparagraph (i) will retain the current prohibitions against operating a processing facility within 300 feet of an occupied dwelling unless the owner of the dwelling provides written consent. A revision to subparagraph (i) indicates that this prohibition will have applied to resource recovery and other processing facility permits issued prior to the date of publication of this final regulation in the *Pennsylvania Bulletin* and will apply to expansions of facilities already permitted as of that date. Proposed subparagraph (ii), which will apply to permits issued on or after publication of the final regulation, will prohibit operation of a facility within 300 yards of an occupied dwelling unless the owner of the dwelling provides written consent. This proposed revision will help to reduce complaints from nearby dwellings concerning noise, odors and nuisances. The requirement is drawn from the isolation distance in section 511 of Act 101, of 300 yards from a school, park or playground for municipal waste landfills, resource recovery facilities and commercial residual waste treatment facilities.

Subsection (a)(4) is proposed to be revised by the insertion of the title "Perennial stream." An exception is added allowing the buffer between a processing facility and a perennial stream to be smaller if the storage and processing take place in an enclosed facility. In subsection (a)(5), entitled "Property line," the buffer between a property line and a processing facility has been revised to allow storage and processing closer than 50 feet from the property line if the activities take place in an enclosed facility, unless the operator obtains written consent. The consent provision is carried over from the existing residual waste regulations in § 297.202.

Two existing subsections of the regulation relating to schools, parks and playgrounds are combined in this proposal. Subsection (b) is renumbered as subsection (a)(6) and is entitled "School, park, playground." It clarifies in subparagraph (i) that it applies to a resource

recovery facility permit issued on or after September 26, 1988, except an expansion of a resource recovery facility permitted prior to September 26, 1988, by deleting the language "Except for areas that were permitted prior to." This is consistent with section 511 of Act 101. The remaining revisions to this subsection are structural. Subparagraph (ii) is a modification of existing subsection (c), which includes the waiver language. This language is proposed to be revised to eliminate the cross reference to subsection (b), to replace it with "school building, park or playground," and to indicate that the Department will waive the 300-yard prohibition upon "receipt of" the waiver.

Subsections (d) and (e) have been renumbered and a cross reference has been corrected.

Section 283.211. Signs and markers.

In subsection (a), proposed changes eliminate the prescriptive language about the size and content of signs and replace the requirement with a performance standard that the sign can be easily seen and read. The signage requirement is also applied to recycling drop-off centers. Proposed structural modifications to subsection (b) make it read the same as its corollaries in other chapters of this article.

Section 283.212. Access control.

The requirement for an operator to construct a fence or other barrier around the site is proposed to be deleted as being redundant. The requirement is expressed in the remaining requirement that the operator "maintain" a fence or other barrier.

Section 283.213. Access roads.

Protection of wetlands is proposed to be added to subsection (b). This proposed revision is consistent with the revisions proposed for other municipal waste facilities. The specific requirements in subsection (c) for construction of the drainage systems for access roads are proposed to be deleted because the performance standards in subsection (c) and the proposed requirement that the drainage system comply with Chapter 102 offer sufficient guidance.

In subsection (d), language has been added that requires Departmental approval in a permit for the use of materials equivalent to asphalt, gravel or cinders in paving access roads. This requirement was added to allow the Department to review materials proposed for use prior to their application to the site. A requirement has also been added to subsection (d) to require an access road to be capable of withstanding the load limits of the vehicles that will be using it. This is consistent with the existing residual waste processing facility requirements in § 297.213 (relating to access roads).

A new performance standard, subsection (h), has been added to require that an access road be maintained to control dust and to prevent and control the tracking of mud on and off site.

Section 283.214. Measuring and inspection of waste.

The title of this section is proposed to be changed to reflect the new language requiring inspection of waste. A revision is proposed to subsection (a) to clarify that all solid waste, not just municipal waste, received at the facility is to be measured. A new subsection (c) has been added that requires an operator to inspect and monitor incoming waste for consistency with this article and the permit and to monitor for radioactive isotopes. This new

requirement was added to address problems that have occurred at processing facilities.

Section 283.215. Equipment.

In subsection (b), the requirement that standby equipment be located on the site or at the place where it can be available within 24 hours has been deleted. This requirement is redundant of the requirement in subsection (a) that the operator maintain on the site equipment necessary for the operation of the facility in accordance with the permit.

Section 283.216. Unloading area.

Subsection (b) has been amended to allow drains or treatment systems to be connected to sanitary sewer systems if a waste characterization is submitted to the sewage treatment plant operator and the treatment plant operator can completely treat the waste stream. This change is consistent with the existing requirements for unloading areas for transfer facilities. Also, a proposed change to subsection (b) allows leachate to be collected in holding tanks prior to its transport to the sewage treatment plant. This requirement was added to provide for more flexibility in managing the leachate in areas where a facility cannot be feasibly connected to a sanitary sewer system.

Section 283.217. Cleaning and maintenance.

A proposed change to subsection (b) allows for an extension of time for storage of putrescible waste up to 72 hours over a weekend or 3-day weekend if the processing facility permit so provides. A proposed change to subsection (d) authorizes drains or treatment systems to be connected to a sanitary sewer system if the same conditions proposed in § 283.216(b) are met. Similarly, the proposed change allows the collection of leachate in holding tanks to be transported to a treatment facility.

Section 283.218. Air resources protection.

Proposed revisions to this section are intended to clarify it. In addition, the most recent edition of the Department's criteria for best available technology is referenced in subsection (a).

Section 283.219. Nuisance control.

The performance standard in subsection (a) of the proposed amendments has been changed from a prohibition against causing or allowing vectors to an affirmative requirement that vectors be controlled and minimized. In subsection (b), the performance standard prohibiting an operator from causing or allowing conditions that are harmful or that create nuisances has been changed to a performance standard requiring the control and minimization of the conditions. The level of protection the public will receive is the same under the existing and the proposed requirements. These proposed amendments more accurately reflects standard practices for nuisance control.

Section 283.231. General requirements.

Proposed revisions clarify this section and are consistent with the existing requirements in the residual waste regulations, § 297.231 (relating to general requirements).

Section 283.232. Soil erosion and sedimentation control.

A cross reference to Chapter 102 has been added to paragraph (1) to indicate that compliance with that chapter is required.

Section 283.234. Water supply replacement.

This section is proposed to be added to be consistent with existing requirements for municipal waste landfills and construction/demolition waste landfills and revisions thereto, as well as proposed revisions applicable to other municipal and residual waste facilities. Subsection (a) requires an operator adversely affecting a water supply to restore or replace it at no cost to the owner. Subsections (b) and (c) state time restrictions for providing temporary and permanent water supplies. Subsection (d) explains what qualifies as a permanent water supply for purposes of water supply replacement. Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply. A permanent water supply does not include provision of bottled water or a water tank supplied by a bulk water hauling system.

Section 283.253. Implementation of contingency plan.

Subsections (b) and (c) are proposed to be restructured slightly to read the same as their residual waste counterpart, § 297.253 (relating to implementation of contingency plan), as revised. In addition, new language is proposed to be added to subsection (c)(2) to require Department approval of the resumption of operation after cleanup of an area affected by an emergency.

Section 283.261. Daily operational records.

Language is proposed to be added to subsection (b) requiring that the daily operational record include a record of rejected waste loads and the reasons for rejecting the loads. This requirement has been added to help identify and track problem wastes that are rejected at municipal waste landfills.

Section 283.262. Annual operation report.

Proposed changes in subsection (c) reduce the fee that accompanies the annual operation report. For a facility that incinerates municipal waste, the fee will change from \$1,400 to \$700 to reflect current costs of reviewing the annual report in conjunction with inspections conducted at these facilities. For other municipal waste processing facilities subject to this chapter, the fee will increase from \$600 to \$700, likewise to reflect current costs.

Section 283.272. Cessation of operations.

A minor clarification is proposed to subsection (a).

Section 283.281. Salvaging of materials.

An obsolete date is proposed to be deleted from subsection (a). Two additional changes are proposed to subsection (a): deletion of the specific types of recyclable materials, and deletion of the requirement to salvage and recycle materials from ash generated by operation of the facility. These requirements are redundant of the requirement in this subsection requiring implementation of the plan developed under § 283.121 (relating to recycling plan).

Section 283.402. Infectious waste monitoring requirements.

The monitoring requirements have been changed for disinfection processes other than thermal processing or incineration. In subsection (a)(2), the monitoring is required that demonstrates the following: 1) the process shall be capable of inactivating vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 log 10 reduction or greater; and 2) shall be capable of inactivating *B. stearothermophilus* spores, *B. pumilus* spores or *B. subtilis* spores at a 4 log 10 reduction or greater. The monitoring requirements have changed be-

cause the current standard was more appropriate for sterilization, and disinfection does not require total kill of the indicators. The proposed monitoring requirements were recommended by the Medical Waste Institute of the Environmental Industry Associations and were endorsed in a report of the State and Territorial Association on Alternate Treatment Technologies titled "Technical Assistance Manual: State Regulatory Oversight of Medical Waste Treatment Technologies." In subsection (d), flexibility has been added to the monitoring frequency, allowing a frequency other than every 40 hours to be approved by the Department in a permit.

The proposed amendments include a new subsection (m) that identifies performance standards for autoclaves to ensure that bulk fluids are properly treated and to clarify that autoclaving is not appropriate for pathological waste.

Chapter 285. Storage, Collection and Transportation of Municipal Waste

Storage of Municipal Waste

Section 285.111. General requirements.

This section is proposed to be clarified to state that a person or municipality that stores municipal waste may not allow waste or constituents of waste to be blown or otherwise deposited outside of the storage area. This is intended to clarify that wastes in addition to those typically thought of as "litter" may not leave the storage area.

Section 285.115. Nuisance control.

The performance standard in subsection (a)(2) of the proposed amendments has been changed from requiring that vectors be prevented to requiring that vectors be controlled and minimized. In subsection (b), the performance standard requiring the prevention and elimination of conditions that are harmful or that create nuisances has been changed to a performance standard requiring the control and minimization of the conditions. The level of protection the public will receive is the same under the existing and the proposed requirements. This proposed amendment more accurately reflects standard practices for nuisance control.

Section 285.116. Surface and groundwater protection.

This proposed section protects surface and groundwater by regulating surface water runoff from and run-on to storage areas and by stating a performance standard prohibiting groundwater degradation. This section is consistent with the existing residual waste regulations (§ 299.116 (relating to surface and groundwater protection)).

Section 285.117. Emergency storage.

This proposed section provides for the emergency storage of municipal waste at a permitted facility if certain conditions are met. This section is consistent with the existing residual waste regulations (§ 299.117 (relating to emergency storage)).

Section 285.121. Containers.

In subsection (a), a new performance standard requiring the prevention of leaks has been added. Subsection (c) is proposed to be modified to delete reference to "putrescible" municipal waste because the requirements applicable to putrescible municipal waste should apply to all municipal waste. A requirement has been added to subsection (b) requiring that all containers be clearly labeled as "municipal waste" or as a specific type of municipal waste. This requirement will improve the

management of municipal waste by providing clear identification of the type of material being handled.

Section 285.124. Impoundments—failure.

This section is proposed to be revised to require that a storage impoundment that fails and cannot be cleaned up properly must submit a closure plan to the Department, obtain Department approval of the plan and implement the plan.

Section 285.147. Marking of containers.

A proposed change to subsection (a) has been added to allow for greater flexibility in the size of labels that are clearly printed, rather than handwritten. Subsection (d) has been modified to clarify that the words "infectious waste" and "chemotherapeutic waste" do not require multicolor printing.

Collection and Transportation of Municipal Waste

Section 285.211. General requirements.

Subsection (a) is proposed to be revised to require that the cover over municipal waste, including ash residue from municipal waste incineration and ICW incineration, being transported must be water resistant instead of waterproof. This satisfies the intent of the regulations to prevent water from reaching the waste and reflects the performance of commonly used tarps.

Section 285.212. Collection and transportation.

The title of this section is proposed to be enlarged from "collection" to "collection and transportation" to indicate the proper scope of the section.

Section 285.214. Transportation equipment cleaning areas and securing loads in vehicles.

The title of this section and subsection (a) are proposed to be revised by adding the word "transportation" to clarify that the requirements in this section apply to transportation equipment cleaning areas.

Section 285.216. Wastes from accidents and spills.

A statement is proposed to be added to subsection (b), consistent with the existing residual waste regulations, that storage of waste from an accident or spill may occur at a permitted processing or disposal facility under § 285.117 or a site approved by the Department. This is consistent with the proposed addition of § 285.117 in this rulemaking.

Section 285.217. Recordkeeping and reporting.

Subsection (a) is proposed to be revised to clarify that daily operational records shall include the name, mailing address and telephone number of the person or municipality collecting or transporting the waste.

Section 285.219. Transporting foodstuffs and feedstuffs in vehicles used to transport waste.

This section is being revised to conform more closely to the Vehicle Code provision under which it is authorized by adding the requirement in subsection (b) that accepting or providing food or a food product in contravention of this section be done "knowingly," 75 Pa.C.S. § 4909. In addition, a definition of the term "chemical or liquid," as used in this section, is provided to eliminate confusion which may have existed regarding the meaning of that term. The term is now proposed to include any pesticide or herbicide. The term will also include any other chemical or liquid, except one intended to be used in a normal farming operation.

Section 285.311. General application requirements.

In subsection (b), the application requirements have been changed to eliminate the two-part application process. The proposed process requires all requested information to be submitted at the same time. This change was made because the two-part process unnecessarily prolonged the license application review period.

Section 285.432. Use of manifest.

Subsection (a) has been modified to clarify that infectious and chemotherapeutic waste processors may accept waste from infectious and chemotherapeutic waste generators who are not required to manifest their waste.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

Benefits

The proposed amendments to the municipal waste regulations clarify existing regulations; eliminate many requirements that are more stringent than standards imposed by Federal law; eliminate requirements which are no longer necessary or are redundant; encourage performance based requirements; encourage green technologies; and support a pollution prevention approach.

Numerous changes are proposed to encourage flexibility and innovation by facility operators. The proposed amendments to the technical standards for municipal waste facilities, for example daily cover requirements, focus on providing performance standards instead of design standards wherever appropriate. Where a design standard is stated and an equivalent method or technology is available if demonstrated by the applicant/operator to be adequate, the equivalency approval process has been simplified. Similarly, the proposed amendments limit the types of permit modifications which must go through a major modification process (including public notice and comment).

The proposed amendments may result in lower costs for municipal waste disposal because the proposed amendments incorporate Act 2 remediation standards for facilities that ceased accepting waste prior to the effective date of the Federal Subtitle D criteria (October 9, 1993) and are consistent with the Subtitle D standards for facilities that cease accepting waste after October 9, 1993.

To promote green technologies, the proposed amendments allow for the demonstration of new technology at existing facilities to be done through a permit modification process.

The proposed amendments clarify and simplify the requirements for revising a county municipal waste management plan while focusing on the county's requirement to assure adequate disposal and processing capacity for waste generated within the county. Counties should benefit from these revisions when they prepare their plan revisions.

The proposed amendments facilitate easier access to moneys in the site-specific postclosure trust funds established under section 1108 of Act 101 for conducting postclosure activities at municipal waste landfills that operated prior to the 1988 municipal waste regulations and closed with little or no bond in place. This will provide greater protection of the environment and of persons living near these facilities. The proposed amendments also protect the corpus of small site-specific postclosure trust funds from being depleted by administrative costs. This will help ensure availability of the

corpus if and when the money is needed for emergency actions or remedial measures during postclosure, as envisioned under Act 101.

Compliance Costs

Although this is a large comprehensive rulemaking, it should not result in overall increased costs to the regulated community (including industry and local government). On balance, the regulated community may realize savings of approximately \$314,000 per year.

Increased costs to industry will largely be reflected in the requirements of installing a composite component in a landfill liner system. Industry will also experience minor cost increases as a result of increases in permit application fees and annual report fees. Increased costs to local governments, small by comparison, will be reflected in the costs of placing signs on equipment purchased with Recycling Fund money.

Savings are projected to be greater than costs. Savings to municipal waste facility operators will be enjoyed largely as a result of the reduced costs associated with preparation of permit modifications and as a result of the increased use of performance based standards such as those for landfill daily cover materials. Local governments will particularly enjoy savings as a result of the opportunity to avoid having an independent audit performed in many cases in which a grant is sought under Chapter 272.

Compliance Assistance

The Department will assist the regulated community by developing fact sheets where they would be helpful. In addition, the Department will continue to work with the Pennsylvania Waste Industries Association, the Solid Waste Association of North America (Pennsylvania Chapter), the Public Recycling Officials of Pennsylvania, the Pennsylvania Resources Council and other industry and government groups. The Department's field staff will provide compliance assistance during routine facility permitting and inspections, and in assisting counties with the county planning and recycling requirements.

Paperwork Requirements

The proposed amendments will not increase paperwork requirements on the part of the regulated community.

G. Pollution Prevention

The proposed amendments will encourage pollution prevention by authorizing grants under the SBHPPP for educational programs on pollution prevention and household hazardous waste and for other technical assistance to small business for pollution prevention. The proposed amendments retain the requirement for generators of residual waste disposed in municipal waste landfills to have a source reduction strategy and requires landfills to provide a plan for recycling and salvaging wastes.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on August 11, 1998, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submit-

ting 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 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 the Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

J. Public Comments

General—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments. The Department is specifically requesting comments on two sections of the proposal.

First, the Department specifically seeks comment on whether to consolidate the infectious and chemotherapeutic waste regulations. In the current regulations and the proposed rulemaking, provisions concerning infectious and chemotherapeutic waste exist in several chapters. The provisions are found in Chapters 271, 273, 283 and 285.

Second, the Department specifically requests comment on § 272.223. This section requires every plan revision to describe and explain the origin, content and weight or volume of municipal waste currently generated within the county and that will be generated within the county during the next 10 years. This section specifically requires the plan to address sewage sludge (including septage), infectious and chemotherapeutic waste, ash from resource recovery facilities and other municipal waste. The proposed revision adds construction/demolition waste to this list to resolve existing confusion and to encourage counties to maximize proper management and alternatives to disposal of this waste.

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 October 28, 1998 (within 60 days of publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary shall not exceed one page in length and must also be received by October 28, 1998 (within 60 days following publication in the *Pennsylvania Bulletin*). 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 regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us and must also be received by the Board by October 28, 1998. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

K. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this proposal. Each of the hearings will include an afternoon session beginning at 3 p.m. and an evening session beginning at 7 p.m. The dates and locations are listed as follows:

- October 1, 1998 Department of Environmental Protection
Southeast Regional Office
Suite 6010, Lee Park
555 North Lane
Conshohocken, PA.
- October 5, 1998 Department of Environmental Protection
Southcentral Regional Office
Susquehanna River Conference Room
909 Elmerton Avenue
Harrisburg, PA.
- October 6, 1998 Sheraton Inn—Pittsburgh North
910 Sheraton Drive
Mars, PA.

Persons wishing to present testimony at a hearing are requested to contact Sharon Freeman 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 in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Sharon Freeman directly at (717) 787-4526 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,
Chairperson

Fiscal Note: 7-340. (1) General Fund; (2) Implementing year 1998-99 is \$Minimal; (3) 1st Succeeding Year 1999-00 is \$Minimal; 2nd Succeeding Year 2000-01 is \$Minimal; 3rd Succeeding Year 2001-02 is \$Minimal; 4th Succeeding Year 2002-03 is \$Minimal; 5th Succeeding Year 2003-04 is \$Minimal; (4) FY 1997-98 \$31,139,000; FY 1996-97 \$30,403,000; FY 1995-96 \$30,999,000; (7) Department of Environmental Protection Subtotal. Licenses, Fees and Miscellaneous; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VIII. MUNICIPAL WASTE

CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter A. GENERAL

§ 271.1. Definitions.

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

* * * * *

Abatement standards—Background, MCLs and risk-based standards as those terms are defined under this article.

* * * * *

Alternative groundwater protection standard—A risk-based remediation standard for substances that have no primary MCLs under the Federal and State Safe Drinking Water Acts (42 U.S.C.A §§ 300f—300j-18; and 35 P. S. §§ 721.1—721.17). For carcinogens, the standard represents a concentration associated with an excess lifetime cancer risk level between 1×10^{-4} and 1×10^{-6} , including the cumulative risk of all contaminants. For systemic toxicants, the standard represents a concentration to which the human population, including sensitive subgroups, could be exposed on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. When several systemic toxicants affect the same target organ or act by the same method of toxicity, the hazard index may not exceed one.

* * * * *

Asbestos containing waste—Waste that contains asbestos extracted from asbestos ore. As applied to demolition and renovation operations, the term includes friable asbestos, and nonfriable asbestos from Asbestos Hazard Emergency Response Act (AHERA) (15 U.S.C.A. §§ 2601 note, 2614, 2618, 2619, 2641—2654; and 20 U.S.C.A. §§ 4014, 4014 note, 4021 and 4022) (AHERA) regulated removals. The term also includes asbestos waste collected from pollution control devices.]

* * * * *

Autoclave—A pressure vessel in which infectious waste is disinfected using high temperature steam, directly or indirectly, to maintain specified temperatures for retention times consistent with the waste being processed.

Background standard—A numerical value as determined under section 302 of the Land Recycling and Environmental Remediation Standards Act (35 P. S. § 6026.302) and § 250.202 (relating to establishing background concentrations).

* * * * *

Clean fill—Uncontaminated, nonwater-soluble, [nondecomposable inert solid material used to level an area or bring the area to grade] brick and block concrete, used asphalt, dredged material that has been sampled and analyzed in accordance with Department approved tests, soils, stone, rock, gravel and waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material. The term includes de minimis levels of contamination. The term does not include material placed into or on waters of this Commonwealth unless approved by the Department. A person using the material as clean fill has the burden of proof to demonstrate that the material is clean fill.

* * * * *

Closure certification—A written document attested to by a corporate official that states that a landfill has permanently ceased accepting waste

and access has been limited to activities necessary for postclosure care maintenance and monitoring.

* * * * *

Construction/demolition waste—Solid waste resulting from the construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals, asphaltic substances, bricks, block and unsegregated concrete. [The term also includes dredging waste.] The term does not include the following if they are separate from other waste and are used as clean fill:

- (i) Uncontaminated soil, rock, stone, gravel, [unused] brick and block [and], concrete and used asphalt.

* * * * *

Dredged material—Material dredged or excavated from waters for the direct or indirect purpose of establishing or increasing water depth, or increasing the surface or cross-sectional area of a waterway and which includes sediment, soil, mud, shells, gravel or other aggregate.

* * * * *

Facility—Land, structures and other appurtenances or improvements where municipal waste disposal [or], processing or beneficial use is permitted or takes place.

* * * * *

General composting facility—A composting facility other than [a leaf] an individual backyard composting facility or yard waste composting facility operating under § 271.103(h) (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements).

* * * * *

Groundwater degradation—[The unnatural] A measurable increase in the concentration of one or more contaminants in [the] groundwater above background concentrations for those [same] contaminants.

* * * * *

Highly virulent diseases—Diseases derived from Class IV etiologic agents, as defined by the Centers for Disease Control, United States Department of Health and Human Services. Information about Class IV etiologic agents may be obtained from C [P] DC-NIH Biosafety, Microbiological and Biomedical Laboratories Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333.

Home self-care—The provision of medical care in the home setting (for example, private residents) through either self-administration practices or by a family member or other person.

* * * * *

Infectious waste—

- (i) **General.** [The term means municipal] Municipal and residual waste which is generated in the diagnosis, treatment, immunization or autopsy of human beings or animals, in research pertaining thereto, in the preparation of human or animal remains for interment or cremation, or in the production or testing of biologicals, and which falls under one or more of the following categories:

* * * * *

- (C) Human blood and body fluid waste.

* * * * *

* * * * *

(VII) Items [contaminated by] saturated or dripping with body fluids or caked with dried body fluids from persons during surgery, autopsy, other medical procedures or laboratory procedures.

* * * * *

(F) Used sharps. Sharps that have been in contact with infectious agents or that have been used in animal or human patient care or treatment, at medical, research or industrial laboratories[, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, culture dishes, suture needles, slides, cover slips and other broken or unbroken glass or plasticware].

* * * * *

(iii) Exceptions. The term does not include the following:

(A) Wastes generated [in individual residences] as a result of home self-care.

* * * * *

(G) Reusable or recyclable containers or other nondisposable materials, if they are cleaned and disinfected, or if there has been no direct contact between the surface of the container and materials identified in subparagraph (i). Laundry or medical equipment shall be cleaned and disinfected in accordance with the United States Occupational Safety and Health Administration requirements in 29 CFR 1910.1030 (relating to bloodborne pathogens).

* * * * *

MCL—Maximum contaminant levels.

* * * * *

Municipal-like residual waste—Residual waste that has the same physical and chemical characteristics as residential municipal waste.

* * * * *

Remediation standards—Background, MCLs and alternative groundwater protection standards as those terms are defined under this article.

* * * * *

Risk-based standard—A risk-based abatement standard for substances that have no primary MCLs under the Federal and State Safe Drinking Water Acts for carcinogens:

(i) The standard represents a concentration associated with an excess lifetime cancer risk level between 1 x 10^-4 and 1 x 10^-6, including the cumulative risk of all contaminants and represents a concentration associated with an excess cancer risk level of 1 x 10^-5 at the property boundary of a municipal waste facility.

(ii) For systemic toxicants, the standard represents a concentration to which the human population, including sensitive subgroups, could be exposed on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime.

(iii) When several systemic toxicants affect the same target organ or act by the same method of toxicity, the hazard index may not exceed one.

Sharps—Broken glass that has been in contact with pathogenic organisms, hypodermic needles and syringes to which a needle can be attached, with or without the attached needle, suture needles, disposable razors, pasteur pipettes [and], scalpel blades, blood vials, needles with attached tubing, culture dishes, suture needles, slides, cover slips and other broken or unbroken glass or plasticware.

* * * * *

Small Business and Household Pollution Prevention Program Act—35 P. S. §§ 6029.201—6029.209.

* * * * *

Special handling waste—Solid waste that requires the application of special storage, collection, transportation, processing or disposal techniques due to the quantity of material generated or its unique physical, chemical or biological characteristics. The term includes sewage sludge, infectious waste, chemotherapeutic waste, ash residue from a solid waste incineration facility, friable asbestos containing waste, PCB containing waste, waste oil that is not hazardous waste [oil, fuel contaminated soil, waste tires and water supply treatment plant sludge].

* * * * *

Unrecognizable infectious waste—All components of the waste have been processed to produce indistinguishable and unusable pieces smaller than 3/4 of an inch, except that all sharps must be smaller than 1/2 inch. The term does not mean compaction or encapsulation except through:

(i) Processes such as thermal treatment or melting, during which disinfection and destruction occur.

(ii) Processes such as shredding, grinding, tearing or breaking, during or after disinfection occurs.

(iii) Processes that melt plastics and fully encapsulate metallic or other sharps and seals waste completely in a container that will not be penetrated by untreated sharps.

* * * * *

§ 271.2. Scope.

* * * * *

(b) Management of the following types of residual waste is subject to this article instead of Article IX (relating to residual waste management), and shall be regulated as if the waste is municipal waste, regardless of whether the waste is a municipal waste or residual waste.

(1) Construction/demolition waste, except construction/demolition waste with greater than 4 PPM PCBs.

* * * * *

(3) Sewage sludge, including sewage sludge that is mixed with [other] a small quantity of residual waste.

* * * * *

(c) Management of the following types of waste is subject to Article IX instead of this article, and shall be regulated as if the waste is residual waste, regardless of whether the waste is municipal waste or residual waste:

* * * * *

- (2) Waste oil that is not hazardous waste [oil].
- (3) Waste tires and auto fluff.
- (4) [Fuel contaminated] Contaminated soil.

* * * * *

(6) Dredged material.

(d) The disposal, processing, storage and transportation at a municipal waste management facility of the following types of special handling waste is subject to the applicable additional requirements for the disposal, processing, storage and transportation of these wastes in Article IX, and shall be regulated as if the waste is residual waste, regardless of whether the waste is municipal waste or residual waste:

- (1) [Asbestos] Friable asbestos containing waste.

* * * * *

§ 271.3. Environmental protection.

* * * * *

(b) The Department may, in issuing a permit under this article, impose terms and conditions the Department deems necessary to implement the provisions and purposes of [this] the act, the environmental protection acts and the regulations promulgated thereunder, including [a provision of] this article.

§ 271.5. Public records and confidential information.

(a) Except as provided in subsection (b), records, reports or other information submitted to the Department under this article shall be available to the public for inspection or copying during regular business hours.

(b) The Department may, upon request, designate records, reports or other information as confidential when the person or municipality providing the information demonstrates the following:

(1) The information contains trade secrets, processes, operations, style of work or apparatus of a person or municipality or is otherwise confidential business information.

(2) The information is not emission or discharge data or other information that relates to public health, safety, welfare or the environment.

(c) When submitting information under this article, a person or municipality shall designate the information which the person or municipality believes is confidential or shall submit that information separately from other information being submitted.

(d) Information which the Department determines to be confidential under this section will not be made available to the public.

(e) This section does not prevent the disclosure of information to the Federal government or other State agencies as may be necessary for purposes of administration of Federal or State law.

(f) This section does not prevent the disclosure of information submitted to the Department as part of a general permit application under § 271.821 (relating to the application for general permit) which meets one of the following:

(1) The Department is required to make the information available to the public as part of the general permit.

(2) The Department determines that it is necessary to disclose the information during the comment period for the general permit to obtain informed public comment on the general permit.

Subchapter B. GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS REQUIREMENT

§ 271.101. Permit requirement.

* * * * *

(b) A person or municipality is not required to obtain a permit:

* * * * *

[(3) For the use as clean fill of the following materials if they are separate from other waste:

(i) Uncontaminated soil, rock, stone, gravel, unused brick and block and concrete.

(ii) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.]

(3) For temporary storage, which facilitates the transportation or transfer of infectious or chemotherapeutic waste, that does not exceed 24 hours. The stored waste shall remain in its original packaging, as received for storage.

* * * * *

§ 271.102. [Permit-by-rule] Permit by rule for infectious or chemotherapeutic waste processing facilities; qualifying facilities; general requirements.

(a) If the requirements of this section are met, the following onsite processing facilities for infectious or chemotherapeutic waste shall be deemed to have a municipal waste processing permit under this article:

(1) An onsite autoclave facility, including one which renders waste unrecognizable, which processes at least 50% of its own infectious waste[, including one which renders waste unrecognizable.] generated onsite and accepts offsite waste for disinfection only from small quantity generators that generate less than 220 pounds per month of infectious waste if the following conditions are met:

(i) Processing of pathological waste is prohibited.

(ii) The retention time for processing bulk fluids (greater than 500 ml) allows for the complete vaporization of fluids.

* * * * *

(3) An onsite steam and superheated water disinfection facility which processes infectious waste, including one which renders waste unrecognizable, which processes at least 50% of its own infectious waste generated onsite and accepts offsite waste for disinfection only from small quantity generators that generate less than 220 pounds per month of infectious waste. Processing of pathological waste is prohibited.

* * * * *

(b) Generators that process and disinfect less than 220 pounds per month of infectious waste onsite and render

the waste unrecognizable will be deemed to have municipal waste processing permits under this article if the requirements under subsections (c)—(g) are met. Generators that process and disinfect less than 220 pounds per month of infectious waste onsite without rendering the waste unrecognizable will be deemed to have municipal waste processing permits under this article if the requirements under subsections (c)—(g) are met and if the following requirements are met:

(1) The generator may [**only**] dispose of the processed waste in a landfill **or have the waste incinerated in a facility** that has obtained written approval from the Department to accept the waste.

* * * * *

(c) The following requirements shall be met by facilities identified in subsections (a) and (b) to operate under a permit by rule:

* * * * *

(11) For facilities identified in subsection (a), the processed waste is disposed of in a landfill **or processed in an incinerator** that has obtained written approval from the Department to dispose [**of**] **or process** the waste.

* * * * *

EXISTING FACILITIES

§ 271.111. [**Permit application filing deadline**] (Reserved).

[(a) A person or municipality possessing a permit for a municipal waste landfill or construction/demolition waste landfill under the act or a permit for an impoundment used for municipal waste disposal issued under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), which was issued by the Department prior to April 9, 1988 shall file with the Department, by October 11, 1988, one of the following:

(1) A preliminary application for permit modification under subsection (b).

(2) A closure plan under § 271.113 (relating to closure plan).

(b) The preliminary application for permit modification for a municipal waste landfill shall describe differences between the existing permit and the requirements of this chapter, including, but not limited to, the following:

(1) Surface water drainage design requirements in §§ 273.213 and 273.242 (relating to access roads; and soil erosion and sedimentation control).

(2) Cap and drainage layer requirements for final cover in § 273.234 (relating to final cover and grading).

(3) Sedimentation pond design requirements in § 273.243 (relating to sedimentation ponds).

(4) Liner system requirements in §§ 273.251—273.260 (relating to liner system).

(5) Leachate treatment requirements in §§ 273.271—273.277 (relating to leachate treatment).

(6) Requirements concerning the number of monitoring points in § 273.282 (relating to number, location and depth of monitoring points).

(7) Monitoring well casing standards in § 273.283 (relating to standards for casing of wells).

(8) **Financial assurances requirements in Subchapter D (relating to financial assurances requirements).**

(c) **The preliminary application for permit modification for a demolition waste landfill shall describe differences between the existing permit and the requirements of this chapter, including, but not limited to, the following:**

(1) **Surface water drainage design requirements in §§ 277.213 and 277.242.**

(2) **Cap and drainage layer requirements for final cover in § 277.233 (relating to final cover and grading).**

(3) **Sedimentation pond design requirements in § 277.243 (relating to sedimentation ponds).**

(4) **Liner system requirements in §§ 277.251—277.260 (relating to liner system).**

(5) **Leachate treatment requirements in §§ 277.271—277.277 (relating to leachate treatment).**

(6) **Requirements concerning the number of monitoring points in § 277.282 (relating to number, location and depth of monitoring points).**

(7) **Monitoring well casing standards in § 277.283 (relating to standards for casing of wells).**

(8) **Financial assurances requirements in Subchapter D.**

(d) **Within 6 months after receiving notice from the Department, a person or municipality that filed a preliminary application for permit modification shall file with the Department a complete application for permit modification to correct differences between the existing permit and the requirements of this chapter.]**

§ 271.112. [**Continued operation under prior permits**] (Reserved).

[(a) By October 11, 1988, no person or municipality that possesses a municipal waste landfill or construction/demolition waste landfill permit under the act or a permit for an impoundment for municipal waste disposal under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) which was issued prior to April 9, 1988, may dispose or process waste under the permit, unless a preliminary application for permit modification or a closure plan is filed under § 271.111 (relating to permit application filing deadline).

(b) By April 9, 1990, no person or municipality that possesses a municipal waste landfill or construction/demolition waste landfill permit under the act or a permit for an impoundment for municipal waste disposal under The Clean Streams Law which was issued prior to April 9, 1988, may dispose or process waste under the permit, unless one of the following applies:

(1) A complete application for permit modification is filed under § 271.111, and the Department has not yet rendered a decision with respect to the application.

(2) The person or municipality possesses a permit for the facility issued under this chapter.

(c) An operator may continue to dispose of waste, up to final permitted elevations as of December 15, 1987, on permitted disposal areas where waste was disposed as of April 9, 1988 if the operator complies with this section and § 271.111. The Department may take action it deems necessary at the facilities to enforce the act, the environmental protection acts and the regulations promulgated thereunder.

(d) An operator may not dispose of waste on permitted disposal areas where waste was not disposed on April 9, 1988, unless one of the following applies:

(1) The area is subject to a Department-issued permit that is consistent with the requirements of this article for facilities permitted after April 9, 1988.

(2) The Department approves the continued disposal of waste on the area, based on a written request from the operator filed with the Department by July 11, 1988. Approval will be subject to the following:

(i) The approval will be limited to the minimum lateral area that would be filled in 2 years to final permitted elevations as of December 15, 1987, based on daily waste volumes received at the facility on July 1, 1987.

(ii) The approval will not be granted unless the operator requires the additional lateral capacity in order to operate for 2 years at the daily volumes received at the facility on July 1, 1987, pending Department review of preliminary and complete applications for permit modification submitted under § 271.111.

(iii) The approval will be void if the operator fails to comply with § 271.111 and this section.

(iv) The approval will terminate April 9, 1990, or when the Department approves or denies a complete application for permit modification under § 271.111, whichever is earlier.]

§ 271.113. Closure plan.

(a) The Department may require a person or municipality that closed a municipal waste landfill, construction/demolition waste landfill or municipal waste disposal impoundment after September 7, 1980, and before April 9, 1988, to submit a closure plan to the Department under this section. The person or municipality shall submit the closure plan to the Department within 6 months after receiving written notice.

(b) A closure plan for municipal waste landfills or municipal waste disposal impoundments [submitted under § 271.111 (relating to permit application filing deadline)] shall show how the operator plans to close in a manner that will protect public health, safety and the environment. At a minimum, the closure plan shall be consistent with the following:

* * * * *

[(b)] (c) A closure plan for construction/demolition waste landfills [submitted under § 271.111] shall show how the operator plans to close in a manner that will protect public health, safety and the environment. At a minimum, the closure plan shall be consistent with the following:

* * * * *

(d) The Department may waive or modify the applicable regulations concerning subsection (b)(1)—(6) or subsection (c)(1)—(5) if a person or municipality can demonstrate that an existing system or design performs at a level that is equivalent to the applicable regulations.

[(c)] (e) * * *

[(d) No] (f) A person or municipality may not implement a closure plan submitted under this subchapter until the Department has approved the closure plan.

[(e) A person or municipality that submitted a closure plan to the Department under § 271.111(a) shall cease receiving waste at the facility and begin implementation of the closure plan on the earliest of the following dates:

(1) The date stated in the closure plan approved by the Department under this section.

(2) April 9, 1990.

(3) When the operator reaches final permitted capacity.

(f) The Department may require a person or municipality that closed a municipal waste landfill, construction/demolition waste landfill or municipal waste disposal impoundment after July 7, 1980, to submit a closure plan to the Department under this section. The person or municipality shall submit the closure plan to the Department within 6 months after receiving written notice.]

(g) Groundwater degradation at a solid waste facility which ceased receiving waste between September 7, 1980, and October 9, 1993, shall be remediated in accordance with one of the following:

(1) An approved closure plan, permit or any prior administrative consent order, consent adjudication, judicially approved consent order or other settlement agreement entered into with the Department.

(2) Remediation standards under Chapter 250 (relating to administration of land recycling program), except for § 250.304(d) (relating to MSCs for groundwater), and the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.907), if paragraph (1) does not apply or if a remediation is conducted under a document in paragraph (1) that has been so modified and approved.

(h) Groundwater degradation at a solid waste facility that received waste on or after October 9, 1993, shall be remediated in accordance with § 271.342(b) (relating to final closure certification).

GENERAL APPLICATION REQUIREMENTS

§ 271.122. Form of application.

* * * * *

(d) An application for a permit shall be prepared by or under the supervision of a registered professional engineer. The design section of the application shall bear the seal of a registered professional engineer. The soils, geology and groundwater sections of a permit application shall be completed by experts in the fields of soil science [and], soil engineering, geology and groundwater [,

respectively,]. The geology and groundwater sections of a permit application also shall be completed under the supervision of a registered professional [engineer] geologist licensed in this Commonwealth.

* * * * *

§ 271.123. Right of entry.

* * * * *

(c) An application shall include, upon a form prepared and furnished by the Department, the irrevocable written consent of the landowner to the Commonwealth and its authorized agents to enter the proposed permit area. The consent shall be applicable prior to the initiation of operations, for the duration of operations at the facility, and for up to 10 years after final closure for the purpose of inspection and monitoring, maintenance or abatement measures deemed necessary by the Department to carry out the purposes of the act and the environmental protection acts.

* * * * *

§ 271.124. Identification of interests.

(a) An application for a municipal waste processing or disposal permit shall contain the following information on a form provided by the Department:

(1) The names, addresses and telephone numbers of:

* * * * *

(ii) [A] Any contractor, including a contractor for gas or energy recovery from the proposed operation, if the contractor is a person other than the applicant.

* * * * *

(b) An application shall contain a statement of whether the applicant is an individual, corporation, partnership, limited partnership, government agency, proprietorship, municipality, syndicate, joint venture or other entity. For applicants other than sole proprietorships, the application shall contain the following information, if applicable:

(1) [Names] The names and addresses of every officer, general and limited partner, director and other persons performing a function similar to a director of the applicant.

* * * * *

(4) [Names] The names and addresses of other persons or entities having or exercising control over any aspect of the proposed facility that is regulated by the Department, including, but not limited to, associates and agents.

* * * * *

§ 271.125. Compliance information.

(a) An application shall contain the following information for the 10-year period prior to the date on which the application is filed:

* * * * *

(3) A description of [a] summary, misdemeanor or felony [conviction, a plea] convictions, pleas of guilty or [plea] pleas of no contest that [has] have been obtained in this Commonwealth against the applicant or a related party under the act and the environmental protection acts, or under other acts in this Commonwealth concerning the storage, collection, treatment,

transportation, processing or disposal of solid waste. The description shall include the date, location, nature and disposition of the actions.

(4) A description of [a] court [proceeding] proceedings concerning the act or the environmental protection acts that [was] were not described under paragraph (3), in which the applicant or a related party has been a party. The description shall include the date, location, nature and disposition of the proceedings.

(5) A description of [a] consent [order] orders, consent [adjudication] adjudications, consent [decree] decrees or settlement [agreement] agreements in this Commonwealth entered by the applicant or a related party concerning the act, the environmental protection acts or an environmental protection ordinance, in which the Department, the EPA or a county health Department was a party. The description shall include the date, location, nature and disposition of the action. In lieu of a description, the applicant may provide a copy of the order, adjudication, decree or agreement.

* * * * *

(8) A description of [a] misdemeanor or felony [conviction, a plea] convictions, pleas of guilty and [a plea] pleas of no contest, by the applicant or a related party for violations outside of this Commonwealth of the environmental protection acts. The description shall include the date of the convictions or pleas, and the date, location and nature of the offense.

* * * * *

§ 271.126. Requirement for environmental assessment.

* * * * *

(b) The following permit applications do not require an environmental assessment unless the Department determines that the facility may have a significant effect on the environment:

(1) Permit applications for [agricultural utilization of sewage sludge] the beneficial use of municipal waste.

(2) Permit applications for [land reclamation facilities for sewage sludge] the processing of municipal waste under Subchapter I (relating to beneficial use).

* * * * *

§ 271.127. Environmental assessment.

(a) Impacts. Each environmental assessment in a permit application shall include at a minimum a detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including traffic, aesthetics, air quality, water quality, stream flow, fish and wildlife, plants, aquatic habitat, threatened or endangered species, water uses [and], land use and municipal waste plans. The applicant shall consider features such as scenic rivers, recreational river corridors, State and Federal forests and parks, the Appalachian Trail, historic and archaeological sites, National wildlife refuges, State natural areas, [prime] National landmarks, farmland, wetland, special protection watersheds designated under Chapter 93 (relating to water quality standards), public water supplies and other features deemed appropriate by the Department or the applicant.

(b) [The Department, after consultation with appropriate governmental agencies and potentially affected persons, will evaluate the assessment provided under subsection (a) to determine whether the proposed operation has the potential to cause environmental harm. In determining whether the proposed operation has the potential to cause environmental harm, the Department will consider its experience with a variety of factors, including, but not limited to, engineering design, construction and operational deviances at comparable facilities; with inherent limitations and imperfections in similar designs and materials employed at comparable facilities; and with the limitations on future productive use of the land after closure of the facility. If the Department determines that the proposed operation has this potential, it will notify the applicant in writing.] *Harms.* The environmental assessment shall describe the known and potential environmental harms of the proposed project. The applicant shall provide the Department with a written mitigation plan which explains how the applicant plans to mitigate each known or potential environmental harm identified and which describes any known and potential environmental harms not mitigated. The Department will review the assessment and mitigation plans to determine whether there are additional harms and whether all known and potential environmental harms will be mitigated. In conducting its review, the Department will evaluate each mitigation measure and will collectively review mitigation measures to ensure that individually and collectively they adequately protect the environment and the public health, safety and welfare.

(c) [If the Department or the applicant determines that the proposed operation may cause environmental harm, the applicant shall provide the Department with a written explanation of how it plans to mitigate the potential harm, through alternatives to the proposed facility or portions thereof, including alternative locations, traffic routes or designs or other appropriate mitigation measures.] *Municipal waste landfills, construction/demolition waste landfills and resource recovery facilities.* If the application is for the proposed operation of a municipal waste landfill, construction/demolition waste landfill or resource recovery facility, the applicant shall demonstrate that the benefits of the project to the public clearly outweigh the known and potential environmental harms. In making this demonstration, the applicant shall describe in detail the benefits relied upon. The benefits of the project shall consist of social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and shall also consist of the environmental benefits of the project, if any.

(d) *Other facilities.* If the application is for the proposed operation of [a municipal waste landfill or resource recovery facility, the applicant shall describe in writing the social and economic benefits of the project to the public] another type of facility and the applicant or the Department upon review determines that known or potential environmental harm remains despite the mitigation measures described in the mitigation plans, the applicant shall demonstrate that the benefits of the project to the

public clearly outweigh the remaining known and potential environmental harms. In making this demonstration, the applicant shall describe in detail the benefits relied upon. The benefits of the project shall consist of social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and shall also consist of the environmental benefits of the project, if any.

(e) [If the application is for the proposed operation of another type of facility and the Department determines, under subsection (b), that the proposed operation has the potential to cause environmental harm and that the potential for environmental harm remains despite the mitigation measures described in subsection (c), the applicant shall describe in writing the social and economic benefits of the project to the public.] *Identification of harms and benefits.* Known and potential harms and benefits of a proposed project may also be identified by the Department or any other person or municipality.

(f) [The description required by subsections (d) and (e) shall include a detailed explanation of the need for the facility and the consistency of the facility with municipal, county, State or regional solid waste plans in effect where the waste is generated.] *Evaluation.* After consultation with other appropriate agencies and potentially affected persons, the Department will evaluate the environmental assessment in Phase 1 of permit review or otherwise prior to technical review.

(g) [The Department may consider a proposed municipal waste landfill or resource recovery facility, or proposed expansion thereof, to be needed for municipal waste disposal or processing if the following are met:

(1) The proposed facility or expansion is provided for in an approved county plan.

(2) The proposed facility will actually be used to implement an approved county plan based on implementing documents submitted under § 272.245 (relating to submission of implementing documents) or other clear and convincing evidence acceptable to the Department.] *Revision.* The Department may require submission of a revised environmental assessment if additional harms or potential harms are discovered during any phase of permit application review.

[(h) Meeting the requirements of this section does not, by itself, mean that the proposed facility or expansion is actually needed.]

§ 271.128. Permit application fee.

(a) An application for a new permit [and an application for permit modification under § 271.111 (relating to permit application filing deadline)] shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amount:

(1) [Eleven] Eighteen thousand [four] five hundred dollars for a municipal waste landfill.

(2) [Six] Nineteen thousand two hundred fifty dollars for a construction/demolition waste landfill.

* * * * *

(5) [One] Four thousand four hundred dollars for a transfer facility.

(6) For municipal waste processing facilities other than transfer facilities:

(i) [Three] One thousand nine hundred dollars for incinerators or resource recovery facilities.

(ii) [Two] Four thousand [four hundred] dollars for other municipal waste processing facilities.

(7) [Ten] Seventeen thousand three hundred dollars for demonstration facilities.

(b) An application for a permit modification under § 271.144 (relating to public notice and public hearings for permit modifications) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amount:

(1) [Six] Three hundred dollars for the addition of types of waste not approved in the permit.

(2) [Four] Seven thousand [six] eight hundred dollars for municipal waste landfills and construction/demolition waste landfills.

* * * * *

(5) [Four] Seven hundred dollars for transfer facilities.

(6) For municipal waste processing facilities other than transfer facilities:

(i) [Nine] One thousand five hundred dollars for incinerators or resource recovery facilities.

(ii) [Four] Seven hundred dollars for other municipal waste processing facilities.

(7) [Four] Six thousand seven hundred dollars for demonstration facilities.

(8) [Two] Three hundred dollars for a minor permit modification.

* * * * *

(d) An application for a permit renewal under § 271.223 (relating to permit renewal) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for § [200] 300.

PUBLIC NOTICE AND COMMENTS

§ 271.141. Public notice by applicant.

(a) An applicant for a new permit, major permit modification, permit renewal[,] or permit reissuance and a person or municipality submitting a closure plan shall publish once a week for 3 consecutive weeks a notice in a newspaper of general circulation in the area where the facility or proposed facility is located. The notice shall meet the following requirements:

(1) Include a brief description of the location and proposed operation or closure of the facility, and indicate where copies of the application or closure plan will be filed. **If groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants, abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards**

to be met. If the permittee proposes to utilize the alternative groundwater protection standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site.

* * * * *

(d) An applicant for a new permit, permit reissuance, permit renewal or major permit modification, and a person or municipality submitting a closure plan shall, immediately before the application or plan is filed with the Department, give written notice to each municipality in which the site or proposed permit area is located. **If groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants, abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. If the permittee proposes to utilize the alternative groundwater protection standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site.** If the applicant proposes a design alternative under § 271.231, the notice shall so state and briefly describe the alternative design. The applicant shall file with the Department a copy of the notice as part of the application or plan. The Department will not issue a permit for [a period of] 60 days from the date of [this] the notice unless each municipality to which [this] the notice is sent submits a written statement to the Department expressly waiving the 60-day period.

* * * * *

§ 271.142. Public notice by Department.

(a) The Department will publish a notice in the *Pennsylvania Bulletin* of the following:

* * * * *

(2) Receipt of a closure plan **and if groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants. Abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. If the permittee proposes to utilize the alternative groundwater protection standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site.**

* * * * *

(b) The Department will submit a copy of an application for a new permit, permit reissuance, permit renewal, major permit modification or closure plan to the host municipality and the appropriate county, county planning agency and county health department, if one exists. **If groundwater degradation exists at closure or occurs after closure, the Department will include a copy of the applicant's list of contaminants, identification of abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met.**

* * * * *

§ 271.144. Public notice and public hearings for permit modifications.

(a) An application for a permit modification for municipal waste landfills or construction/demolition waste landfills shall be considered an application for a major permit modification under §§ 271.141—271.143 (relating to public notice by applicant; public notice by Department; and public comments) if the application involves the following:

* * * * *

(2) Change in the average or maximum daily waste volume.

(3) Change in excavation contours or final contours, including final elevations and slopes, if the change results in increased disposal capacity or impacts groundwater isolation distance or groundwater quality.

* * * * *

(5) Change in the approved groundwater monitoring plan, except for the addition or replacement of wells or parameters.

(6) Change in approved leachate collection and treatment [plan] method.

(7) Change in gas monitoring or management plan, or both, except when installation of additional wells or improvements to the collection systems are proposed.

[(8) Change in the approved type, amount, origin or application of daily, intermediate and final cover materials.

(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

[(12)] (11) Change in approved design under § 271.231 (relating to equivalency review procedure) if the design has not been previously approved through an equivalency review.

(12) The submission of an abatement plan.

(b) An application for a permit modification for a municipal waste processing facility shall be considered an application for a major permit modification under §§ 271.141—271.143, if the application involves the following:

(1) Changes in specifications or dimensions of waste storage or residue storage areas if the change results in increased processing or storage capacity.

(2) Change in the approved groundwater monitoring plan, except for the addition or replacement of wells or parameters.

(3) Change in approved closure plan [, if applicable].

* * * * *

(6) Change in approved design under § 271.231 [(relating to equivalency review procedure)] if the design has not been previously approved through an equivalency review.

(7) Change in the average or maximum daily waste volume.

(c) [An application for a permit modification for the surface land application of sewage sludge shall be considered an application for a major permit modification under §§ 271.141—271.143 if the application involves the following:

(1) Change in approved sludge application areas.

(2) Acceptance of sludge from generators not approved in the permit.

(3) Change in the approved groundwater monitoring plan, if groundwater monitoring is required, except for the addition of wells or parameters.

(d)] * * *

[(e)] (d) * * *

Subchapter C. PERMIT REVIEW PROCEDURES AND STANDARDS
PERMIT REVIEW

§ 271.201. Criteria for permit issuance or denial.

[(a)] A permit application will not be approved unless the applicant affirmatively demonstrates that the following conditions are met:

(1) [Each] For a disposal or processing permit, each of the entities that are the permit applicant, [the owners] an owner of the facility or a part thereof, [the operators] an operator of the facility, or a related party to one or more of the foregoing entities, [are] is one of the following: a natural person; a partnership; a corporation; a municipality of this Commonwealth; a municipal authority or joint municipal authority established under the laws of the Commonwealth; an agency of the Commonwealth; the Commonwealth; an agency of the Federal Government; or the Federal Government.

* * * * *

(3) The requirements of [the act,] the environmental protection acts, this title and PA. CONST. art. I, § 27 have been complied with. [If the application is for a municipal waste landfill, construction/demolition waste landfill or resource recovery facility, the need for the facility shall clearly outweigh the potential harm posed by operation of the facility, based on the factors described in § 271.127 (relating to environmental assessment).]

(4) Mitigation plans required by § 271.127 are implemented if required by the Department.

(5) * * *

[(5)] (6) * * *

[(6) If an application for a permit for a municipal waste landfill or a resource recovery facility includes approval for the disposal or processing of municipal waste generated in county, municipality or state that has an approved municipal waste management plan under applicable law, the facility is expressly provided for in the approved plan, and the approved plan designates the proposed facility to receive that waste volume under §§ 272.227, 272.231 and 272.245 (relating to selection and justification of municipal waste management program; implementing documents; and submission of implementing documents).

(b) In addition to the provisions of subsection (a), a permit application for a municipal waste landfill or resource recovery facility will not be approved unless the applicant affirmatively demonstrates to the Department's satisfaction that the following conditions are met:

(1) The facility is expressly provided for in the approved host county plan, and the approved plan designates that facility to receive that waste volume, if the facility would receive waste that is included in the approved plan for the host county.

(2) The facility meets the following if the facility would receive waste that is not provided for in the approved plan for the host county:

(i)] (7) * * *

[(ii)] (8) * * *

[(iii) No site in a county where the waste was generated is more suitable for a municipal waste disposal facility or resource recovery facility than the proposed location of the facility.]

§ 271.202. Completeness review.

(a) *Determining completeness.*

(1) After receipt of a permit application, the Department will determine whether the application is administratively complete. For purposes of this section, an application is administratively complete if it contains necessary information, maps, fees and other documents, regardless of whether the information, maps, fees and documents would be sufficient for issuance of the permit and, in the case of an application for a municipal waste landfill or a construction/demolition waste landfill, an alternative project timeline is established under paragraph (2). If the Phase I and Phase II parts of the application for a landfill are submitted separately, the application will not be considered to be administratively complete until both parts are determined to be administratively complete.

(2) An alternative project timeline shall be established for a municipal waste landfill or construction/demolition waste landfill application through negotiation among the Department, the applicant and representatives of the host community. If the parties are unable to reach agreement, the Department will determine an appropriate timeline, taking into consideration the level of public interest and incorporating into the timeline sufficient opportunity for meaningful public participation. Public notice of a negotiated timeline will be made in the *Pennsylvania Bulletin* as part of the permit application acceptance announcement.

* * * * *

(d) The Department will not accept a permit application for expansion of a landfill if more than 5 years of disposal capacity remains at the landfill, at the rate of disposal at the time of submission of the application.

§ 271.203. Review period.

(a) The Department will issue or deny permit applications [under this article within the following periods of time:

(1) For] for municipal waste and construction/demolition waste landfills[,] within [9 months from the date of the Department's determination] the time period established in the alternative project timeline developed under § 271.202 (relating to completeness review) [that the application is administratively complete.

(2) For all other permits, within 6 months from the date of the Department's determination under § 271.202 that the application is administratively complete.]

(b) The time [periods] period in subsection (a) [do] does not include a period beginning with the date that the Department in writing has requested the applicant to make substantive corrections or changes to the application and ending with the date that the applicant submits the corrections or changes to the Department's satisfaction.

GENERAL PERMIT RESTRICTIONS

§ 271.211. Term of permits.

* * * * *

(c) [No municipal] municipal waste may be disposed [or] , processed [at a facility] or beneficially used under a permit after the expiration of [its] the permit term for disposal, processing or beneficial use. Expiration of the permit term does not limit the operator's responsibility for complying with closure and postclosure requirements and all other requirements under the act, the environmental protection acts, regulations thereunder or the terms or conditions of its permit.

* * * * *

(e) If no municipal waste is processed or disposed [at a facility] under a permit within 5 years of the date of issuance by the Department of a permit for the facility, the permit is void.

* * * * *

§ 271.212. Conditions of permits.

A permit issued by the Department will, at a minimum, ensure and contain the following conditions:

* * * * *

(4) The permittee shall notify the Department within the time stated in the permit and if no time is stated within 45 days, on a form prepared by the Department, after the transfer has occurred of a controlling interest in the permittee. The notification shall contain the same information about the person who obtained the controlling interest in the permittee as is required of a permit applicant under §§ 271.124 and 271.125 (relating to identification of interests; and compliance information). A "controlling interest" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

PERMIT REISSUANCE, MODIFICATION AND RENEWAL

§ 271.221. Permit reissuance.

(a) A transfer, assignment or sale of rights granted under a permit may not be made [except as provided in this section] without obtaining permit reissuance.

(b) An application for permit reissuance shall be made on forms provided by the Department and shall contain the following:

* * * * *

(3) [For an application for the reissuance of a permit that was issued prior to April 9, 1988, a complete application for permit modification to correct deficiencies identified under § 271.111 (relating to permit application filing deadline).

(4)] * * *

* * * * *

§ 271.222. Permit modification.

(a) A permittee shall file with the Department an application for permit modification:

* * * * *

(3) [If required under § 271.111(d) (relating to permit application filing deadline).

(4)] * * *

[(5)] (4) * * *

* * * * *

(c) The Department may approve onsite a minor modification for the construction of liner systems or of erosion and sedimentation control devices if impracticable to comply with subsections (a) and (b) and the modification will improve the permitted design.

OTHER PERMITTING PROVISIONS

§ 271.231. Equivalency review procedure.

* * * * *

(e) If an alternative design is approved through a major permit modification, the Department may approve the applicability of the alternative design to another applicant through a minor permit modification.

Subchapter D. FINANCIAL ASSURANCES REQUIREMENTS

BOND AND TRUST REQUIREMENTS—GENERAL

§ 271.312. Existing facilities.

* * * * *

(b) A person or municipality that possesses a municipal waste landfill permit or a demolition waste landfill permit under the act, or a permit for an impoundment used for municipal waste disposal issued under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), which permit was issued by the Department prior to April 9, 1988, shall submit an updated bond in an approved bond amount as required by the Department, prior to Departmental approval of a closure plan submitted under § 271.113 (relating to closure plan) [or issuance of an approval of a complete application for permit modification submitted under § 271.111 (relating to permit application filing deadline)]. Nothing in this section prevents the Department from requiring a bond to be an updated bond under this chapter for another facility operating after April 9, 1988.

* * * * *

BOND AND TRUST REQUIREMENTS—RELEASE

§ 271.341. Release of bonds.

* * * * *

(g) The following apply with regard to [a] bond release:

(1) The Department will not release a bond amount deposited for a facility if the release would reduce the total remaining amount of bond to an amount which would be insufficient for the Department to complete closure and postclosure care, including long term maintenance of remediation measures, and to take measures that are necessary to prevent adverse effects upon the environment or public health, safety or welfare under the act, the environmental protection acts, this title, the terms and conditions of the permits and orders of the Department.

(2) The release of a bond by the Department does not constitute a waiver or release of other liability provided in law, nor does it abridge or alter rights of action or remedies of a person or municipality presently or prospectively existing in equity or under criminal and civil common or statutory law. The release of a bond does not discharge an owner or an operator from liability to restore the groundwater to remediation standards or monitoring groundwater quality, at a minimum, at those levels.

* * * * *

§ 271.342. Final closure certification.

* * * * *

(b) The Department will not issue a final closure certification unless the operator demonstrates that:

* * * * *

(2) One of the following remediation standards is met and maintained at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer:

(i) For constituents for which an MCL has been promulgated under the Federal or State Safe Drinking Water Acts (42 U.S.C.A. §§ 300f—300j-18; and 35 P. S. §§ 721.1—721.21), the MCL for that constituent.

(ii) For constituents for which MCLs have not been promulgated, the background standard for the constituent.

(iii) For constituents for which the background standard is higher than the MCL or alternative groundwater protection standard identified under subparagraph (iv), the background standard.

(iv) For constituents for which MCLs have not been established, an alternative groundwater protection standard that satisfies the following criteria:

(A) The level is derived in a manner consistent with Federal guidelines for assessing the health risks of environmental pollutants (51 FR 33992, 34006, 34014, 34028, Sept. 24, 1986).

(B) The level is based on scientifically valid studies conducted in accordance with good laboratory practice standards (40 CFR Part 792) promulgated under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2692) or equivalent.

(C) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) within the 1 × 10⁻⁴ to 1 × 10⁻⁶ range.

(D) For systemic toxicants, the level represents a concentration to which the human population (including sensitive subgroups) could be exposed on a daily basis that is likely to be without appreciable

risk of deleterious effects during a lifetime. For purposes of this clause, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation.

(3) * * *

[(3)] (4) * * *

* * * * *

(e) The final closure certification is not a guarantee of future performance nor does it constitute a waiver or release of bond liability or other liability existing in law or equity for adverse environmental effects or conditions of noncompliance existing at the time of the notice or which might occur at a future time, for which the operator remains expressly liable. The issuance of a final closure certification does not discharge an owner or operator from liability to restore the groundwater to remediation standards or maintain groundwater quality, at a minimum, at those levels.

* * * * *

(g) If, after the issuance of a certification of final closure, the Department determines that the level of risk is increased beyond the acceptable range at a facility due to substantial changes in exposure conditions, such as in a change in land use from a nonresidential to a residential use, or new information is obtained about a substance associated with the facility which revises exposure assumptions beyond the acceptable range, additional remediation shall be required.

Subchapter E. CIVIL PENALTIES AND ENFORCEMENT

CIVIL PENALTIES

§ 271.413. Assessment of penalties—minimum penalties.

* * * * *

(j) If a violation is included as a basis for an administrative order requiring cessation of solid waste management operations, or for another abatement order, and if the violation has not been abated within the abatement period set in the order, a minimum civil penalty of at least \$1,000 will be assessed for each day during which the failure continues. Nothing in this subsection limits the Department's authority to assess an appropriate civil penalty for violations that formed the basis for issuing an order, and that occurred prior to the issuance of the order or prior to a date for compliance in the order.

ENFORCEMENT

§ 271.421. Administrative inspections.

* * * * *

(b) The Department, its employes and agents will conduct routine inspections [.

(1) Inspections will be made] as follows:

[(i)] (1) For municipal waste landfills [,] and construction/demolition waste landfills [and facilities for the land disposal of sewage sludge], at least 12 times per year.

[(ii)] (2) * * *

[(iii)] (3) * * *

[(iv)] For facilities for the utilization of sewage sludge for land reclamation, at least twice per year.

(2)] (c) The Department, its employes and agents intend to conduct inspections under the act of:

[(i)] (1) Facilities [for the agricultural utilization of sewage sludge] operating under a permit issued under Chapter 275 (relating to land application of sewage sludge) or a beneficial use order issued prior to January 25, 1997, at least 2 times per year.

[(ii)] (2) * * *

[(iii)] (3) * * *

[(iv)] (4) * * *

[(v)] (5) * * *

[(vi)] (6) * * *

(7) Facilities and beneficial use areas subject to permit by rule under § 271.103 (relating to permit by rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements), a general permit for beneficial use or processing, or both, under Subchapter I (relating to beneficial use), or a permit for the land application of sewage sludge under Subchapter J (relating to beneficial use of sewage sludge by land application), at least once per year.

[(c)] (d) * * *

[(d)] (e) * * *

* * * * *

Subchapter F. DEMONSTRATION FACILITIES

§ 271.501. Scope.

This subchapter applies to municipal waste processing or disposal facilities, or parts of these facilities, that are based on a new or unique technology for processing or disposing of municipal waste. For purposes of this subchapter, a technology is considered new or unique if it has not previously been demonstrated in this Commonwealth or another comparable area. The Department may approve in writing, as a permit modification, the demonstration of new or unique technology for the processing or disposal of municipal waste at permitted municipal waste processing or disposal facilities if the requirements of this subchapter are met.

§ 271.502. Relationship to other requirements.

[Nothing in this subchapter creates exceptions to, or authorizes the Department to grant variances from, other provisions of this article.]

(a) An operation that is approved under this subchapter is subject to the requirements of this article.

(b) For an operation that is approved under this subchapter, the Department may waive or modify any application and operating requirements in this article. The Department may not waive or modify Subchapter A, §§ 271.124, 271.125 and 271.129, and Subchapter D, E or H.

§ 271.504. Operating requirements.

In addition to applicable operating requirements in this article, a person or municipality that operates a demonstration facility shall comply with the following:

(1) [The facility may not exceed 1 acre in size, unless the applicant demonstrates, and the Department finds, that a larger area is needed to adequately test the technology. In that case, the] The facility may not be larger than the area needed to adequately test the new or unique technology.

* * * * *

(6) If one of Chapter 273, 275, 277, 279, 281 or 283 is not clearly applicable to the facility, the permittee shall annually submit to the Department a nonrefundable [annual] permit administration fee of an amount set forth in the approved permit, but not more than \$1,800, in the form of a check payable to the "Commonwealth of Pennsylvania."

§ 271.505. Public notice of analysis.

[a] The Department will publish in the Pennsylvania Bulletin notice of the availability of the analysis submitted under § 271.504(5) (relating to operating requirements).

[b] The notice [required by this section] will request public comment on the analysis and the utility of the analysis in permitting future facilities using the same or similar technology. The Department will also provide written notice of the availability of the analysis to the municipalities in which the facility is located.

Subchapter G. RESIDUAL WASTE SPECIAL HANDLING WASTE; BENEFICIAL USE OF MUNICIPAL WASTE

ADDITIONAL APPLICATION REQUIREMENTS

§ 271.611. Chemical analysis of waste.

(a) Application form.

(1) Except as provided in subsection (f), an application for the processing or disposal of residual waste or special handling waste, an application for a general permit for the beneficial use or processing of municipal waste under Subchapter I (relating to beneficial use), or an application or registration under § 271.831 (relating to inclusion in a general permits) for inclusion in a general permit issued under Subchapter I, shall contain the following information for each waste on a form provided by the Department:

* * * * *

(4) The Department may, in writing, waive or modify the evaluation required by this subsection for waste to be [disposed] received at [lined] permitted disposal facilities if the following conditions are met:

* * * * *

(ii) The waste [has the same characteristics as municipal waste that does not contain hazardous waste] is municipal-like residual waste and no changes in operation or management of the permitted facility are required to accept the waste.

(iii) The applicant has demonstrated to the Department's satisfaction that additional analysis is not necessary to determine that waste can be [disposed of] received at the facility without adversely affecting the effectiveness of the liner or leachate treatment systems.

(b) Waste generation. Except as provided in subsection (e), an application [for the processing or disposal of residual waste or special handling waste] shall also include a description of the waste generation process, including a description of the raw materials used in the process, the primary chemical reactions which occur during the process, the sequence of events which occur during the process, the points of waste generation in the process and the manner in which each of the wastes is managed subsequent to its generation. A schematic drawing of the process shall be included.

* * * * *

§ 271.612. Source reduction strategy.

An application for the processing or disposal of residual waste shall contain a copy of the source reduction strategy required by § 287.53 (relating to source reduction strategy) for each residual waste to be [disposed of or processed] received at the facility.

§ 271.613. Waste analysis plan.

(a) The application shall include a waste analysis plan for each type of waste proposed to be [disposed] received at the permitted facility. The plan shall take into account the waste analysis required by § 271.611 (relating to chemical analysis of waste). The plan shall include:

* * * * *

(b) The application shall also include a plan for screening and managing incoming waste to ensure that the [disposal or processing] management of the waste is consistent with the permit and this [chapter] article. Except as otherwise required by the Department, the application shall include at a minimum a plan for checking each load of waste received at the facility for color, odor, texture, physical state and phases of waste.

* * * * *

Subchapter H. GENERAL PERMITS—INFECTIOUS AND CHEMOTHERAPEUTIC WASTE GENERAL PROVISIONS

§ 271.711. Authorization for general permits.

* * * * *

(c) The Department may issue a general permit for the mixing of disinfection products with infectious waste to perform processing.

(d) The Department may issue a general permit for the processing of mixtures of the same types of waste that are infectious or residual wastes.

[(c)] (e) * * *

[(d)] (f) * * *

§ 271.712. Nature of a general permit; substitution for individual applications and permits.

* * * * *

(b) The use of an applicable general permit shall satisfy the requirement to obtain a permit [set forth] in § 271.101 (relating to permit requirement) if the following conditions are met:

* * * * *

(2) The person or municipality conducting the processing activities is authorized to operate under the general permit at the time that the Department issued the

general permit or under the applicable general permit in accordance with § 271.742 or § 271.743 (relating to determination of applicability; and registration).

* * * * *

ISSUANCE OF A GENERAL PERMIT

§ 271.721. Application for general permit.

* * * * *

(d) The application requirements in subsection (b) may be waived or modified for the mixing of disinfection products with infectious waste to perform processing.

CONTENT OF GENERAL PERMITS AND WAIVERS

§ 271.731. Contents of general permits.

Each general permit issued by the Department will include, at a minimum:

* * * * *

(18) A requirement that autoclaves meet the following:

(i) Processing of pathological waste is prohibited.

(ii) The retention time for processing bulk fluids (greater than 500 ml) allows for the complete vaporization of fluids.

§ 271.732. Waiver or modification of certain requirements.

[In issuing a general permit or in making a determination of applicability regarding a general permit, the Department may waive or modify one or more of the following procedural requirements as applied to a particular category of processing covered by the general permit:

(1) Subchapter B (relating to general requirements for permits and permit applications), except for the following sections: §§ 271.123—271.125 and 271.129.

(2) Subchapter C (relating to permit review procedures and standards).

(3) Subchapter D (relating to financial assurances requirements).]

(a) An operation that is approved under this subchapter does not require an individual processing or disposal permit under this article.

(b) For an operation that is approved under this subchapter, the Department may waive or modify any application and operating requirements in this article, except the Department may not waive or modify Subchapter A, §§ 271.124, 271.125 and 271.129, and Subchapters D and E.

REGISTRATION AND DETERMINATION OF APPLICABILITY

§ 271.741. Authorization for persons or municipalities to be included in a general permit.

(a) A person or municipality is authorized to operate under a general permit if one of the following occurs:

* * * * *

[(3) The Department has authorized the person or municipality to operate under the general permit at the time the Department issued the general

permit, in accordance with § 271.744 (relating to waiver of registration or determination of applicability requirements).]

* * * * *

§ 271.742. Determination of applicability.

If a general permit specifies that potential users of the permit shall obtain a determination of applicability from the Department prior to conducting the activity authorized by the general permit, the procedures in this section shall be followed in addition to those stated in § 271.741 (relating to authorization for persons or municipalities to be included in a general permit):

(1) An application for a determination of applicability shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$[200] 500.

* * * * *

§ 271.743. Registration.

(a) When a general permit specifies that potential users are required to register with the Department prior to operating under the general permit, the procedures in this section shall be followed in addition to those in § 271.741 (relating to authorization for persons or municipalities to be included in a general permit).

(1) A registration to operate under a general permit shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$[100] 250.

* * * * *

§ 271.744. [Waiver of registration or determination of applicability requirements] (Reserved).

[(a) When the Department issues a general permit in response to an application filed under § 271.721 (relating to application for general permit) or on its own motion under § 271.725 (relating to Department initiated general permits), the Department may waive the registration or determination of applicability requirements in §§ 271.741—271.743 (relating to authorization for persons or municipalities to be included in a general permit; determination of applicability; and registration) and may authorize the applicant to operate under the general permit immediately upon the effective date of the general permit if the following are met:

(1) The person or municipality notifies the Department, within the 60-day comment period for the proposed general permit established by § 271.723 (relating to public notice and review period), that it intends to immediately operate under the approved general permit if the permit is issued.

(2) The person or municipality submits to the Department the information required by § 271.741 and the fee required by § 271.742 or § 271.743, whichever is applicable, within the 60-day comment period for the proposed general permit established by § 271.723. If it is not evident which fee will apply by the notice published acknowledging the receipt of an application for a general permit, the person or municipality shall submit the fee required for a registration. If the general permit, when issued, requires a determination of applicability, the person or municipality shall submit an additional fee equal to the difference between the fee required for

a determination of applicability and the fee required for a registration, prior to operating under the general permit.

(3) The person or municipality applying for coverage under a general permit shall provide written notice within the 60-day comment period established by § 271.725 to each municipality in which the person or municipality intends to operate under the general permit.

(b) The Department may amend, suspend or revoke coverage under a general permit if the waste or the activity is not consistent with the terms and conditions of the general permit.]

Subchapter I. BENEFICIAL USE

GENERAL PERMIT FOR PROCESSING OR BENEFICIAL USE, OR BOTH, OF MUNICIPAL WASTE AUTHORIZATION AND LIMITATIONS

§ 271.811. Authorization for general permit.

* * * * *

(g) The Department will not issue a general permit under this subchapter for the following:

* * * * *

(5) The use of a waste for construction or operations at a resource recovery facility or disposal facility.

CONTENT OF GENERAL PERMITS AND WAIVERS

§ 271.832. Waiver and modification of requirements.

* * * * *

(b) For an operation that is approved under this subchapter, the Department may waive or modify any application and operating requirements in this article, except the Department may not waive or modify Subchapter A, §§ 271.124, 271.125 and 271.129, Subchapter D in accordance with § [271.811(d)] 271.821(d), Subchapter E or Subchapter H.

Subchapter J. BENEFICIAL USE OF SEWAGE SLUDGE BY LAND APPLICATION

OPERATING REQUIREMENTS

§ 271.915. Management practices

* * * * *

(h) A person that operates under an individual or general land application of sewage sludge permit issued under this subchapter shall comply with the EPA and the Department guidance documents on the land application of sewage sludge pertaining to conducting sampling and analyses, and calculating the agronomic rate [,] and the cumulative pollutant loading rate [and the annual whole sludge application rate].

* * * * *

CHAPTER 272. MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION

Subchapter B. HOST COUNTIES

§ 272.101. Site-specific postclosure fund.

(a) Counties in this Commonwealth within whose boundaries there are or may be operating municipal waste landfills are required to establish a trust fund for each landfill for the purpose of providing for remedial measures and emergency actions to prevent or abate

adverse effects on the environment after the closure of the landfills. A trust fund established under this section shall comply with §§ 272.102—272.107.

(b) [For a landfill which has been issued a permit by the Department prior to September 26, 1988, the county shall have established a trust fund by November 25, 1988.

(c) For a landfill which may be issued a permit by the Department after September 26, 1988, the] A county shall establish a trust fund prior to the operation of [the] a landfill. [The] A landfill may not accept [wastes] waste or initiate operation prior to the establishment of the required trust fund.

§ 272.104. Withdrawals from trust fund.

(a) Except as provided in [this section,] § 272.105 (relating to county withdrawals from trust fund) and for purposes of investing and reinvesting the moneys in the trust fund by the trustee, withdrawals may not be made from the trust fund prior to certification by the Department of the closure of the landfill under § 273.203(d) (relating to certification). The Department will provide the trustee with a copy of the certification of closure.

* * * * *

(f) After the trustee receives notification of certification of closure from the Department, the trustee may release moneys from a trust for a municipal waste landfill that operated prior to April 9, 1988, and which has no closure bond or an insufficient closure bond, for the following postclosure activities upon written request by the landfill operator and written approval by the Department:

- (1) Placement of wells for water quality monitoring.
(2) Placement of gas control devices for gas monitoring.
(3) Placement of leachate collection and treatment system.
(4) Erosion and sedimentation control.
(5) Revegetation and regrading including maintenance of final cover.
(6) Access control.
(7) Other postclosure activities.

[(f)] (g) * * *

§ 272.105. County withdrawals from trust fund.

* * * * *

(c) Payments to the county for costs incurred in establishing and administering the trust fund may not exceed the lesser of the county's actual costs, or 0.5% of the moneys deposited in the trust fund to the date of the county's request for payment. In addition, after the trustee receives notification of certification of closure by the Department, payments to the county may not exceed the earnings and profits from the trust corpus credited during the billing period.

(d) The trustee shall, prior to making payments to the county, assure that the payments will not exceed 0.5% of the moneys deposited in the trust fund. [In computing the 0.5%, the trustee may not include earnings or profits of the trust fund.]

§ 272.106. [Final closure of the facility] Termination of trust.

(a) The Department will notify the trustee, in writing, of the Department's certification of final closure of the landfill under § 271.342 (relating to final closure certification) and [the] one of the following:

(i) The release of the bond [or trust for municipally operated landfills thereon].

(ii) The termination of a trust provided for a landfill operated by a municipality solely for municipal waste not classified hazardous, if the municipality has provided the trust in lieu of a bond under § 271.301 (relating to scope).

(b) Upon receipt of the notification [of the certification of final closure] required in subsection (a), the trustee shall take the necessary steps to terminate the trust fund. The trustee may also terminate a trust fund when all of the fund monies have been withdrawn.

(c) Upon termination of the trust fund, the remaining trust property, less final trust administration expenses of the trustee, shall be divided equally between the county and the municipality in which the municipal waste landfill is located.

Subchapter C. MUNICIPAL WASTE PLANNING PLANNING

§ 272.211. General requirement.

[(a) Except as provided in subsection (b), a] A county shall submit to the Department [, by March 26, 1991, an officially adopted] a municipal waste plan revision [for municipal waste generated within its boundaries] under this subchapter. [The plan shall be consistent with the requirements of this subchapter.] For purposes of this subchapter, the term "county" includes cities of the first class, but does not include counties of the first class.

[(b) A county that has submitted a complete municipal waste management plan to the Department for approval on or before October 26, 1988, shall be deemed to have a plan approved under § 272.244 (relating to Departmental review of plans) if:

(1) For plans that were given preliminary approval by the Department under former §§ 75.11 and 75.13 (Pennsylvania Code serial pages (145124) to (145133)) before September 26, 1988, more than one-half of the municipalities within the county, representing more than one-half of the county's population as determined by the 1980 census of the United States Bureau of the Census, adopted resolutions approving the plan by March 25, 1989.

(2) For plans that were not given preliminary approval by the Department before September 26, 1988:

(i) On or before January 24, 1989, the Department granted preliminary approval of the plan.

(ii) On or before April 24, 1989, more than one-half of the municipalities within the county, representing more than one-half of the county's population as determined by the 1980 census of the United

States Bureau of the Census, adopted resolutions approving the plan.]

PLAN CONTENT

§ 272.223. Description of waste.

* * * * *

(b) In describing the content of waste, the plan shall specifically address sewage sludge (including septage), infectious and chemotherapeutic waste, ash from resource recovery facilities, construction/demolition waste other than waste from demolition of an industrial site and other municipal waste.

* * * * *

§ 272.224. Description of facilities.

(a) The plan shall identify and describe the following:

(1) The facilities where the county's municipal waste is currently being disposed or processed [and facilities located within the county].

* * * * *

(d) For purposes of this section, an "existing facility" is a municipal waste processing or disposal facility [located within the planning area which, on or before July 26, 1989, notified the county of its existence, and] which meets [one or more] either of the following conditions:

(1) The facility was designated to receive waste in the existing county plan.

(2) The facility has submitted a complete permit application as of the date of the notice of plan revision.

[(1) A facility located in the county which had a permit under the act on September 26, 1988, and which received waste for processing or disposal in September of 1988.

(2) A facility for which a complete permit application under the act in accordance with § 271.202 (relating to completeness review) was filed with the Department by the latest of the following dates:

(i) September 26, 1989.

(ii) Within 1 year after written notice of plan development is given to municipalities under § 272.203 (relating to notice to municipalities).

(iii) For substantial plan revisions, within 6 months after written notice of proposed plan revision is given to municipalities under § 272.203.

(3) A resource recovery facility for which, on or before September 26, 1988, the owner or operator did one or more of the following:

(i) Deposited funds into escrow for financing of the facility.

(ii) Signed an electric power contract with a public utility that was approved by the Pennsylvania Public Utility Commission on or before September 26, 1988.

(iii) Has secured permanent bond financing for the facility.

(4) A facility that meets the following:

(i) The applicant acquired fee simple title to the property covering the permit area on or before September 26, 1988.

(ii) On or before September 26, 1988, the applicant had contractual agreements that specifically designate the facility for disposal of waste.

(iii) The applicant meets one of the following:

(A) The applicant had a permit from the Department under the act on September 26, 1988.

(B) The applicant received a permit under the act from the Department within 1 year from the date written notice of plan development was given to municipalities under § 272.203.

(C) The applicant submitted a complete application to the Department under the act by September 26, 1989.

(D) For plan revisions, the applicant received a permit under the act from the Department within 1 year from the date written notice of a plan revision was given to municipalities under § 272.203.]

* * * * *

§ 272.225. Estimated future capacity.

* * * * *

(d) If [the plan indicates] during the development of a plan revision, the county determines that additional processing or disposal capacity is needed by the county, the county shall give public notice of the determination and solicit proposals and recommendations regarding facilities and programs to provide the capacity. The county shall provide a copy of the notice to the Department, which will submit a copy of the notice to be published in the *Pennsylvania Bulletin*.

§ 272.226. Description of recyclable materials.

(a) The plan shall describe and evaluate:

* * * * *

(7) Options for the processing, storage and sale of recyclable materials, including market commitments. [The plan shall consider the results of the market development study completed for the Department in 1989.]

* * * * *

(11) What consideration for the collection, marketing and disposition of recyclable materials will be accorded to persons engaged in the business of recycling on [September 26, 1988,] the date that the county issued its notice of plan revision under § 272.203 (relating to notice of municipalities) whether or not the persons are operating for profit.

* * * * *

(c) Nothing in this subchapter prohibits the preparation of a county municipal waste management plan revision prior to developing and implementing a recycling program required by Subchapter E, nor does this subchapter prohibit the preparation or implementation of a municipal recycling or waste reduction plan prior to the approval of the county plan revision.

§ 272.227. Selection and justification of municipal waste management program.

* * * * *

(c) For every proposed facility, recycling program or waste reduction program, the plan shall [do the following]:

* * * * *

(2) Describe alternative facilities or programs, including, but not limited to, waste reduction, recycling or resource recovery facilities, municipal waste landfills, or other programs, that were considered. The plan shall provide reasonable assurances that the county utilized a fair, open and competitive process for selecting the facilities or programs from among alternatives which were suggested to the county. Nothing in this section requires the county to utilize a request for proposals or a bidding process to identify or select alternatives, nor does it require a county to choose the lowest bid.

* * * * *

§ 272.228. Location.

[(a)] The plan shall identify the [general] location [within a county where] of each municipal waste processing or disposal facility and each recycling program identified in § 272.227 (relating to selection and justification of municipal waste management program) [will be located. The plan shall do one of the following:]. For a site not yet chosen, the plan shall explain how the site will be chosen.

[(1) Identify the specific location of the sites for sites that are chosen.

(2) Explain in detail the methodology that will be used to choose the sites, including, but not limited to, inclusionary criteria, exclusionary criteria, a timetable by month and year for selecting the sites, and a justification of the methodology for sites that are not yet chosen. Exclusionary criteria shall include the applicable provisions of §§ 273.202 and 283.202 (relating to areas where municipal waste landfills are prohibited; and areas where resource recovery facilities and other processing facilities are prohibited) and section 511 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.511).

(b) Explain in detail the reasons for selecting the facility, for a municipal waste processing or disposal facility that is proposed to be located outside the county. If a new municipal waste processing or disposal facility is proposed to be located outside the county, the plan shall explain how the generating county gave first choice to new facilities located within its boundaries. The explanation shall be based on a siting analysis for potential locations in the generating and host counties that includes inclusionary criteria, exclusionary criteria and a justification of the methodology. Exclusionary criteria shall include the applicable provisions of §§ 273.202 and 283.202 and section 511 of the Municipal Waste Planning, Recycling and Waste Reduction Act.]

§ 272.233. Facilities developed pursuant to sub-county plans.

[(a) The plan shall state if it will affect the design, construction, operation, financing or contractual obligations of a municipal processing or disposal facility described in subsection (b).

(b)] The plan shall explain how it will not interfere with the design, construction, operation, financing or contractual obligations of a municipal processing or disposal facility, including a reasonable expansion of an existing facility, which [meets one or more of the following]:

(1) A facility that meets the following:

(i) The facility] is part of a complete municipal waste management plan submitted to the Department by a municipality or organization of municipalities under the act prior to September 26, 1988, and approved by the Department.

[(ii) A complete permit application for the facility was submitted to the Department by September 26, 1989.

(2) A facility is a project that is planned or operated by an entity that meets the following:

(i) The entity is a municipal authority created under the Municipal Authorities Act of 1945 (53 P. S. §§ 301—401) or an organization of municipalities.

(ii) The entity was created by two or more municipalities prior to September 26, 1988, for the purpose of providing for collection, storage, transportation, processing or disposal of solid waste generated within the municipalities.

(iii) The entity submitted a plan to the Department by September 26, 1989, in accordance with this subchapter, which included and was adopted by each member municipality, and obtained Departmental approval for the plan. Within 30 days after receiving the plan, the Department will approve or disapprove the plan, unless the Department gives written notice that additional time is necessary to complete its review. If the Department gives notice, the Department will have 30 additional days to render a decision.

(3) A facility that meets the following:

(i) On or before September 26, 1988, the facility was operating, possessed a permit from the Department under the act and was designated in a plan that meets the requirements of § 272.211(b) (relating to general requirement).

(ii) The facility is owned by a local public agency other than the county in which the facility is located.

(4) A facility that is described in § 272.224(d)(3) or (4) (relating to description of facilities).]

PLAN REVIEW PROCEDURES

§ 272.245. Submission of implementing documents.

(a) Within 1 year following approval of a plan by the Department, [including plans approved under § 272.211(b) (relating to general requirement),] the county shall submit to the Department copies of executed ordinances, contracts or other requirements to implement its approved plan and that will be used to ensure sufficient available capacity to properly dispose or process municipal waste that is expected to be generated within the county for the next 10 years.

* * * * *

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] at the earliest of the following events:

(1) At least 3 years prior to the [time that the remaining available permitted capacity for the

county will be exhausted] expiration of the capacity assurances necessary to dispose or process the municipal waste generated in the county.

[(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.] At least 3 years prior to the expiration of the term of the county's approved plan.

* * * * *

§ 272.252. Development of plan revisions.

* * * * *

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

* * * * *

(2) Sections 272.201, 272.202 and 272.204 (relating to purposes; completeness review 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.] A summary of any comments received from the advisory committee and municipalities shall be included with the submission of a nonsubstantial revision to the Department.

(d) If the [Department determines that the plan revision is substantial,] plan revision is determined to be substantial the county shall also:

* * * * *

(f) Within 30 days after receiving a complete plan revision, including a plan revision submitted under § 272.243(d) (relating to failure to ratify plan), the Department will approve, conditionally approve or disapprove it. If the Department gives written notice to the county that additional time is necessary to complete its review, the Department will have 30 additional days to render a decision.

(g) A nonsubstantial plan revision will be deemed approved within 30 days of receipt by the Department unless the Department responds in writing.

OTHER PLANNING PROVISIONS

§ 272.261. Annual report by county.

* * * * *

(b) The annual report, which shall be submitted on a form supplied by the Department, shall include the following:

* * * * *

(4) Documentation that the assumptions the county made in developing capacity assurance in the plan remain valid.

Subchapter D. GRANTS

GENERAL PROVISIONS FOR AWARDING GRANTS

§ 272.311. Financial management.

* * * * *

(b) For a grant under this subchapter, if the Department receives grant requests for which approved costs exceed available funds for that type of grant, the Department may determine grant awards based on population of the area for which the grant is requested, the extent to which the grant is based on cooperation among several municipalities and the extent to which the grant award will further the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act and section 208 of the Small Business and Household Pollution Prevention Program Act (35 P. S. § 6029.208).

§ 272.313. General requirements for grant applications.

* * * * *

(d) Prior to development of a grant application under § 272.321 or § 272.331 (relating to planning grants; and grants for development and implementation of municipal recycling programs), the applicant shall participate in a preapplication conference with the Department.

§ 272.314. Limits on Department's authority to award grants.

* * * * *

(b) The Department [may] will not award a grant under this subchapter to a municipality unless the applicant demonstrates to the Department's satisfaction that [it has complied with the following]:

(1) The applicant has complied with the conditions in previously awarded grants under this subchapter or conditions in previously awarded grants under the act or the Pennsylvania Solid Waste-Resource Recovery Development Act (35 P. S. §§ 755.1—755.14).

(2) The applicant has complied with the requirements of the Municipal Waste Planning, Recycling and Waste Reduction Act, § 272.261 (relating to annual report by county) and this subchapter.

(3) The applicant has not previously been reimbursed under the Municipal Waste Planning, Recycling and Waste Reduction Act for expenses requested.

(c) Activities reimbursed under one grant program under the Municipal Waste Planning, Recycling and Waste Reduction Act will not be eligible as a match under any other grant program under that act.

[(c)] (d) The Department [will] may withhold funds for grants under this subchapter if any of the following occurs:

(1) [the] The application has failed to provide material information concerning the grant, or has provided false information concerning the grant.

(2) Equipment purchased with previous grant funds has not been utilized in compliance with program requirements.

(3) The grantee has not met the requirements of § 272.421 (relating to program elements).

(4) The grantee maintains improper or inadequate documentation to demonstrate proper grant expenditures in administering any grant under the Municipal Waste Planning, Recycling and Waste Reduction Act.

[(d)] (e) * * *

(f) The Department may not award a grant under § 272.321 or § 272.331 (relating to planning grants; and grants for development and implementation of municipal recycling programs) unless a pre-application conference is held between the applicant and the Department prior to development of the grant application.

§ 272.316. Performance audit.

A grant application under this subchapter shall include provisions for an independent performance audit, which shall be completed within 6 months after reimbursable work under the grant has been completed. This audit may be performed as part of another independent audit conducted for the municipality. A grant under this subchapter may not be used to pay for this audit. The Department's review of a disbursement request will be deemed to meet this requirement unless the grantee is notified in writing by the Department to perform the audit because of improper or inadequate documentation of grant expenditures.

PLANNING GRANTS

§ 272.321. Scope of grant.

The Department will, upon application from a county, award grants for one or more of the following:

(1) The cost of preparing [and implementing] municipal waste management plans in accordance with Subchapter C (relating to municipal waste planning).

* * * * *

(5) Educational programs on pollution prevention, other technical assistance to small business for pollution prevention and educational programs on household hazardous waste.

§ 272.322. Eligible costs.

* * * * *

(b) Costs not approved for a grant under § 272.321 include, but are not limited to:

* * * * *

(4) Indirect costs as defined in Office of Management and Budget Circular A-87, as amended.

§ 272.323. Grant application.

The application shall contain a detailed description of the proposed project, the proposed duration of the project, source of the fundings match for the project and an explanation of how the project will further the purposes of the Municipal Waste Planning, Recycling and Waste Reduction Act and the Small Business and Household Pollution Prevention Program Act (35 P. S. §§ 6029.201—6029.209).

GRANTS FOR DEVELOPMENT AND IMPLEMENTATION OF MUNICIPAL RECYCLING PROGRAMS

§ 272.332. Eligible costs.

* * * * *

(f) Equipment and property purchased with funds from a grant and with a purchase price of \$1,000 or

greater shall be clearly identified by the grantee, through a sign or lettering permanently affixed to the equipment or property as being funded by a Department of Environmental Protection Act 101 Section 902 Recycling Grant.

[(f)] (g) If equipment or property purchased with funds from a grant is no longer used for the intended purposes under the grant, the grantee shall notify the Department in writing. The Department shall be reimbursed for the value of the equipment or property in the same proportion that funding for the equipment or property was originally granted, unless the equipment or property is sold to another municipality for waste reduction or recycling purposes. The reimbursement shall be based either on the sale price of the equipment or property if applicable or its depreciated market value.

§ 272.333. Grant application.

* * * * *

(c) If the municipality proposes to use some or all of the grant funds to purchase mechanical processing equipment **[with a retail value of more than \$200]**, the application shall also contain the following:

(1) A dated copy of a public notice that was published once a week for 2 consecutive weeks in a newspaper of general circulation in the municipality. The notice shall:

(i) **State that funding is being sought from the Commonwealth's recycling fund, under the Municipal Waste Planning, Recycling and Waste Reduction Act, to assist with the purchase of the mechanical processing equipment.**

(ii) * * *

[(ii)] (iii) * * *

[(iii)] (iv) * * *

[(iv)] (v) * * *

* * * * *

GRANTS FOR COUNTY RECYCLING COORDINATORS

§ 272.341. Scope of grant.

The Department will award grants for authorized salary and expenses for county recycling coordinators, upon application from a county. The activities for which a grant may be used **[for one or more of the following]** include:

(1) **[Development of recycling and waste reduction public education programs.**

(2) **Assistance to municipalities and the private sector in development of recycling programs.**

(3) **Assistance in selection of materials to be recycled and market identification.**

(4) **Identification of and coordination of opportunities for inter-municipal cooperation.**

(5) **County and municipal recycling and waste reduction program data management with reporting to the Department.**

(6) **Identification of sources of recyclable products and products made of recycled materials which encourage the use of these items.]**

Assisting the county in developing and implementing the waste reduction, recycling, leaf and

yard waste, and household hazardous waste components of its solid waste management plan.

(2) **Identifying and encouraging opportunities for intermunicipal cooperation and cooperative efforts with other organizations to further waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.**

(3) **Providing technical assistance to municipalities on developing and implementing waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.**

(4) **Developing educational programs and materials on waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.**

(5) **Serving as a contact for waste reduction, recycling, leaf and yard waste composting, and household hazardous waste program questions from within the county.**

(6) **Participating in, and coordinating when appropriate, waste reduction, recycling, leaf and yard waste composting, and household hazardous waste meetings, training programs, workshops and conferences.**

(7) **Speaking to schools and community, business and government organizations about waste reduction, recycling, leaf and yard waste composting, and household hazardous waste programs.**

(8) **Assisting municipalities in identifying recyclable materials capable of being marketed and locating markets.**

(9) **Assisting municipalities with developing and coordinating leaf and yard waste collection and composting programs and identifying markets for compost.**

(10) **Assisting municipalities in preparing recycling and household hazardous waste program grant applications.**

(11) **Collecting data on municipal recycling programs within the county and on commercial, institutional and municipal establishment recycling, and recycling at community activities and reporting the data annually to the Department.**

(12) **Identifying sources of recyclable products and products made of recycled materials and encouraging the use of those items to support county and municipal recycling programs.**

(13) **Developing recycling programs for special materials such as used oil, tires, household hazardous waste and white goods.**

(14) **Administration and management of county recycling programs.**

§ 272.342. Eligible costs.

* * * * *

(b) **Costs not approved for a grant include, but are not limited to:**

(1) **Activities and expenses incurred by the recycling coordinator that are not related to recycling.**

(2) **[Administrative, management or clerical activities.**

(3)] * * *

- [(4)] (3) * * *
- [(5)] (4) * * *
- [(6)] (5) * * *

PERFORMANCE GRANTS FOR RECYCLING PROGRAMS

§ 272.353. Grant application.

(a) The application shall contain a description of the weight of each material recycled and marketed [, and the name and mailing address of each market]. The weight shall be reduced for any residue materials.

* * * * *

GRANTS FOR HOST MUNICIPALITY INSPECTORS

§ 272.362. Eligible costs.

(a) The grant shall be 50% of the approved cost of the salaries and expenses of up to two certified host municipality inspectors [for a period not to exceed 5 years from the date of certification of the first inspector].

(b) Costs not approved for a grant include, but are not limited to:

* * * * *

(7) Costs incurred by the municipality or the inspector prior to certification or after decertification of the inspector by the Department.

§ 272.364. Maintaining certification; decertification; recertification.

(a) *Maintaining certification.* To maintain certification, a host municipality inspector shall:

(1) Complete a Department sponsored advanced training course once every 3 years and perform satisfactorily on a written examination.

(2) Demonstrate that the inspector is an active inspector by conducting at least one inspection per calendar year, as indicated on the annual reimbursement application.

(b) *Decertification.* Acts of a host municipality inspector which may be grounds for decertification include:

(1) Violating a condition of certification.

(2) Violating a provision of the Municipal Waste Planning, Recycling and Waste Reduction Act, this title, or an order of the Department or its agent.

(3) Endangering the health or safety of a resident of the host municipality, or of an owner, employe, customer or visitor of a municipal waste landfill or resource recovery facility.

(4) Distributing business information of a municipal waste landfill or resource recovery facility deemed confidential by the Department under section 1713 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1713) without prior written approval of the owner or chief operating manager of the facility.

(5) Submitting false information to the Department or its agent.

(6) Exceeding the scope of authority granted to a host municipality inspector under section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. § 4000.1102).

(7) Failing to complete successfully the requirements of subsection (a).

(c) Upon decertification, the Department will notify in writing the host municipality inspector, the host municipality and the affected municipal waste landfill or resource recovery facility of the following:

(1) The name of the decertified inspector and the related host municipality.

(2) The effective date of the decertification.

(3) If and when the inspector will be eligible for recertification.

(4) The reason for the decertification.

(d) *Recertification.* A decertified host municipality inspector is not eligible to serve as a host municipality inspector for any municipality for 2 years from the date of decertification. After this 2-year period, a decertified inspector may be retrained and recertified by the Department in accordance with section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act. In deciding whether a decertified host municipality inspector may qualify for recertification, the Department will consider the nature and gravity of the misconduct which resulted in the previous revocation.

Subchapter E. MUNICIPAL RECYCLING PROGRAMS

REQUIRED RECYCLING PROGRAMS

§ 272.411. Affected municipalities.

* * * * *

(d) The results of the [1990] 2000 census, or a subsequent decennial census, shall affect a municipality's obligation to establish and implement a recycling program under this subchapter only as follows:

(1) A municipality that meets requirements of subsection (a) or (b) but which was not required by the previous decennial census to conduct a recycling program, shall establish and implement a source separation and collection program in accordance with this subchapter within 2 years after the census data becomes official. For the [1990] 2000 decennial census, this date shall be July 15, [1993] 2003.

* * * * *

PROGRAM ELEMENTS

§ 272.426. Alternative to curbside program.

* * * * *

(e) The Department may revoke approval granted under this section if the alternative recycling program is not meeting the requirements of this section or is not operating in accordance with the terms of the [municipality's] municipality's request to the Department under this section.

CHAPTER 273. MUNICIPAL WASTE LANDFILLS

Subchapter B. APPLICATION REQUIREMENTS

PHASE I APPLICATION REQUIREMENTS

§ 273.112. Facility plan.

An application to operate a municipal waste landfill shall contain a narrative describing the following:

* * * * *

(2) [The quantity, quality and availability of acceptable cover material and liner system construction material, including calculations and cross sections of the borrow areas, both on and off the proposed permit area.] A detailed description of the volume of soil needed to construct and operate the facility.

§ 273.113. Maps and related information.

(a) An application shall contain a topographic map, on a scale of 1 inch equals no more than 200 feet with 10-foot maximum contour intervals, including necessary narrative descriptions, which shows the following:

(1) [Boundaries] The boundaries and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

* * * * *

(b) A different scale for the topographic map required in subsection (a) may be used if approved in writing by the Department.

(c) * * *

[(c) An application shall also contain a United States Department of Agriculture Soil Conservation Service soil map, or aerial photographs when current soils maps are unavailable, for the proposed permit area and adjacent area showing the site boundaries, soil types and the location of test pits of excavations taken under § 273.116 (relating to groundwater quality description).]

§ 273.115. Geology and groundwater description.

(a) An application shall contain a description of the geology and groundwater in the proposed permit area and adjacent areas down to and including the lowest aquifer that may be affected by the facility, including the following:

* * * * *

(8) The well head protection areas in accordance with § 109.1 (relating to definitions) that may be impacted by the facility.

(9) A groundwater contour map based upon the highest groundwater level recorded monthly in each boring for the previous year.

* * * * *

§ 273.116. Groundwater quality description.

(a) An application shall contain a description of the chemical characteristics of each aquifer in the proposed permit area and adjacent area, based on at least [1 full year of monitoring data] two quarters of monitoring data, one of which shall include the season of the highest local groundwater levels. This description shall be based on quarterly sampling and analysis from each monitoring well for the following parameters:

(1) Ammonia-nitrogen, chloride, chemical oxygen demand, nitrate-nitrogen, pH, specific conductance, total organic carbon, total phenolics, [turbidity,] iron, manganese and sodium.

* * * * *

(4) Total alkalinity, fluoride[,] and sulfate[,] and total and dissolved concentrations of each of the following: arsenic, barium, cadmium, chromium, copper, lead, magnesium, mercury, potassium, selenium, silver and zinc.

* * * * *

(b) [For municipal waste landfills permitted by the Department after April 9, 1988, the 1] One year of data [required by] consistent with this section shall be taken prior to the disposal or storage of waste at the facility.

(c) [For municipal waste landfills permitted by the Department before April 9, 1988, the 1 year of data required by this section shall be taken beginning with the first anniversary date of the issuance of the permit after April 9, 1988.

(d)] Monitoring wells under this section shall be designed, constructed and maintained under §§ 273.281—273.283 (relating to general requirements; number, location and depth of monitoring points; and standards for wells and casing of wells). Sampling and analysis shall be conducted in accordance with a plan approved by the Department under § 273.152(b) (relating to water quality monitoring plan).

§ 273.117. Soil description.

(a) An application shall contain:

(1) [A description of the soils within the proposed permit area and adjacent area down to the bedrock, including, for each soil horizon, depth, matrix color, texture, structure, consistency, degree of mottling, mottling colors and laboratory particle size analyses.] The depth to the seasonal high water table within the proposed permit area and adjacent area to demonstrate that seasonal high water table will not contact the liner system.

(2) A description of soils to be used for daily, intermediate and final cover, and facility construction, including [for each onsite or offsite borrow area] texture, chemical [analysis, structure,] description, laboratory particle size analysis[,] and quantity [and]. A cross section of the borrow pits within the proposed permit area shall be included.

* * * * *

§ 273.120. Mineral deposits information.

(a) If the proposed permit area and adjacent area [overlies previous or current coal or noncoal mining operations] overlies existing workings of an underground mine, the applicant shall submit sufficient information to evaluate the potential for mine subsidence damage to the facility, including the following:

* * * * *

(2) [A subsurface survey, with supporting documentation, by a registered professional engineer with geotechnical expertise. The study shall allow the Department to assess the probability and degree of surface subsidence and the methods which have been used or are proposed to stabilize the surface.

(b) If the proposed permit area overlies extractable mineral deposits and the applicant does not own or lease the mineral deposits, the applicant

shall submit a written plan showing that the minerals providing support will not be mined as long as municipal waste remains on the site.]

An investigation, with supporting documentation, by a registered professional engineer with geotechnical expertise addressing the probability and potential impacts of future subsidence. The investigation shall address the potential for additional mining beneath the permit and adjacent area, the stability of the final underground workings, the maximum subsidence likely to occur in the future and the effect of that subsidence on the integrity of the facility, and any measures which have been or will be taken to stabilize the surface.

(b) If the proposed permit area or adjacent area overlies recoverable or mineable mineral deposits, the applicant shall demonstrate that the owner warrants that the minerals will not be mined as long as municipal waste remains on the site.

§ 273.121. Notification of proximity to airport.

An applicant shall notify the Federal Aviation Administration, the Department and the airport if a proposed landfill or lateral expansion is within a 5-mile radius of an airport runway end used by turbojet or piston-type aircraft.

PHASE II APPLICATION REQUIREMENTS—GENERAL PROVISIONS

§ 273.132. Operation plan.

An application shall contain a description of the municipal waste landfill operations proposed during the life of the facility within the proposed permit area, including, at a minimum, the following:

(1) A narrative describing the type and method of municipal waste landfill procedures, inspection and monitoring of incoming waste, sequence of landfilling activity, type of landfilling activity, proposed engineering techniques and the major equipment to be used under § 273.215 (relating to equipment), using the maps and grids required by § 273.133 (relating to map and grid requirements) as a basis for the description.

* * * * *

(3) [A narrative describing the type and size of equipment that is proposed to be used at the facility, as well as a description of the availability of standby equipment in the event of breakdown or maintenance.

(4) A narrative describing a plan for hiring and training facility operators and other personnel concerning the operation and approved design of the facility.

(5)] * * *

[(6)] (4) An explanation of how the applicant intends to comply with § 273.214 (relating to measurement and inspection of waste).

[(7)] (5) * * *

[(8)] (6) The proposed operating hours of the proposed facility. The operating hours include those hours related to construction and other activities related to operation of the facility.

§ 273.134. Plan for access roads.

The application shall contain designs, cross sections and specifications for access roads, including load limits,

under § 273.213 (relating to access roads). Access roads shall be designed and constructed to handle adequately the truck traffic expected at the facility.

§ 273.136. Nuisance minimization and control plan.

(a) The application shall contain a plan in accordance with § 273.218 (relating to nuisance minimize and control) to [prevent] minimize and control hazards or nuisances from vectors, odors, noise, dust and other nuisances not otherwise provided for in the permit application. [The plan shall provide for the routine assessment of vector infestation and shall also provide for countermeasures. The plan may include a control program involving a contractual arrangement for services with an exterminator.]

(b) The plan shall include the following:

(1) Provisions for the routine assessment and control of vector infestation.

(2) Methods to minimize and control nuisances from odors, dustfall and noise off the property boundary from the facility.

(3) For odors, the determination of normal and adverse weather conditions based on site-specific meteorological data. Prior to the installation of equipment and collection of meteorological data, a protocol for the installation and data collection shall be approved by the Department.

(c) The plan required in subsection (a) may include a contractual arrangement for services of an exterminator or an air quality, noise, dust control or other professional.

§ 273.139. Relationship to county plans.

* * * * *

(b) An application shall contain the following:

(1) An explanation of whether the proposed facility is [expressly] provided for in the approved plan for the host county. [A facility will be considered expressly provided for in the host county plan only to the extent that implementing documents submitted by the county under § 272.245 designate the facility to receive a specified volume of waste pursuant to the host county plan.] A facility is "provided for" if it is designated by the host county to provide capacity assurance in the approved host county plan. A facility analyzed as part of a planning process, but not designated, will not be considered "provided for."

(2) If the proposed facility is not [expressly] provided for in the approved host county plan:

* * * * *

(iii) A detailed response to objection, if any, filed by the governing body of the host county within 60 days of the written notice under section 504 of the act (35 P.S. § 6018.504).

[(c) If the application is for a facility that is not expressly provided for in the host county plan, an application for a proposed facility or a reasonable expansion of an existing facility shall contain an environmental siting analysis for each county generating municipal waste that will be disposed at the facility, demonstrating that the proposed location of the facility is at least as suitable as alternative locations within the generating county, giving con-

sideration to environmental and economic factors. The environmental siting analysis shall include a discussion and analysis of each of the following:

- (1) Transportation distances and associated impacts.
- (2) The environmental assessment criteria in § 271.127(a) (relating to environmental assessment).
- (3) The siting criteria and technical standards of 40 CFR Part 257 (relating to classification of solid waste disposal facilities) and 40 CFR Part 258 (relating to municipal solid waste landfills).
- (d) The location of an existing permitted facility, including the reasonable expansion of the facility, that is not expressly provided for in the host county plan will be considered at least as suitable as alternative locations within the generating county to the extent that the implementing documents submitted by the county under § 272.245 designate the facility to receive waste under one or more county plans.
- (e) The location of a proposed facility that is expressly provided for under subsection (b)(1) will be considered at least as suitable as alternative locations within the generating county to the extent that implementing documents submitted by the county under § 272.245 designate the facility to receive waste under one or more county plans.
- (f) The Department will require an applicant with a pending application to submit the information required under this section if, before the Department takes final action on the application, the Department receives from the county the legal documents necessary to implement the plan under § 272.245.]

§ 273.140. Daily volume.

(a) The application [will] shall contain proposed average and maximum daily volumes for the facility, and a detailed justification for these volumes, based on §§ 271.126 and 271.127 (relating to requirement for environmental assessment; and environmental assessment), as well as [,] section 1112 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.1112).

* * * * *

(c) The average daily volume is a limit on the volume of solid waste that is permitted to be received [for disposal] at the facility, and shall be computed quarterly by averaging the total volume received over the [periods of time stated in the facility permit] quarter.

PHASE II APPLICATION REQUIREMENTS—COVER AND REVEGETATION

§ 273.141. Compaction and cover plan.

An application shall contain a plan for compaction and cover at the proposed facility under § 273.216 (relating to unloading and compaction) and §§ [273.231] 273.232—273.234 (relating to [topsoil storage;] daily cover; intermediate cover and slopes; and final cover and grading), including, at a minimum, the following information:

- (1) [Procedures] The procedures for [,] placement and [degree of] compaction of [,] solid waste and the degree of compaction of waste.

- (2) [Number] The number and thickness of lifts.
- (3) [Procedures] The materials and procedures for application of daily, intermediate and final cover material, that meet the standards of §§ 273.232—273.234.
- (4) [Procedures] The procedures to establish elevation and final grade of final cover.
- [(5) If cover material will be obtained from an offsite area not owned by the applicant, copies of contracts or other binding agreements showing that the applicant is authorized to obtain cover material from the offsite area for as long as waste is disposed at the proposed facility.]

PHASE II APPLICATION REQUIREMENTS—WATER QUALITY PROTECTION AND MONITORING

§ 273.152. Water quality monitoring plan.

(a) An application shall contain a water quality monitoring plan showing how the operator intends to comply with §§ 273.281—273.288 (relating to water quality monitoring). The plan shall include, at a minimum, the following:

* * * * *

(2) Preoperational data showing existing groundwater quality, as required by § 273.116 (relating to groundwater quality description), and a procedure to establish [back-ground water] this groundwater quality.

* * * * *

PHASE II APPLICATION REQUIREMENTS—LINERS AND LEACHATE MANAGEMENT

§ 273.161. Liner system and leachate control plan.

* * * * *

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteristics of the proposed liner system, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate, based on [the most recent edition of] EPA [Method 9090 (Compatibility Test for Wastes and Membrane Liners), or other documented data] or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed primary and secondary liners, based on ASTM methods when appropriate. Except to the extent that the Department waives in writing any of the following for nonsynthetic secondary liners, these properties shall include, at a minimum:

* * * * *

(13) [Soil-to-liner] Liner friction [()angle in degrees]].

* * * * *

(19) Percent recycled materials.

§ 273.163. Modifications of leachate treatment plan.

(a) If a problem identified in § 273.277 (relating to Departmental notice and remedial action) occurs, the operator shall submit to the Department, within 60 days, a permit modification application under § 271.222 (relat-

ing to permit modification), with plans, designs and cross sections to modify its leachate treatment plan.

* * * * *

PHASE II APPLICATION REQUIREMENTS—CLOSURE PROVISIONS

§ 273.192. Closure plan.

(a) The application shall contain a plan describing the activities that are proposed to occur [**during the post-closure period**] toward and after closure to ensure compliance with this chapter.

(b) The closure plan shall include:

* * * * *

(3) [**If the facility will close in stages, a description of how and when the facility will begin and implement partial closure.**

(4)] * * *

[(5)] (4) A narrative description, including a schedule, of measures that are proposed to be carried out toward and after closure at the facility, including measures relating to:

* * * * *

(vi) Access control, **including maintenance of access control.**

[(6)] (5) * * *

[(7)] (6) * * *

§ 273.196. Recycling plan.

An application [**for a facility that will be receiving waste after September 26, 1990,**] shall contain [**the following information in accordance with § 273.331 (relating to salvaging of materials):**

(1) **A detailed analysis of the potential for salvaging and recycling waste materials received at the facility, including the type of materials that will be received, the likelihood of receiving unmixed loads of waste materials and the markets for the materials.**

(2) **A] a plan for salvaging and recycling waste materials received at the facility for which recycling is cost effective, including proposed salvage areas, salvaging methods and anticipated markets for salvaged materials under § 273.331 (relating to salvaging of materials).**

§ 273.197. Plan for recycled materials collection center.

An application [**for a facility that will be receiving waste after September 26, 1990, including the expansion of an existing facility,**] shall include a plan consistent with § 273.332 (relating to recycled materials collection center).

Subchapter C. OPERATING REQUIREMENTS GENERAL PROVISIONS

§ 273.201. Basic limitations.

* * * * *

(b) A person or municipality may conduct monitoring under § 273.116 (relating to groundwater quality description) without a permit from the Department if the Department has given written approval for the monitor-

ing based on written plans that are consistent with this chapter. **The monitoring information may be used for a permit application for the proposed facility.**

* * * * *

(i) A person or municipality may not allow solid waste [**generated outside the host county for a facility**] to be received, disposed or otherwise managed at the facility if the transportation to, or processing or management at, the facility would violate applicable laws in effect in the county or state in which the waste was generated, or state or local solid waste management plans in effect where the waste was generated.

(j) [**After September 26, 1990, a facility may not receive ash residue from a resource recovery facility that is not complying with one of the following:**

(1) **The requirements of §§ 283.281 and 283.283 (relating to salvaging of materials; and removal of hazardous materials), if the resource recovery facility is in this Commonwealth.**

(2) **Requirements that the Department has determined to be at least as stringent as §§ 283.281 and 283.283, if the resource recovery facility is in another state.**

(k) **After September 26, 1990, loads] Loads** composed primarily of leaf waste may not be disposed at the facility.

(k) **The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.**

§ 273.202. Areas where municipal waste landfills are prohibited.

(a) Except for areas that were permitted as a **municipal waste landfill** prior to April 9, 1988, a municipal waste landfill may not be operated as follows:

(1) **Floodplain.** In the 100-year floodplain of waters of this Commonwealth.

(2) **Wetland.**

(i) * * *

(ii) **For a municipal waste landfill permit issued on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), other than an expansion of a municipal waste landfill that was permitted prior to (Editor's Note: The blank refers to the effective date of adoption of this proposal.), in or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following applies:**

(A) **If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).**

(B) **If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.**

(3) [**In] Minerals.**

(i) **For a municipal waste landfill permit issued prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.)**

or for an expansion of a municipal waste landfill that was permitted prior to _____(Editor's Note: The blank refers to the effective date of adoption of this proposal.) in coal bearing areas underlain by recoverable or mineable coals, unless the operator of the facility demonstrates and the Department finds, in writing, that the operator owns the underlying coal or has entered an agreement with the owner of the coal to provide support.

(ii) For a municipal waste landfill permit issued on or after _____(Editor's Note: The blank refers to the effective date of adoption of this proposal.), in areas underlain by mineable minerals, unless the operator owns the underlying minerals.

- (4) *Valley, ravine or head of hollow.* * * *
- (5) *Limestone or carbonate formation.* * * *
- (6) [Within] *Occupied dwelling.*

(i) For a municipal waste landfill permit issued prior to _____(Editor's Note: The blank refers to the effective date of adoption of this proposal.) or for an expansion of a municipal waste landfill that was permitted prior to _____(Editor's Note: The blank refers to the effective date of adoption of this proposal.), within 300 feet measured horizontally from an occupied dwelling, unless the current owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 feet. [Except for facilities permitted prior to April 9, 1988, the] The disposal area of a municipal waste landfill may not be within 500 feet measured horizontally from an occupied dwelling unless the current owner of the dwelling has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(ii) For a municipal waste landfill permit issued on or after _____(Editor's Note: The blank refers to the effective date of adoption of this proposal.), within 300 yards measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 yards. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

- (7) *Perennial stream.* * * *
- (8) *Property line.* * * *
- * * * * *
- (9) *Airport.*

(i) Within 10,000 feet—or 3,048 meters—of [a] an airport runway [that is or will be] end used by [turbine-powered] turbojet aircraft [at a Federal Aviation Administration (FAA) certified airport] during the [term of the permit] life of disposal operations under the permit unless the operator can demonstrate that the landfill is designed and operated so that the landfill does not pose a bird hazard to aircraft.

[(10)] (ii) Within 5,000 feet—or 1,524 meters—of [a] an airport runway [that is or will be] end used by piston-type aircraft [at an FAA-certified airport] during the life of disposal operations under the permit unless the operator can demonstrate that the land-

fill is designed and operated so that the landfill does not pose a bird hazard to aircraft.

(iii) For purposes of this subsection:

(A) *Airport* means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(B) *Bird hazard* means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

[(11) Within the conical area at 14 CFR Part 77 (relating to objects affecting navigable airspace) for runway flight paths that are or will be used by turbine-powered or piston-type aircraft during the life of disposal operations under the permit.

(12) Within 25 feet of a coal seam, coal outcrop or coal refuse.

(13)] (10) *Water source.* Within 1/4-mile upgradient, and within 300 feet or 91.4 meters downgradient, of a private or public water source [.] for disposal, processing and storage areas, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

[(b) Except for areas that were permitted prior to] (11) *School park playground.*

(i) For a municipal waste landfill permit issued on or after September 26, 1998, [a municipal waste landfill may not be operated] except an expansion of municipal waste landfill permitted prior to September 26, 1998, within 300 yards of the following:

[(1) Within 300 yards of a] (A) A building which is owned by a school district or school and used for instructional purposes.

[(2) Within 300 yards of a] (B) A park.

[(3) Within 300 yards of a] (C) A playground.

[(c) Except for areas that were permitted prior to January 25, 1997, a municipal waste landfill may not be operated as follows:

(1) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(2) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

(d) (ii) The current property owner [under subsection (b) in which a new facility is proposed] of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

[(e) The Department may waive or modify the isolation distance in subsection (a)(13) if the operator demonstrates and the Department finds, in writing, that:

(1) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(2) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source becomes polluted or degraded.

(3) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for public or private water sources in the isolation area.

(f) (b) Except as provided in subsection [(e)] (c), this section does not apply to features that may come into existence after the date of the first newspaper notice of the filing of a permit application under § 271.141 (relating to public notice by applicant).

[(g)] (c) * * *
* * * * *

§ 273.203. Certification.

(a) The operator shall submit a certification by a registered professional engineer on forms provided by the Department upon completion of each major construction activity identified in the permit for each phase or sequence of construction at the facility. Major construction activities include:

* * * * *

(9) Construction of the landfill gas extraction system.

(10) * * *

[(10)] (11) * * *
* * * * *

(d) The closure and final closure activities will not be deemed complete until the Department has certified completion of closure and final closure activities.

DAILY OPERATIONS

§ 273.211. Signs and markers.

(a) A person or municipality that operates a municipal waste landfill shall identify the facility and the recycling drop-off center required under § 273.332 (relating to recycled materials collection center) for the duration of operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road. The sign shall be constructed of a durable, weather-resistant material [and shall be of a minimum size of 3 feet by 4 feet with a light background and

contrasting letters and numbers of a minimum height of 3 inches that can be easily seen and read. The sign shall show the name, business address and telephone number of the person or municipality that operates the facility, the operating hours of the facility and the number of the current permit authorizing operation of the facility].

(b) Permanent physical markers for the grid coordinate system and permit area markers shall be:

(1) [Be posted] Posted and maintained for the duration of the operations to which they pertain.

(2) [Be clearly] Clearly visible, readable and uniform throughout the operation.

(3) [Be permanently] Permanently fixed and made of a durable material.

* * * * *

§ 273.212. Access control.

* * * * *

(b) The operator shall [construct and] maintain a fence or other suitable barrier around the site, including impoundments, leachate collection and treatment systems and gas processing facilities, sufficient to prevent unauthorized access.

* * * * *

§ 273.213. Access roads.

* * * * *

(b) [Crossing] A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. For roads that are used or in existence for more than 30 days, the drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate [sediment control] measures as required by § 273.242 (relating to soil erosion and sedimentation control).

* * * * *

(e) [A] For roads leading to the waste disposal area, a landfill shall maintain a minimum cartway width of one of the following:

* * * * *

(f) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the facility to each unloading area[,] . An access road shall also be provided to each treatment facility [or], impoundment [located on the site. An access road shall also be provided to] and groundwater monitoring [points] point. Other monitoring points shall be readily accessible.

(g) [An access road shall be constructed on a dry and stable area.

(h) Prior to the construction of a road, topsoil shall be removed and immediately used as final

cover or stored on a stable site and protected against erosion and compaction.

- (i) * * *
- [(j)] (h) * * *
- [(k)] (i) * * *

§ 273.214. Measurement and inspection of waste.

* * * * *

(c) The operator of a facility shall inspect and monitor incoming waste to insure that the disposal of waste is consistent with this article. Unless otherwise required by the Department, the monitoring and inspection shall include screening of waste for radioactive isotopes and be consistent with § 271.613 (relating to waste analysis plan).

§ 273.215. Equipment.

* * * * *

(b) [Standby equipment shall be located on the site or at a place where it can be available within 24 hours.] If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and permit conditions.

§ 273.216. Unloading and compaction.

* * * * *

(c) Solid waste shall be spread and compacted [in layers not to exceed 2 feet in depth unless an alternative depth is] as approved by the Department as part of the permit.

[(d) The working face shall be kept to a size which can be easily compacted and covered daily with available equipment.]

§ 273.217. Air resources protection.

(a) The operator shall implement fugitive [dust] air contaminant control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001[—4015] and regulations thereunder]—4014), Article III (relating to air resources) and § 273.218 (relating to nuisance minimization and control). Minimization and control measures shall include the following:

[(b) The operator may] (1) Ensuring that operation of the facility will not cause or contribute to exceeding ambient air quality standards under § 131.3 (relating to ambient air quality standards).

[(c) No person or municipality may cause or allow] (2) Ensuring that no open burning occurs at the facility.

(3) Minimizing the generation of fugitive dust emissions from the facility.

(b) The operator shall comply with the terms and conditions of an air quality plan approval and air quality operating permit issued to the facility.

§ 273.218. Nuisance minimization and control.

(a) [The] Vectors. An operator may not cause or allow the attraction, harborage or breeding of vectors.

(b) [The] Other harmful conditions. An operator shall [also prevent and eliminate] minimize and

control other conditions [not otherwise prohibited by this subchapter] that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

(c) Odors.

(1) An operator shall implement the plan approved under § 273.136 (relating to nuisance minimization and control plan) to minimize and control nuisances from odors. If the Department determines during operation of the facility that the plan is inadequate to minimize or control nuisance, the Department may modify the plan or require the operation to modify the plan and obtain Department approval.

(2) An operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.

(3) An operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under paragraph (2).

§ 273.221. Daily volume.

* * * * *

(b) The average daily volume is a limit on the volume of solid waste that is permitted to be received [for disposal] at the facility, and shall be computed quarterly by averaging the total volume received over the [periods stated in the facility permit] quarter.

COVER AND REVEGETATION

§ 273.231. [Topsoil storage] (Reserved).

[(a) Topsoil shall be removed in a separate layer prior to preparation of an area for disposal or other surface disturbances.

(b) If topsoil is less than 12 inches, a 12-inch layer which includes the topsoil and the unconsolidated materials immediately below the topsoil shall be removed, segregated, conserved and replaced as the upper layer of final cover.

(c) If topsoil or other materials removed under subsections (a) and (b) are not promptly redistributed as cover, they shall be stockpiled, temporarily vegetated and otherwise protected from wind and water erosion, unnecessary compaction and contaminants which lessen the capability of materials to support vegetation when redistributed on the site. Topsoil and other material removed under this section may not be removed from the site.]

§ 273.232. Daily cover.

(a) Except as provided in subsection (b), a uniform cover of the approved daily cover material shall be placed on exposed solid waste at the end of each working day [,] or at the end of every 24 hours [or at the completion of every lift], whichever interval is less.

(b) The composition of the daily cover material shall meet the following performance standards. The daily cover shall:

* * * * *

(5) Be consistent with the waste acceptance plan for the facility.

(c) [Unless alternative design requirements to meet the performance standards in subsection (b) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), daily cover shall meet the following design requirements:

(1) The cover shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam, as defined in the Soil Survey Manual published by the United States Department of Agriculture, Soil Conservation Service (available from the Department of the Northeast National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19013-6092).

(2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

(3) The combustible or coal content of the cover may not exceed 12% by weight.

(4) The cover may not include rock fragments that are greater than 6 inches in diameter.

(5) The layer of cover soil shall be a minimum of 6 inches thick.

(6) The layer of cover soil shall be compacted.

(d)] * * *

[(e) Areas on which intermediate cover has been placed, and on which neither waste nor final cover is placed within 30 days thereafter, shall be temporarily revegetated and otherwise protected against erosion and sedimentation under § 273.235 and other applicable requirements.

(f)] (d) Intermediate slopes constructed during daily landfilling activities may not exceed 50%. [Intermediate slopes shall be covered, compacted with 1 foot of intermediate cover material and revegetated to control erosion.]

§ 273.233. Intermediate cover and slopes.

(a) A uniform and compacted intermediate cover [of at least 12 inches in thickness] shall be placed within 7 days of waste disposal on the following:

* * * * *

[(3) Each completed lift.]

(b) The composition of the intermediate cover material shall meet the following performance standards. The intermediate cover shall:

* * * * *

(5) [Be capable of supporting] Control infiltration of precipitation and erosion and sedimentation.

(6) Support the germination and propagation of vegetative cover as required by §§ 273.235 and 273.236 (relating to revegetation; and standards for successful revegetation) unless vegetative cover is not necessary to control infiltration of precipitation and erosion and sedimentation.

(7) Be consistent with the waste acceptance plan for the facility.

(c) Unless alternative design requirements to meet the performance standards in subsection (b) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), intermediate cover shall meet the following design requirements:

(1) [The cover shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam] If soil or soil-like material is used, the layer shall be at least 12 inches in thickness.

(2) [At least 40% by weight of the fragments in the soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve] If soil or soil-like material is used, the layer shall be uniformly graded.

[(3) The combustible or coal content of the cover may not exceed 12% by weight.

(4) The cover may not include rock fragments that are greater than 6 inches in diameter.]

* * * * *

(e) [Areas on which intermediate cover has been placed, and on which neither waste nor final cover is placed within 30 days thereafter, shall be temporarily revegetated and otherwise protected against erosion and sedimentation under § 273.235 and other applicable requirements.] If intermediate cover requires vegetation it shall be established within 30 days.

(f) [Intermediate slopes] Slopes constructed during daily landfilling and intermediate cover activities may not exceed 50%. [Intermediate slopes shall be covered, compacted with 1 foot of intermediate cover material and revegetated to control erosion.]

§ 273.234. Final cover and grading.

(a) The operator shall provide final cover in the following manner:

(1) A cap [consisting of a uniform and compacted 1-foot layer of clay] shall be placed and graded over the entire surface of each final lift. [The Department may approve, in the permit, synthetic material of the type and specifications set forth for primary liners in § 273.256 (relating to primary liner) and for caps in Table I of § 273.256 in lieu of the 1 foot layer of clay.] The cap may be no more permeable than 1.0 × 10⁻⁷ cm/sec. The following performance standards for the cap shall be met:

(i) The cap shall limit the migration of precipitation into the landfill to the greatest degree that is technologically possible.

(ii) The cap shall be resistant to physical and chemical failure.

(iii) The cap shall cover all areas where waste is disposed.

* * * * *

(c) [Final cover] Unless alternative design requirements to meet the performance standards in subsection (a)(1)(i)—(iii) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the cap shall meet the design

requirements set forth for caps in Table 1 in § 273.256(e) (relating to primary liner).

(d) The layer of material described in subsection (a)(3) shall meet the following performance standards. [Final cover] The layer shall:

* * * * *

(2) [Cover solid waste after it is placed without change in its properties and without regard to weather.

(3)] * * *

[(4)] (3) Be [noncombustible] capable of controlling fires.

[(5)] (4) * * *

[(6) Compact well and not crack excessively when dry] (5) Ensure slope stability.

[(d)] (e) Unless alternative design requirements to meet the performance standards in subsection [(c)] (d) are approved as part of the permit under § 271.231 (relating to equivalency review procedure) [, final cover shall meet the same design requirements as are required of intermediate cover in § 273.233(c) (relating to intermediate cover and slopes).] The layer of material described in subsection (a)(3) shall meet the following design requirements:

(1) The cover soil shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam as defined in the Soil Survey Manual published by the United States Department of Agriculture, Soil Conservation Service (available from the Department or the Northeast National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19103-6092).

(2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

* * * * *

[(e)] (f) * * *

* * * * *

[(f)] (g) Unless the Department authorizes a different slope design in the permit based on a demonstration that the different design can meet the requirements of subsection [(e)] (f), slopes shall be designed, installed and maintained as follows:

* * * * *

WATER QUALITY PROTECTION

§ 273.241. General requirements.

* * * * *

(c) The operator may not cause or allow [pollution of ground] water pollution within or outside the site. [The operator may not cause or allow a discharge of contaminants into groundwater except as authorized by a permit from the Department.]

§ 273.245. Water supply replacement.

(a) A person or municipality operating a municipal waste landfill which adversely affects a water supply by

degradation, pollution or other means shall restore or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner. For purposes of this section, the term "water supply" includes existing or currently designated or currently planned sources of water or facilities or systems for the supply of water for human consumption or for agricultural, commercial, industrial or other legitimate use, including the uses protected by Chapter 93 (relating to water quality standards).

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

* * * * *

LINER SYSTEM

§ 273.251. Scope and requirements.

* * * * *

(b) A liner system shall consist of the following elements:

* * * * *

(3) Leachate detection zone, which is the prepared layer [of soil or earthen material] placed on top of the secondary liner and upon which the primary liner is placed, and in which a leachate detection system is located.

* * * * *

(5) Protective cover and leachate collection zone, which is a prepared layer [of soil or earthen material] placed over the primary liner in which a leachate collection system is located.

(c) Either the primary or the secondary liner shall be constructed as a composite liner.

§ 273.252. General limitations.

(a) [No person or municipality may construct a liner system for a facility unless there is at least 4 feet maintained between the] The bottom of the subbase of the liner system [and] cannot be in contact with the seasonal high water table or perched water table without the use of groundwater pumping systems.

* * * * *

(2) Drainage systems may be utilized to [maintain a 4-foot isolation distance] prevent contact between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is

likely to adversely affect the quality or quantity of water provided by a public or private water supply, even if a replacement supply is available under § 273.245 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping, french drains or equivalent methods.

(b) [No person or municipality may construct a liner system for a facility unless at] At least 8 feet [can] shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table in an unconfined aquifer. The regional groundwater table may not be artificially [manipulated] lowered.

(c) In a confined aquifer, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of leakage from natural or preexisting causes. The integrity of the confining layer may not be compromised by excavation.

[(c)] ***

* * * * *

[(d)] (e) ***

[(e)] (f) ***

[(f)] (g) ***

§ 273.253. Subbase.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the subbase shall meet the following design requirements. The subbase shall:

* * * * *

(2) [Have a minimum bearing capacity of 4,500 pounds per square foot plus the total applied load in pounds per square foot.

(3)] Be no more permeable than 1×10^{-5} cm./sec., based on laboratory and field testing unless the clay component of a composite liner is designed and constructed directly above the subbase.

[(4)] (3) ***

[(5)] (4) Have a postsettlement slope of at least 2% and no more than [25%] 33%.

§ 273.254. Secondary liner.

(a) Performance standards. ***

* * * * *

(b) Alternative design requirements. Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the secondary liner shall meet, at a minimum, the requirements of [Table I] the table in § 273.256(e) (relating to primary liner).

(c) Requirements. A secondary liner shall:

* * * * *

(2) [For synthetic liners, be] Be installed according to manufacturer's specifications under the supervision of

an authorized representative of the manufacturer if the liner is synthetic. An approved quality assurance and quality control plan shall be implemented in the field during the installation of the liner.

(3) [For remolded clay liners, be] Be designed, installed and maintained according to a quality assurance and quality control plan approved by the Department if the liner is remolded clay.

* * * * *

(d) Compacted lifts. Secondary liners made of clay, bentonite and bentonite-like materials shall be constructed in compacted lifts not exceeding 6 inches in depth unless the operator submits a field demonstration validating the stability of compacted lifts greater than 6 inches. A lift shall be scarified before placement of the next lift.

* * * * *

(f) [No facility or component of it that is subject to this section may have a secondary liner based upon natural attenuation of leachate.] Composite secondary liner.

(1) If the operator does not design, construct, operate and maintain a composite primary liner, the operator shall design, construct, operate and maintain a composite secondary liner which has the following components:

(i) An upper component made of a manufactured liner that meets the requirements of this section independently of the lower component.

(ii) A lower component made of earthen material that meets the requirements of this section independently of the upper component, except that the lower component may be no more permeable than 1.0×10^{-7} cm/sec. based on laboratory and field testing and, at a minimum, meets the requirements of the table in § 273.256(e) (relating to primary liner).

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct, continuous, and uniform contact, between them.

(3) The use of a composite secondary liner does not relieve the operator of responsibility for a separate primary liner under § 273.256.

(g) Natural attenuation of leachate prohibited. A facility or a component thereof that is subject to this chapter may not have a secondary liner based upon natural attenuation of leachate.

§ 273.255. Leachate detection zone.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements:

* * * * *

(2) Contain no material exceeding [.25] 0.5 inches in particle size.

* * * * *

(5) The piping system shall also meet the following:

* * * * *

(ii) [The distance between pipes in the piping system may not exceed 100 feet on center.

(iii)] The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

[(iv)] (iii) * * *

[(v) Rounded noncarbonate stones or aggregates shall be placed around the piping system.]

[(vi)] (iv) * * *

[(vii)] (6) * * *

(7) Contain noncarbonate stone or aggregates without sharp edges.

* * * * *

(d) If liquid is flowing from the leachate detection zone and the average flow exceeds 10 gallons per acre per day (weekly average), the operator shall:

* * * * *

(3) Sample and analyze the liquid, on a quarterly basis, for pH, specific conductivity, total organic carbon [and chlorides], chloride, total alkalinity, ammonia-nitrogen and chemical oxygen demand. The Department may also require sampling and analysis for other constituents expected to be found in the waste.

* * * * *

(e) If [sampling results indicate that] leachate [has penetrated the liner,] flow is greater than 100 gallons per acre of lined area per day or more than 10% of leachate generation, the operator shall:

* * * * *

§ 273.256. Primary liner.

(a) *General.* The primary liner shall meet the following requirements:

* * * * *

(b) *Alternative design standards.* Unless alternative design standards to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the

primary liner shall meet, at a minimum, the requirements of [Table I] the table in subsection (e).

(c) *Requirements.* A primary liner shall:

* * * * *

(d) [The operator may design, construct, operate and maintain a composite primary liner which has an upper component made of a manufactured liner that meets the requirements of this section independently of the lower component and a lower component made of earthen material that meets the requirements of § 273.254 (relating to secondary liner) independently of the upper component.] *Composite primary liner:*

(1) [The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact between them.] If the operator does not design, construct, operate and maintain a composite secondary liner, the operator shall design, construct, operate and maintain a composite primary liner which has the following components:

(i) An upper component made of a manufactured liner that meets the requirements of this section independently of the lower component.

(ii) A lower component made of earthen material that meets the requirements of this section independently of the upper component, except that the lower component shall be no more permeable than 1.0×10^{-7} cm/sec. based on laboratory and field testing and, at a minimum, meets the requirements of the table in subsection (e).

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct, continuous, and uniform contact between them.

[(2)] (3) * * *

(e) [Except as provided in subsection (d), no] *Natural attenuation of leachate prohibited.* A facility or component thereof that is subject to this [section] chapter may not have a primary liner [made of clay or earthen material or a primary liner] based upon natural attenuation of leachate.

TABLE I

MINIMUM LINER DESIGN STANDARDS

LINER MATERIAL	FUNCTION	MINIMUM FIELD THICKNESS (UNITS AS SPECIFIED)	LINER DENSITY (TESTS AS SPECIFIED)	REMARKS
Geomembranes	Primary or Secondary Liner	[50] 30 mil	NA	1. A greater thickness may be required depending upon the recommendations of the manufacturer. 2. HDPE liners shall be at least 60 mil.
Geomembranes	[Secondary Liner,] Cap	30 mil [30 mil]	NA	1. A greater thickness may be required depending upon the recommendations of the manufacturer.

<i>LINER MATERIAL</i>	<i>FUNCTION</i>	<i>MINIMUM FIELD THICKNESS (UNITS AS SPECIFIED)</i>	<i>LINER DENSITY (TESTS AS SPECIFIED)</i>	<i>REMARKS</i>
Natural & Remolded Clay	Secondary Liner, Cap	2 feet 1 foot	≥90%* ≥90%*	1. [Proctor Density Test. 2. Minimum 25% clay by weight less than .002 mm particle size.] Minimum of 30% fines by weight less than 0.074 mm particle size (#200 sieve). 2. Plasticity index ≥ 10. 3. No coarse fragments greater than 3/4 inch in diameter.
Sodium Bentonite & Bentonite-like materials	Secondary Liner, Cap, Composite Component	1 foot 1 foot 1 foot	≥90%* ≥90%*	1. [Proctor Density Test. 2. Sodium bentonite treated with polymers unless otherwise approved. 3. Soil-Bentonite mixtures shall have a combined clay content of 25% clay by weight less than .002 mm particle size. Soil material used in the mixtures shall contain no more than 50% sand by weight with particle size of .5 to 2 mm.] Minimum of 8% powdered sodium bentonite or manufacturer's recommendations, whichever is greater. 2. No coarse fragments greater than 3/4 inch in diameter. 3. No organic matter.
Geosynthetic Clay Liner (GCL)	Composite Component	N/A	N/A	Minimum of 3/4 pound of powdered or granular sodium bentonite per square foot.

* Percentage is of maximum theoretical density when using Marshall method of design, and percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

§ 273.257. Protective cover.

(a) The protective cover shall meet the following performance standards. The protective cover shall:

* * * * *

(4) Cover the bottom and sidewalls of the disposal area.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the protective cover shall meet the following design requirements. The protective cover shall be:

(1) Comprised of clean earth material that contains no aggregate, rocks, debris, plant material or other solid material larger than [1/4] 1/2 inch in diameter, and no material with sharp edges.

(2) Graded [, uniformly compacted and smooth].

* * * * *

§ 273.258. Leachate collection system within protective cover.

(a) The leachate collection system within the protective cover shall meet the following performance standards. The leachate collection system shall:

* * * * *

(2) Ensure that the depth of leachate on or above the primary liner does not exceed 1 foot, **unless a greater depth is approved by the Department in the permit for sump areas or for a 25-year, 24-hour precipitation event where the 1-foot head will be exceeded for less than 3 days.**

* * * * *

(b) Unless alternative design requirements to the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the leachate collection system [**with**] **within** the protective cover shall comply with the following design requirements:

* * * * *

(4) [**Rounded,**] **The leachate collection system shall contain noncarbonate stones or aggregates [shall be placed around the pipes of the piping system].**

(5) The pipes shall be installed primarily perpendicular to the flow **and shall have a minimum postsettlement grade of at least 2%.**

* * * * *

LEACHATE TREATMENT

§ 273.272. Basic treatment methods.

(a) Except as otherwise provided in this section, leachate shall be collected and handled by direct dis-

charge into a permitted publicly-owned treatment works, following pretreatment, **[or other] if pretreatment is required by Federal, State or local law or by discharge into another permitted treatment facility.**

* * * * *

§ 273.274. Leachate recirculation.

(a) In conjunction with the treatment methods in §§ 273.272 and 273.273 (relating to basic treatment methods; and leachate transportation), recirculation of leachate may be utilized if the following exist:

* * * * *

(4) **[Leachate]** The leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.

(5) **The leachate is not a hazardous waste.**

(b) **An alternate leachate recirculation method may be used if approved by the Department, if one of the liner systems installed at the facility is a composite liner.**

§ 273.275. Leachate collection and storage.

* * * * *

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain [:

(1) **Impoundments] impoundments** or tanks for storage of leachate **[prior to treatment]**. The tanks or impoundments shall have **[a flow equalization and surge] sufficient storage** capacity at least equal to the maximum expected production of leachate for any 30-day period for the life of the facility estimated under § 273.162 (relating to leachate treatment plan), or 250,000 gallons, whichever is greater. **No more than 25% of the total leachate storage capacity may be used for flow equalization on a regular basis.**

[(2) Impoundments or tanks for storage of treated leachate. The tanks or impoundments shall have a capacity at least equal to that in subsection (b)(1).]

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, **unless otherwise approved by the Department.**

(d) The storage capacity of impoundments and tanks at a site shall be increased **if additional storage is required** prior to each major phase of construction and as otherwise necessary.

* * * * *

(g) **Underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or tanks shall be equipped with secondary containment. The secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.**

§ 273.276. Leachate analysis and sludge handling.

(a) Upon commencement of leachate flow from the facility, the operator shall sample and analyze the following:

* * * * *

(2) On a quarterly basis, **unless otherwise specified in the permit**, the chemical composition of leachate flowing into the leachate treatment system **[, including total alkalinity, specific conductance, chlorides, sulfates, total dissolved solids, chemical oxygen demand, metals and volatile organic analysis]**. **The analysis shall be sufficient to determine the impact of leachate on the liner system, the effectiveness of the leachate treatment system, the need for modification of the groundwater monitoring system or the effluent limitations in an NPDES permit, and the actual characteristics of leachate from the waste disposed at the facility.** For the purpose of this quarterly analysis, the leachate sample shall be collected from the influent storage tank or impoundment and shall be representative of the average mixed influent leachate quality. **The Department may modify the frequency of chemical analysis or not require certain constituents to be tested following four consecutive quarters of analysis if the operator demonstrates that modifying the frequency of chemical analysis will not compromise groundwater protection.**

* * * * *

§ 273.277. [Remedial] Departmental notice and remedial action.

The operator shall immediately notify the Department and describe remedial steps to be taken if:

(1) Operation of the treatment facilities **[under] in accordance with** the approved plan cannot prevent **[any of the following:**

(i) Violating] violation of the terms of its permits, The Clean Streams Law (35 P. S. §§ 691.1—691.1001) **[and] or regulations thereunder.**

[(ii) Surface water pollution or groundwater pollution.]

* * * * *

WATER QUALITY MONITORING

§ 273.281. General requirements.

(a) A person or municipality that operates a municipal waste landfill shall install, operate and maintain a monitoring system that can detect the entry of solid waste, solid waste constituents, leachate, **contaminants** or constituents of decomposition into the **[ground] groundwater** or surface water. The monitoring system shall comply with this section and §§ 273.282—273.288.

(b) **[No]** A person may **not** construct, install or use a monitoring system for a municipal waste landfill until that system has first been approved by the Department in writing.

§ 273.282. Number, location and depth of monitoring points.

(a) The water quality monitoring system shall accurately characterize groundwater flow, groundwater chemistry and flow systems on the site and adjacent area. The system shall consist, at a minimum, of the following:

(1) At least one monitoring well at a point hydraulically upgradient from the disposal area in the direction of increasing static head that is capable of providing representative data of groundwater not affected by the facility, except when the facility occupies the most upgradient

position in the flow system. In that case, sufficient downgradient monitoring wells shall be placed to determine the extent of **adverse effects on groundwater [degradation or pollution]** from the facility.

* * * * *

(b) The upgradient and downgradient monitoring wells shall be:

(1) Sufficient in number, location and depth to be representative of water **[qualilty] quality.**

* * * * *

(3) Located within 200 feet of the permitted disposal area **and located at the points of compliance.**

(c) In addition to the requirements of subsection (b), upgradient monitoring wells shall be located so that they will not be affected by **adverse effects on groundwater [degradation or pollution]** from the disposal area.

(d) In addition to the requirements of subsection (b), downgradient monitoring wells shall be located so that they will provide early detection of **adverse effects on groundwater [degradation or pollution]** from the disposal area.

(e) **[A well drilled under this section shall be drilled by drillers licensed under the Water Well Drillers License Act (32 P. S. §§ 645.1—645.13).]** The well materials shall be decontaminated prior to installation.

§ 273.283. Standards for wells and casing of wells.

(a) **[Monitoring wells]** A monitoring well shall be constructed with a screen that meets the following requirements:

- (1) The screen shall be factory made.
- (2) The screen may not react with the groundwater being monitored.
- (3) The screen may maximize open area to minimize entrance velocities and allow rapid sample recovery.
- (b) A monitoring well shall be filter-packed with chemically inert clean quartz sand, silica or glass beads. The material shall be well-rounded and dimensionally stable.

(c) A monitoring well shall be cased as follows:

(1) The casing shall maintain the integrity of the monitoring well borehole **and shall be constructed of material that will not react with the groundwater being monitored.**

* * * * *

(3) **[The casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable collection of samples at depths where appropriate aquifer flow zones exist.**

(4) The casing shall protrude at least 1 foot aboveground, **unless otherwise approved by the Department, and shall be clearly visible.**

(4) The casing shall be designed and constructed to prevent cross contamination between surface water and groundwater.

* * * * *

[(b) Monitoring] (d) A monitoring well [casings] casing shall be enclosed in a protective casing that shall:

* * * * *

(2) Be installed for at least the upper 10 feet of the monitoring well, as measured from the well cap, **with a maximum stick up of 3 feet**, unless otherwise approved by the Department in writing.

* * * * *

(4) Be numbered **for identification with a label capable of withstanding field conditions** and painted in a highly visible color.

(5) Protrude **[at least 1 inch higher]** above **[grade than]** the monitoring well casing.

* * * * *

§ 273.284. Sampling and analysis.

A person or municipality operating a municipal waste landfill shall conduct sampling and analysis from each monitoring **[well] point** for the following parameters at the following frequencies:

(1) Quarterly, for ammonia-nitrogen, **bicarbonate, calcium, chloride, fluoride, chemical oxygen demand, nitrate-nitrogen, pH, specific conductance, sulfate, total alkalinity, total organic carbon, total phenolics, [turbidity,] total dissolved solids, iron, manganese, potassium and sodium.**

* * * * *

(4) Annually, for total **[alkalinity, fluoride, sulfate,] and dissolved concentrations of the following:** arsenic, barium, cadmium, chromium, copper, lead, magnesium, mercury, **[potassium,]** selenium, silver and zinc.

(5) Annually, for the following volatile organic compounds: 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, 1,1,2-trichloroethane, 1,2,3-trichloropropane, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, 2-dichloropropane, 3-chloro-1-propene, 4-methyl-2-pentanone, bromomethane, carbon tetrachloride, chlorobenzene, chlorodibromomethane, chloroethane, chloromethane, cis-1,3-dichloropropene, trans-1,3-dichloropropene, dichlorodifluoromethane, methyl ethyl [,] ketone, tribromomethane and trichlorofluoromethane.

* * * * *

§ 273.286. Groundwater assessment plan.

(a) **Requirement.** A person or municipality operating a municipal waste landfill shall prepare and submit to the Department a groundwater assessment plan within **[30] 60** days after one of the following occurs:

* * * * *

(2) Laboratory **[analyses] analysis** of one or more **[contiguous]** public or private water supplies shows the presence of degradation that could reasonably be attributed to the facility.

(b) **Exceptions.** The operator is not required to conduct an assessment under this section if **one of** the following **[conditions are met]** applies:

(1) Within 10 **working** days after receipt of sample results showing groundwater degradation[,] the operator resamples the affected wells[.

(2) **Analysis] and analysis** from resampling shows, to the Department's satisfaction, that groundwater degradation has not occurred.

(2) **Within 20 working days after receipt of sample results indicating groundwater degradation, the operator demonstrates that the degradation was caused entirely by earth moving and other activities related to facility construction, or by seasonal variations.**

(c) The groundwater assessment plan shall specify the manner in which the operator will determine the existence, quality, quantity, areal extent and depth of groundwater degradation, and the rate and direction of migration of contaminants in the groundwater. A groundwater assessment plan shall be prepared by an expert in the field of hydrogeology. The plan shall contain, at a minimum, the following information:

* * * * *

(3) Evaluation procedures, including the use of previously gathered groundwater quality information, to determine the concentration, rate and extent of groundwater degradation [or pollution] from the facility.

* * * * *

(5) **Identification of the abatement standard that will be met.**

(d) The groundwater assessment plan shall be implemented upon approval by the Department in accordance with the approved implementation schedule, and shall be completed in a reasonable time not to exceed 6 months unless otherwise approved by the Department. If the Department determines that the proposed plan is inadequate, it may modify the plan and approve the plan as modified. **The operator shall notify in writing, each owner of a private or public water supply located within 1/2-mile downgradient of the disposal area that an assessment has been initiated.**

* * * * *

(g) This section does not prevent the Department from requiring, or the operator from conducting, [abatement of] groundwater [pollution] abatement or water supply replacement concurrently with or prior to implementation of the assessment.

§ 273.287. Abatement plan.

(a) The operator of a municipal waste landfill shall prepare and submit to the Department an abatement plan whenever one of the following occurs:

(1) The groundwater assessment plan prepared and implemented under § 273.286 (relating to groundwater assessment plan) shows the presence of groundwater [pollution] degradation at one or more monitoring wells and the analysis under § 273.286(c) indicates that an abatement standard under subsection (d) will not be met.

(2) Monitoring by the Department or operator shows the presence of [groundwater pollution] an abatement standard exceedance from one or more [monitoring wells] compliance points as indicated in subsection (d), even if a groundwater assessment plan has not been completed. The operator is not required to implement an abatement plan under this paragraph if the following conditions are met:

(i) Within 10 days after receipt of sample results showing [groundwater pollution] an exceedance of an abatement standard at a point of compliance described in subsection (d), the operator resamples the affected wells.

(ii) Analysis from resampling shows to the Department's satisfaction that [groundwater pollution] an exceedance of an abatement standard has not occurred.

(b) An abatement plan shall be prepared by an expert hydrogeologist and submitted to the Department. The plan shall contain [, at a minimum,] the following information:

* * * * *

(c) **The abatement plan shall be completed and submitted to the Department for approval within 90 days of the time the obligation arises under this section unless the date is otherwise modified, in writing, by the Department.**

(d) **If abatement is required in accordance with subsection (a), the operator shall demonstrate compliance with one or more of the following abatement standards at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer:**

(1) **For constituents for which a MCL has been promulgated under the Federal Safe Drinking Water Act or the Pennsylvania Safe Drinking Water Act (42 U.S.C.A. §§ 300f-300j-18; and 35 P. S. §§ 721.1-721.17), the MCL for that constituent.**

(2) **For constituents for which MCLs have not been promulgated, the background standard for the constituent.**

(3) **For constituents for which the background standard is higher than the MCL or risk-based standard identified under paragraph (4), the background standard.**

(4) **For constituents for which no primary MCLs under the Federal and State Safe Drinking Water Acts (42 U.S.C.A. §§ 300f-300j-18; and 35 P. S. §§ 721.1-721.17) exist, the risk-based standard if the following conditions are met:**

(i) **The risk assessment used to establish the standard assumes that human receptors exist at the property boundary.**

(ii) **The level is derived in a manner consistent with Department guidelines for assessing the health risks of environmental pollution.**

(iii) **The level is based on scientifically valid studies conducted in accordance with the good laboratory practice standards (40 CFR Part 792), promulgated under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601-2692), or other scientifically valid studies approved by the Department.**

(iv) **For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level of 1.0 x 10⁻⁵ at the property boundary.**

(e) ***

[(d)] (f) ***

MINERALS AND GAS

§ 273.291. Mineral resources.

(a) The operator shall isolate coal seams [and], coal outcrops and coal refuse from waste deposits [by barriers of natural and compacted soil that are at least 25 feet in thickness] in a manner that prevents combustion of the waste and that prevents damage to the liner system.

* * * * *

§ 273.292. Gas control and monitoring.

* * * * *

(e) Combustible gas levels may not equal or exceed:

* * * * *

[(3) Twenty-five percent of the lower explosive limit in an adjacent area, including buildings or structures on adjacent areas.]

(f) The operator shall conduct active forced ventilation of the facility, using vents located at least [1 foot] 3 feet above the landfill surface if one of the following applies:

* * * * *

§ 273.293. Gas recovery.

(a) Gas recovery shall be conducted as follows:

* * * * *

(3) [With active forced ventilation, using vents located at least 1 foot above the landfill surface.

(4)] ***

(b) The operator shall, on an annual basis, physically and chemically characterize recovered gas, condensates or other residues which are generated. Users of the recovered gas shall be informed of the chemical quality of the gas. If the gas, condensates or other residues are hazardous, they shall be managed under Chapters 260—265 and 270.

EMERGENCY PROCEDURES

§ 273.301. Hazard prevention.

[(a)] ***

[(b) First aid facilities shall be available and job safety shall be practiced.]

§ 273.302. Emergency equipment.

(a) Except as provided in subsection (b), the operator shall have available in proper working condition the following equipment at the immediate operating area of the facility:

* * * * *

(3) Portable fire extinguishers, fire control equipment, spill control equipment and decontamination equipment. For fire control equipment requiring water, the facility shall have a water supply of adequate quantity and pressure to supply the equipment.

* * * * *

(d) Adequate space shall be maintained to allow the unobstructed movement of emergency personnel and equipment to [any] operating [area] areas of the facility.

§ 273.303. Implementation of contingency plan.

* * * * *

(b) During an emergency, the operator shall:

* * * * *

(3) Immediately telephone the Department and county emergency management agency and report the following information:

(i) [Name] The name of the person reporting the incident and telephone number where that person can be reached.

(ii) [Name] The name, address and permit number of the facility.

(iii) [Date] The date, time and location of the emergency.

* * * * *

(vi) [Parts] The parts of the contingency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall do the following:

* * * * *

(2) Prevent disposal, processing, storage or treatment of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has inspected and approved the resumption of operation after the cleanup.

RECORDKEEPING AND REPORTING

§ 273.311. Daily operational records.

* * * * *

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

* * * * *

(9) A record of rejected waste loads and the reasons for rejecting the loads.

* * * * *

§ 273.313. Annual operation report.

* * * * *

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

(1) A topographic survey map of the same scale, contour interval and grid system as the original site plans showing the following:

(i) The contours at the beginning and the end of the year. The Department may also require the report to include plans showing cross-sections of the permit area every 100 feet showing the permitted elevations and the actual elevations if deemed necessary by the Department to verify waste receipt, capacity or other information.

* * * * *

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$ [1,800] 2,800 in the form of a check payable to the "Commonwealth of Pennsylvania."

* * * * *

§ 273.315. Recycling fee.

(a) On and after October 26, 1988, the operator of a municipal waste landfill shall pay a recycling fee in the form of a check payable to the "Commonwealth of Pennsylvania, Recycling Fund," in accordance with Chapter 7 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.701—4000.706). This fee shall terminate on [October 25, 1998] October 25, 2003.

* * * * *

(b) The fee shall be paid for all solid waste, except process residue and nonprocessable waste from a resource recovery facility, that is received at the facility on and after October 26, 1988, including, but not limited to, residual waste, special handling wastes, waste tires and other solid wastes received at the landfill. The recycling fee does not apply to recyclable or reusable materials that are received or separated from other waste at a transfer, composting or processing facility associated with the landfill, and which are marketed in accordance with subsection (d).

* * * * *

(d) [The recycling fee is not applicable to process residues from resource recovery facilities which have paid or will pay, in the next calendar quarter, the recycling fee on the waste from which that process residue is derived. The recycling fee is not applicable to nonprocessable waste from a resource recovery facility that is disposed in a landfill within this Commonwealth.

(e)] ***

CLOSURE PROVISIONS

§ 273.322. Closure.

* * * * *

(b) At least 180 days before implementation of a closure [or partial closure] plan, the operator shall review its approved closure plan to determine whether the plan requires modification, and shall submit proposed changes to the Department for approval under § 271.222 (relating to permit modification).

(c) If groundwater degradation exists at closure or occurs after closure, a person shall meet one of the following:

(1) Continue to implement an approved abatement plan.

(2) Submit an application for a closure plan modification in accordance with the procedures for a major permit modification. The operator shall select one or more remediation standards that will be met in accordance with the final closure certification requirements in § 271.342 (relating to final closure certification). The Department will accept the operator's selection of remediation standards if the requirements of subsection (d) are met.

(d) An application for a closure plan modification shall include the following:

(1) Technical information and supporting documentation identifying the remediation activities that will be conducted to meet and maintain the remediation standards.

(2) If a remedy relies on access to or use of properties owned by third parties, for remediation or monitoring, documentation of cooperation or agreement.

Subchapter E. ADDITIONAL OPERATING REQUIREMENTS FOR SPECIAL HANDLING AND RESIDUAL WASTES

GENERAL

§ 273.501. Scope.

(a) A person or municipality that operates a municipal waste landfill shall comply with the applicable require-

ments of this subchapter if the person or municipality [disposes of] receives special handling or residual waste at the facility.

* * * * *

(c) Special handling and residual waste may not be [disposed] received at a municipal waste landfill unless:

* * * * *

(2) The waste is [disposed] received in accordance with the terms and conditions of the permit, the requirements of this chapter, the act and the environmental protection acts.

(3) The waste is compatible with the liner system.

(4) The waste is compatible with other wastes disposed at the facility.

(5) The leachate generated by the disposed waste can be adequately treated by the leachate treatment facility.

(6) The physical characteristics of the waste will not cause or contribute to structural instability or other operation problems at the site.

SPECIFIC WASTES

§ 273.513. Sewage sludge.

[(a) If a facility receives solid waste other than sewage sludge, the total amount of sewage sludge disposed at the facility may not exceed 25% by weight of the total weight of waste disposed on a working day. For purposes of this measurement, a cubic yard of sewage sludge at 20% solids shall be deemed to weigh 1,700 pounds, unless the sewage sludge is weighed.

(b) If a facility receives only sewage sludge, sewage sludge disposed at the facility shall contain at least 40 solids by weight. This requirement may be met by adding or blending fly ash, foundry sand, sawdust, lime, leaves, soil or other materials that have been approved by the Department prior to disposal as part of the permit.

(c) The operator of a municipal waste landfill that receives sewage sludge shall also comply with the sampling requirements of § 273.521 (Reserved).]

Prior to receipt at a landfill, sewage sludge shall be stabilized to meet processes to significantly reduce pathogens or processes to further reduce pathogens. The Department may approve as part of a permit another stabilization method if the operator demonstrates that the stabilization method will control pathogens, vectors and odors.

CHAPTER 277. CONSTRUCTION/DEMOLITION WASTE LANDFILLS

Subchapter B. APPLICATION REQUIREMENTS

PHASE I APPLICATION REQUIREMENTS

§ 277.110. Modification to expand existing landfill.

For a construction/demolition waste landfill constructed with attenuating soil and permitted by the Department prior to ____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), the Department may waive or modify the liner system and leachate treatment requirements in this chapter in the approval of a complete

application for permit modification for expansion of the landfill if the operator demonstrates the following:

(1) No groundwater degradation has occurred from the existing operation.

(2) The physical properties and chemical composition of the waste that will be received under the permit modification will not change from that approved under the existing permit.

§ 277.112. Facility plan.

An application to operate a construction/demolition waste landfill shall contain a narrative describing the following:

(1) The general operational concept for the proposed facility, including the origin, composition and weight or volume of solid waste that is proposed to be disposed of at the facility, type of liner system [if a liner system is proposed], the proposed capacity of the facility, the expected life of the facility and the size, sequence and timing of solid waste disposal operations at the facility.

(2) [The quantity, quality and availability of acceptable cover material and liner system construction material, including calculations and cross sections of the borrow areas, both on and off the proposed permit area.] A detailed description of the volume of soil needed to construct and operate the facility.

§ 277.113. Maps and related information.

(a) An application shall contain a topographic map on a scale in which 1 inch equals no more than 200 feet with 10-foot maximum contour intervals, including necessary narrative descriptions, which shows the following:

(1) Boundaries and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

* * * * *

(b) A different scale for the topographic map required in subsection (a) may be used if approved in writing by the Department.

(c) ***

[(c) An application shall also contain a United States Department of Agriculture Soil Conservation Service soils map, or aerial photographs when current soil maps are unavailable, for the proposed permit area and adjacent area showing the site boundaries, soil types and the location of test pits or excavations taken under § 277.117.]

§ 277.115. Geology and groundwater description.

(a) An application shall contain a description of the geology and groundwater in the proposed permit area and adjacent area down to and including the lowest aquifer that may be affected by the facility, including the following:

* * * * *

(8) The well head protection areas in accordance with § 109.1 (relating to definitions) that may be impacted by the facility.

(9) A groundwater contour map based upon the highest groundwater level recorded monthly in each boring for the previous year.

* * * * *

§ 277.116. Groundwater quality description.

* * * * *

(d) Monitoring wells under this section shall be designed, constructed and maintained under §§ 277.281—277.283 (relating to general requirements; number, location and depth of monitoring points; and standards for wells and casing of wells).

§ 277.117. Soils description.

(a) An application shall contain the following:

(1) [A description of the soils within the proposed permit area and adjacent area down to the bedrock, including, for each soil horizon, depth, matrix, color, texture, structure, consistency, degree of mottling, mottling colors and laboratory particle size analyses.] A description of the depth to the seasonal high water table within the proposed permit area and adjacent area to demonstrate that the seasonal high water table will not contact the liner system.

(2) A description of the soils to be used for intermediate cover, final cover and facility construction, including, [for each borrow area, whether onsite or offsite,] texture, [structure] chemical description, laboratory particle size [analyses] analysis is and quantity [and]. A cross section of the borrow pits within the proposed permit area shall be included.

(3) For an expansion of a facility under § 277.102 (relating to 277.110 (relating to modifications to expand existing landfill)), a description of the soils within the proposed permit area and adjacent area down to the bedrock, including, for each soil horizon, depth, matrix, color, texture, structure, consistency, degree of mottling, mottling colors and laboratory particle size analysis.

* * * * *

(c) [If natural attenuation of leachate instead of a liner system and leachate controls is proposed,] For an expansion of a facility under § 277.110, the application shall contain an explanation, based on the soils described in this section, of how the facility would comply with § 277.246 (relating to attenuating soil base).

§ 277.120. Mineral deposits information.

(a) If the proposed permit area and adjacent area overlies [previous or current coal or noncoal mining operations] existing workings of an underground mine, the applicant shall submit sufficient information to evaluate the potential for mine subsidence damage to the facility, including the following:

* * * * *

(2) [A subsurface survey, with supporting documentation, by a registered professional engineer with geotechnical expertise. The study shall allow the Department to assess the probability and degree of surface subsidence and the methods which have been used or are proposed to stabilize the surface.] An investigation, with supporting documentation, by a registered professional engineer

with geotechnical expertise addressing the probability and potential impacts of future subsidence. The investigation shall address the potential for additional mining beneath the permit and adjacent area, the stability of the final underground workings, the maximum subsidence likely to occur in the future and the effect of that subsidence on the integrity of the facility and any measures which have been or will be taken to stabilize the surface.

(b) If the proposed permit area [overlies extractable mineral deposits and the applicant does not own or lease the mineral deposits, the applicant shall submit a written plan showing that the minerals providing support] or adjacent area overlies recoverable or mineable mineral deposits, the applicant shall demonstrate that the owner warrants that the minerals will not be mined as long as construction/demolition waste remains on the site.

§ 277.121. Notification of proximity to airport.

An applicant shall notify the Federal Aviation Administration, the Department and the airport if a proposed landfill or lateral expansion is within a 5-mile radius of an airport runway end used by turbojet or piston-type aircraft.

PHASE II APPLICATION REQUIREMENTS—
GENERAL PROVISIONS

§ 277.131. Basic requirements.

* * * * *

(c) The plans, designs, cross sections and maps required by this section and §§ 277.132—277.137, 277.141, 277.142, 277.151, 277.152, 277.161—[277.164] 277.163, 277.171, 277.181, 277.191 and 277.192 shall be on a scale in which 1 inch equals no more than 200 feet with 10-foot maximum contour intervals.

* * * * *

§ 277.132. Operation plan.

An application shall contain a description of the construction/demolition waste landfill operations proposed during the life of the facility within the proposed permit area, including, at a minimum, the following:

(1) A narrative describing the type and method of construction/demolition waste landfill procedures, inspection and monitoring of incoming waste, sequence of land filling activity, type of landfilling activity, proposed engineering techniques and the major equipment to be used under § 277.215 (relating to equipment), using the maps and grids required by § 277.133 (relating to map and grid requirements) as a basis for description.

* * * * *

[(3) A narrative describing the type and size of equipment that is proposed to be used at the facility, as well as a description of the availability of standby equipment in the event of breakdown or maintenance.

(4) A narrative describing a plan for hiring and training facility operators and other personnel concerning the operation and approved design of the facility.

(5)](3) ***

[(6)] (4) An explanation of how the applicant intends to comply with § 277.214 (relating to measurement and inspection of waste).

[(7)] (5) ***

[(8)] (6) The proposed operating hours of the proposed facility. The operating hours include those hours related to construction and other activities related to operation of the facility.

§ 277.134. Plan for access roads.

The application shall contain designs, cross sections and specifications for access roads, including load limits, under § 277.213 (relating to access roads). Access roads shall be designed and constructed to handle adequately the truck traffic expected at the facility.

§ 277.136. Nuisance minimization and control plan.

(a) The application shall contain a plan [under] in accordance with § 277.218 (relating to nuisance minimization and control) to [prevent] minimize and control hazards or nuisances from vectors, odors, noise, dust and other nuisances not otherwise provided for in the permit application. [The plan shall provide for the routine assessment of vector infestation and shall also provide for countermeasures. The plan may include a control program involving a contractual arrangement for services with an exterminator.]

(b) The plan shall include the following:

(1) Provisions for the routine assessment and control of vector infestation.

(2) Methods to minimize and control nuisances from odors, dustfall and noise off the property boundary from the facility.

(3) For odors, the determination of normal and adverse weather conditions based on site-specific meteorological data. Prior to the installation of equipment and collection of meteorological data, a protocol for the installation and data collection shall be approved by the Department.

(c) The plan required in subsection (a) may include a contractual arrangement for services of an exterminator or an air quality, noise, dust control or other professional.

§ 277.138. Recycling plan.

The application shall contain [the following information in accordance with § 277.219 (relating to recycling):

(1) A detailed analysis of the potential for salvaging and recycling waste materials received at the facility, including the type of materials that will be received, the likelihood of receiving unmixed loads of waste materials and the markets for the materials.

(2) A] a plan for salvaging and recycling waste materials received at the facility for which recycling is cost effective, including proposed salvage areas, salvaging methods and anticipated markets for salvaged materials, in accordance with § 277.219 (relating to recycling).

§ 277.139. Daily volume.

(a) The application shall contain proposed average and maximum daily volumes for the facility, and a detailed justification for volumes, based on §§ 271.126 and 271.127 (relating to requirement for environmental assessment; and environmental assessment).

(b) The average daily volume is a limit on the volume of solid waste that is permitted to be received at the facility, and shall be computed quarterly by averaging the total volume received over the quarter.

PHASE II APPLICATION REQUIREMENTS—
COVER AND REVEGETATION

§ 277.141. Compaction and cover plan.

An application shall contain a plan for compaction and cover at the proposed landfill under §§ 277.216 [and 277.231—], 277.232 and 277.233 (relating to [unloading and compaction; topsoil storage;] intermediate cover and slopes; and final cover and grading), including, at a minimum, the following information:

- (1) [Procedures] The procedures for, and degree of, compaction of [,] solid waste.
- (2) [Number] The number and thickness of lifts.
- (3) [Procedures] The materials and procedures for application of intermediate cover and final cover material that meet, the standards in §§ 277.232 and 277.233.
- (4) [Procedures] The procedures to establish elevation and final grade of final cover.

[(5) If cover material will be obtained from an offsite area not owned by the applicant, copies of contracts or other binding agreements showing that the applicant is authorized to obtain cover material from the offsite area for as long as waste is disposed at the proposed facility.]

PHASE II APPLICATION
REQUIREMENTS—WATER QUALITY PROTECTION
AND MONITORING

§ 277.152. Water quality monitoring plan.

(a) An application shall contain a water quality monitoring plan showing how the operator intends to comply with §§ 277.281—277.288 (relating to water quality monitoring). The plan shall include, at a minimum, the following:

* * * * *

(2) Preoperational data showing existing groundwater quality as required by § 277.116 (relating to groundwater quality description), and a procedure to establish [background water] this groundwater quality.

* * * * *

PHASE II APPLICATION REQUIREMENTS—
LINERS AND LEACHATE MANAGEMENT

§ 277.161. Liner system and leachate control plan.

(a) [If the composition of the construction/demolition waste to be disposed at the site or other factors indicates a potential for surface water pollution or groundwater pollution, the] The application shall contain plans, drawings, cross sections and specifications for a liner system to demonstrate compliance with §§ 277.251—277.260 (relating to liner system) including:

* * * * *

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteris-

tics of the proposed liner, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate, based on [the most recent edition of] EPA [Method 9090 (Comptability Test for Wastes and Membrane Liners), or other documented data] or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed liner, based on ASTM methods when appropriate. Except to the extent that the Department waives in writing any of the following for nonsynthetic liners, these properties shall include, at a minimum:

* * * * *

(13) Soil-to-liner friction [() angle in degrees ()].

* * * * *

(19) Percent recycled materials.

§ 277.162. Leachate treatment plan.

(a) [If the composition of the construction/demolition waste to be disposed at the site or other factors indicate a potential for surface water or groundwater pollution, the] The application shall contain a plan for treating leachate from the proposed facility in a manner that complies with §§ 277.271—277.276. The plan shall include:

* * * * *

§ 277.163. Modifications in leachate treatment plan.

(a) If a problem identified in § 277.277 (relating to Departmental notice and remedial action) occurs, the operator shall submit to the Department, within 60 days, a permit modification application under § 271.222 (relating to permit modification), with plans, designs and cross sections to modify its leachate treatment plan.

* * * * *

§ 277.164. Application requirements for noncoal mine disposal.

(a) In addition to the other requirements of this subchapter, a person or municipality that applies for an expansion of a construction/demolition waste landfill permit in a noncoal mine permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) shall submit a plan, including necessary drawings, designs and specifications, to show how the applicant will comply with § 277.259 (relating to noncoal mine disposal).

* * * * *

PHASE II APPLICATION REQUIREMENTS—
CLOSURE PROVISIONS

§ 277.192. Closure plan.

(a) The application shall contain a plan describing the activities that are proposed to occur [during the postclosure period] toward and after closure to ensure compliance with this chapter.

(b) The closure plan shall include:

* * * * *

(3) [If the facility will close in stages, a description of how and when the facility will begin and implement partial closure.

(4)] ***

[(5)] (4) A narrative description, including a schedule, of measures that are proposed to be carried out toward and after closure at the facility, including measures relating to:

* * * * *

(vi) Access control, including maintenance of access control.

[(6)] (5) ***

[(7)] (6) ***

Subchapter C. OPERATING REQUIREMENTS
GENERAL PROVISIONS

§ 277.201. Basic limitations.

* * * * *

(b) A person or municipality may conduct monitoring under § [273.116] 277.116 (relating to groundwater quality description) without a permit if the Department has given written approval for the monitoring based on written plans that are consistent with this chapter. The monitoring information may be used for a permit application for the proposed facility.

* * * * *

(j) [On and after September 26, 1990, loads] Loads composed mostly of leaf waste may not be disposed at the facility.

(k) A person or municipality may not allow solid waste [generated outside the host county of a facility] to be received, disposed or otherwise managed at the facility if the transportation to, or processing or management at, the facility would violate applicable laws in effect in the county or state in which the waste was generated, or [state] State or local solid waste management plans in effect where the waste was generated.

(l) The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.

§ 277.202. Areas where construction/demolition waste landfills are prohibited.

(a) Except for areas that were permitted as a construction/demolition waste landfill prior to April 9, 1988, [no] a construction/demolition waste landfill may not be operated as follows:

- (1) Floodplain. * * *
(2) Wetland.
(i) ***

(ii) For a construction/demolition waste landfill permitted on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) other than an expansion of a construction/demolition waste landfill that was permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), in or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following applies:

(A) If the operation is in or along the wetland, the operator has received a permit from the De-

partment under Chapter 105 (relating to dam safety and waterway management).

(B) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(3) Minerals.

(i) [In] For a construction/demolition waste landfill permit issued prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) or for an expansion of a construction/demolition waste landfill that was permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), in coal bearing areas underlain by recoverable or mineable coals, unless the operator of the facility demonstrates and the Department finds, in writing, that the operator owns the underlying coal, or has entered an agreement with the owner of the coal to provide support.

(ii) For a construction/demolition waste landfill permit issued on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), in areas underlain by mineable minerals, unless the operator owns the underlying minerals.

- (4) Valley, ravine or head of hollow. * * *
(5) Limestone or carbonate formation. * * *
(6) Occupied dwelling.

(i) [Within] For a construction/demolition waste landfill permit issued prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) or for an expansion of a construction/demolition waste landfill that was permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), [Within] within 300 feet measured horizontally from an occupied dwelling, unless the current owner of the dwelling has provided a written waiver consenting to the facilities being closer than 300 feet. [Except for facilities permitted prior to April 9, 1988, the] The disposal area of a construction/demolition waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the current owner has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(ii) For a construction/demolition waste landfill permit issued on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), within 300 yards measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 yards. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

- (7) Perennial stream. * * *
(8) Property line. * * *

* * * * *

(9) Water source. Within 1/4 mile upgradient, and within 300 feet downgradient, of a public or private water source [.] For disposal, processing and storage

areas, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(10) [Within 25 feet of a coal seam, coal outcrop or coal refuse, unless the Department finds, in writing, that the wastes to be disposed are totally noncombustible.] *School, park, playground.*

(i) For a construction/demolition waste landfill permit issued on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*) other than an expansion of a construction/demolition waste landfill that was permitted prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*), within 300 yards of:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition.

(b) [The Department may waive or modify the isolation distance in subsection (a)(9), if the operator demonstrates and the Department finds, in writing, that:

(1) The owners of public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(2) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality if the existing source becomes polluted or degraded.

(3) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(c)] Except as provided in subsection [(d)] (c), this section does not apply to features that may come into existence after the date of the first newspaper notice of the filing of a permit application under § 271.141 (relating to public notice by applicant).

[(d)] (c) This section does not apply to features that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a [municipal] construction/demolition waste landfill permit. The notice, which is separate from the newspaper notice required by § 271.141, shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

* * * * *

§ 277.203. Certification.

(a) The operator shall submit a certification by a registered professional engineer on forms provided by the Department upon completion of each major construction activity identified in the permit for each phase or sequence of construction at the facility. Major construction activities include:

* * * * *

(6) Placement of attenuating soil at [natural attenuation facilities] an expansion of a construction/demolition waste landfill permitted prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*).

* * * * *

(11) Construction of the landfill gas extraction system.

* * * * *

(d) The closure and final closure activities will not be deemed complete until the Department has certified completion of closure and final closure activities.

DAILY OPERATIONS

§ 277.211. Signs and markers.

(a) A person or municipality that operates a construction/demolition waste landfill shall identify the facility for the duration of operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road. The sign shall be constructed of a durable, weather-resistant material [and shall be of a minimum size of 3 feet by 4 feet with a light background and contrasting letters and numbers of a minimum height of 3 inches that can be easily seen and read. The sign shall show the name, business address and telephone number of the person who operates the facility, the operating hours of the facility and the number of the current permit authorizing operation of the facility].

* * * * *

§ 277.212. Access control.

* * * * *

(b) The operator shall [construct and] maintain a fence or other suitable barrier around the site, including impoundments, and leachate collection and treatment systems, sufficient to prevent unauthorized access.

* * * * *

§ 277.213. Access roads.

* * * * *

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. For roads that are used or in existence for more than 30 days, the drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate [sediment control] measures as required by § 277.242 (relating to soil erosion and sedimentation control).

* * * * *

(e) [A] For roads leading to the waste disposal area, a landfill shall maintain a minimum cartway width of one of the following:

* * * * *

(g) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the facility to unloading areas [,] . An access road shall be provided to each treatment [facilities or impoundments located on the site. An access road shall also be provided to] facility impoundment and groundwater monitoring [points] point. Other monitoring points shall be readily accessible.

(h) [Access roads shall be constructed on dry and stable areas.

(i) Prior to the construction of a road, topsoil shall be removed and used immediately as final cover, or stored on a stable site and protected against erosion.]

[(j)] (h) ***

[(k)] (i) ***

§ 277.214. Measurement and inspection of waste.

An operator of a construction/demolition waste landfill shall inspect incoming waste and shall accurately measure waste by volume or weight prior to unloading.

§ 277.215. Equipment.

* * * * *

(b) [Standby equipment shall be located on the site or at a place where it can be available within 24 hours.] If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

§ 277.216. Unloading and compaction.

* * * * *

(c) Construction/demolition waste shall be spread and compacted in shallow layers sufficient to minimize void spaces during placement of lifts. [No lift may be greater than 8 feet in depth at natural attenuation facilities.]

* * * * *

[(e) Construction/demolition waste may not be unloaded or disposed in areas where continuous or intermittent contact would occur between waste and the groundwater table.]

§ 277.217. Air resources protection.

(a) The operator shall implement fugitive [dust] air contaminant control measures and otherwise prevent and control air pollution under the Air Pollution Control Act (35 P. S. §§ 4001—4014) [and regulations thereunder] Article III (relating to air resources) and § 277.218 (relating to nuisance minimization and control). Minimization and control measures shall include the following:

[(b) The operator may] (1) Ensuring that operation of the facility will not cause or contribute to the exceeding of ambient air quality standards under § 131.3 (relating to ambient air quality standards).

[(c) No person or municipality may cause or allow] (2) Ensuring that no open burning occurs at the facility.

(3) Minimizing the generation of fugitive dust emissions from the facility.

(b) The operator shall comply with the terms and conditions of an air quality plan approval and air quality operating permit issued to the facility.

§ 277.218. Nuisance minimization and control.

(a) [The] Vectors. An operator may not cause or allow the attraction, harborage or breeding of vectors.

(b) [The] Other: An operator shall [also prevent and eliminate] minimize and control other conditions [not otherwise prohibited by this subchapter] that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

(c) Odors.

(1) An operator shall implement the plan approved under § 277.136 (relating to nuisance minimization and control plan) to minimize and control nuisances from odors. If the Department determines during operation of the facility that the plan is inadequate to minimize or control nuisance, the Department may modify the plan or require the operator to modify the plan and obtain Department approval.

(2) An operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.

(3) An operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under paragraph (2).

§ 277.221. Daily volume.

(a) A person or municipality operating a construction/demolition waste landfill may not receive solid waste at the landfill in excess of the maximum or average daily volume approved in the permit.

(b) The average daily volume is a limit on the volume of solid waste that is permitted to be received at the facility, and shall be computed quarterly by averaging the total volume received over the quarter.

COVER AND REVEGETATION

§ 277.231. [Topsoil storage] (Reserved).

[(a) Topsoil shall be removed in a separate layer prior to preparation of the area for disposal or other surface disturbances.

(b) If topsoil is less than 12 inches, a 12-inch layer which includes the topsoil and the unconsolidated materials immediately below the topsoil shall be removed, segregated, conserved and replaced as the upper layer of final cover.

(c) If topsoil or other materials removed under subsections (a) and (b) are not promptly redistributed as cover, they shall be stockpiled, temporarily vegetated and otherwise protected from wind and water erosion, unnecessary compaction and contaminants which lessen the capability of materials to support vegetation when redistributed on the site. Topsoil and other material removed under this section may not be removed from the site.]

§ 277.232. Intermediate cover and slopes.

(a) The operator shall provide intermediate cover on lifts every 50 feet horizontally or at the end of each working week, whichever comes first, by placing a compact and uniform cover [of at least 1 foot of soil] on the working face and on the side slopes.

(b) The composition of the intermediate cover material shall meet the following performance standards. The intermediate cover shall:

* * * * *

(3) Be [noncombustible and prevent the spread of combustion] capable of controlling fires.

(4) Be consistent with the waste acceptance plan for the facility.

(5) ***

(6) Control infiltration of precipitation and erosion and sedimentation.

(7) Be capable of supporting the germination and propagation of vegetative cover as required by §§ 277.234 and 277.235 (relating to vegetation; and standards for successful revegetation) unless vegetative cover is not necessary to control infiltration of precipitation and erosion and sedimentation.

(c) Unless alternative design requirements to the performance standards in subsection (b) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), intermediate cover shall meet the following design requirements:

(1) [The cover shall fall within the United States Department of Agricultural textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam.] If soil or soil-like, be at least 12 inches in thickness.

(2) [At least 40% by weight of the fragments in the soil shall be capable of passing through a 2

millimeter, No. 10 mesh sieve.] If soil or soil-like material is used, the layer shall be uniformly graded.

[(3) The combustible or coal content of the cover may not exceed 12% by weight.

(4) The cover may not include rock fragments that are greater than 6 inches in diameter.]

* * * * *

(e) [Areas on which intermediate cover is placed, and on which neither waste nor final cover is placed within 30 days thereafter, shall be temporarily revegetated and otherwise protected against erosion and sedimentation in accordance with § 277.234 (relating to revegetation) and other applicable requirements.] If intermediate cover requires vegetation, it shall be established within 30 days.

(f) [Intermediate slopes] Slopes constructed during daily landfilling activities may not exceed 50%. [Intermediate slopes shall be covered, compacted with 1 foot of intermediate cover material and revegetated to control erosion.]

§ 277.233. Final cover and grading.

(a) The operator shall provide final cover in the following manner:

(1) For construction/demolition waste landfills which require a [bottom] liner, a cap [consisting of a uniform and compacted 1 foot layer of clay] shall be placed and graded over the entire surface of each final lift. [The Department may approve, in the permit, synthetic material of the type and specifications set forth for primary liners in § 277.255 (relating to liner) and for caps in Table I of § 277.255, in lieu of the 1-foot layer of clay.] The cap may be no more permeable than 1.0 x 10⁻⁷ cm/sec. The following performance standards for the cap shall be met:

(i) The cap shall limit the migration of precipitation into the landfill to the greatest degree that is technologically possible.

(ii) The cap shall be resistant to physical and chemical failure.

(iii) The cap shall cover all areas where waste is disposed.

(2) For construction/demolition waste landfills which require a [bottom] liner, a drainage layer capable of transmitting flow and preventing erosion of the soil layer shall be placed over the cap.

(3) A uniform and compacted layer of soil at least [an additional] 2 feet in thickness shall be placed over the [entire surface of each final lift within 2 weeks after disposal of solid waste in the lift ceases or as soon thereafter as weather permits. This final cover shall be in addition to the intermediate cover required by § 277.232 (relating to intermediate cover and slopes)] drainage layer.

(b) The operator shall place final cover within 1 year after disposal in the final lift ceases or as soon thereafter as weather permits, unless the Department, in the permit, allows a later period based on a demonstration that a later period is necessary to protect the cap and drainage layer from differential settlement of waste at the facility. The Department will not allow a later period unless, at a

minimum, delayed installation will not cause or allow a violation of this article, the act or the environmental protection acts. [The] For a construction/demolition waste landfill constructed with attenuating soil and permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), or for an expansion of a landfill under § 277.102, the Department may waive the cap and drainage layer requirement in subsection (a) when the approved postclosure land use makes a cap and drainage layer unnecessary.

(c) [Final cover] Unless alternative design requirements to meet the performance standards in subsection (a)(1)(i)–(iii) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the cap shall meet the design requirements set forth for caps in Table I in § 277.255 (relating to liners).

(d) The layer of material described in subsection (a)(3) shall meet the following performance standards. [Final cover] The layer shall:

(1) [Cover solid waste after it is placed without change in its properties and without regard to weather.

(2)] ***

[(3)] (2) Be [noncombustible and prevent the spread of combustion] capable of controlling fires.

[(4)] (3) ***

[(5)] (4) [Compact well and not crack excessively when dry] Ensure slope stability.

[(d)] (e) Unless alternative design requirements to meet performance standards in subsection [(c)] (d) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), final cover shall meet the same design requirements as are required of intermediate cover in § 277.232(c). The layer of material described in subsection (a)(3) shall meet the following design requirements:

(1) The cover soil shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam as defined in the Soil Survey Manual published by the United States Department of Agriculture, Soil Conservation Service (available from the Department or the Northeast National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19103-6092).

(2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

[(e)] (f) ***

* * * * *

[(f)] (g) Unless the Department authorizes a different slope design in the permit based on a demonstration that the different design can meet the requirements of subsection [(e)] (f), slopes shall be designed, installed and maintained as follows:

* * * * *

WATER QUALITY PROTECTION

§ 277.241. General requirements.

* * * * *

(c) The operator may not cause or allow [pollution of groundwater] water pollution within or outside of the site. [The operator may not cause or allow a discharge of a pollutant or contaminant into groundwater except as authorized by permit from the Department.]

§ 277.245. Water supply replacement.

(a) A person or municipality operating a construction/demolition waste landfill which adversely affects a water supply by degradation, pollution or other means shall restore or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner. For purposes of this section, the term "water supply" includes existing, currently designated or currently planned sources of water or facilities or systems for the supply of water for human consumption or for agricultural, commercial, industrial or other legitimate use, including the uses protected by the applicable provisions of Chapter 93 (relating to water quality standards).

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

* * * * *

LINER SYSTEM

§ 277.251. Scope and requirements.

(a) A person or municipality operating a construction/demolition waste landfill, other than a construction/demolition waste landfill constructed with attenuating soil and permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), or for an expansion of a landfill under § 277.102, shall design, construct, operate and maintain a liner system for disposal areas of the facility or components thereof under this section and §§ 277.252–277.260 (relating to liner system) [if the composition of the construction/demolition waste to be disposed at the site or other factors indicate a potential for surface or groundwater pollution, and one of the following applies:

(1) The person or municipality receives a permit to operate a construction/demolition waste landfill after April 9, 1988, including a permit that results in an expansion of a facility permitted prior to April 9, 1988.

(2) **The person or municipality disposes of waste on a permitted or unpermitted component thereof where waste was not disposed prior to April 9, 1988]**.

(b) **[If the operator is required to design, construct and maintain a]** The liner system **[, it]** shall consist of the following elements:

* * * * *

(2) Leachate detection zone, which is the prepared layer **[of soil or earthen material]** placed on top of the subbase and upon which the liner is placed, and in which a leachate detection system is located.

* * * * *

(4) Protective cover and leachate collection zone, which is a prepared layer **[of soil or earthen material]** placed over the liner in which a leachate collection system is located.

§ 277.252. General limitations.

(a) **[No person or municipality may construct a liner system for a facility, unless at least 4 feet is maintained between the]** The bottom of the subbase of the liner system **[and]** **cannot be in contact with** the seasonal high water table or perched water table without the use of groundwater pumping systems.

* * * * *

(2) Drainage systems may be utilized to **[maintain a 4-foot isolation distance]** **prevent contact** between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is likely to adversely affect the quality or quantity of water provided by public or private water supply, even if a replacement supply is available under § 277.245 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping and french drains.

(b) **[No person or municipality may construct a liner system for a facility, unless at]** At least 8 feet **[can]** shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table **in an unconfined aquifer**. The regional groundwater table may not be artificially **[manipulated]** lowered.

(c) **In a confined aquifer, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of leakage from natural or preexisting causes. The integrity of the confining layer shall not be compromised by excavation.**

(d) ***

* * * * *

[(d)] (e) ***

[(e)] (f) ***

[(f)] (g) ***

§ 277.253. Subbase.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the subbase shall meet the following design requirements. The subbase shall:

* * * * *

(2) **[Have a minimum bearing capacity of 4500 pounds per square foot plus the total applied load in pounds per square foot.**

(3) **[Be no more permeable than 1 x 10⁻⁵ cm./sec., based on laboratory and field testing unless the clay component of a composite liner is designed and constructed directly above the subbase.**

[(4)] (3) ***

[(5)] (4) Have a slope of at least 2% and no more than **[25] 33%.**

§ 277.254. Leachate detection zone.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements:

* * * * *

(2) Contain no material exceeding **[.25] 0.5** inches in particle size.

* * * * *

(4) Contain a perforated piping system capable of detecting and intercepting liquid within the leachate detection zone and conveying the liquid to a collection sump for storage, processing or disposal. The sump shall be separate from the leachate collection sump and shall be of a sufficient size to transmit leachate that is generated. The piping system shall also meet the following:

* * * * *

(ii) **[The distance between pipes in the piping system may not exceed 100 feet on center.**

(iii) **[The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.**

[(iv)] (iii) ***

[(v) Rounded noncarbonate stones or aggregates shall be placed around the pipes of the piping system.

(vi)] (iv) ***

* * * * *

(6) Contain noncarbonate stone or aggregates without sharp edges.

* * * * *

(d) If liquid is flowing from the leachate detection zone **and the average flow exceeds 10 gallons per acre per day (weekly average),** the operator shall:

* * * * *

(3) Sample and analyze the liquid, on a quarterly basis, for pH, specific conductivity, total organic carbon and

chlorides. The Department may also require sampling and analyses for other constituents expected to be found in the waste.

* * * * *

(e) If [sampling results indicate that] leachate [has penetrated the liner,] flow is greater than 100 gallons per acre of lined area per day or more than 10% of leachate generation, the operator shall:

* * * * *

(f) If sampling results indicate the presence of constituents at concentrations that could result in [pollution] degradation of groundwater, the operator shall:

* * * * *

§ 277.255. Liner.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the liner shall meet, at a minimum, the requirements of [Table I] the table in subsection (e).

* * * * *

(f) A facility or a component thereof that is subject to this Chapter may not have a liner based upon natural attenuation of leachate.

TABLE I

MINIMUM LINER DESIGN STANDARDS

LINER MATERIAL	FUNCTION	MINIMUM FIELD THICKNESS (UNITS AS SPECIFIED)		LINER DENSITY (TESTS AS SPECIFIED)	REMARKS
Geomembranes	Liner,	30 mil		NA	1. A greater thickness may be required depending upon the recommendations of the manufacturer. 2. HDPE liners shall be at least 60 mil.
	Cap	30 mil			
Natural & Remolded Clay	Liner,	2 feet	≥90%*	≥90%*	[1. Proctor Density Test. 2. Minimum 25% clay by weight less than .002 mm particle size.] 1. Minimum of 30% fines by weight less than 0.074 mm particle size (#200 sieve). 2. Plasticity index. 3. No coarse fragments greater than 3/4 inch in diameter.
	Cap	1 foot	≥90%*		
Bentonite & Bentonite-like materials	Liner,	1 foot	≥90%*	≥90%*	[1. Proctor Density Test. 2. Sodium bentonite treated with polymers unless otherwise approved. 3. Soil-bentonite mixtures shall have a combined clay content of 25% clay by weight less than .002 mm particle size. Soil material used in the mixtures shall contain no more than 50% sand by weight with particle size of .5 to 2 mm.] 1. Minimum of 8% powdered sodium bentonite or manufacturer's recommendations, whichever is greater. 2. No coarse fragments greater than 3/4 inch in diameter. 3. No organic matter.
	Cap	1 foot	≥90%*		

* Percentage is of maximum theoretical density when using Marshall method of design, and percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

§ 277.256. Protective cover.

* * * * *

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), the protective cover shall meet

the following design requirements. The protective cover shall be:

- (1) Comprised of clean earth material that contains no aggregate, rocks, debris, plant material or other solid material larger than [1/4] 1/2 inch in diameter, and no material with sharp edges.

(2) Graded [, uniformly compacted and smooth].
* * * * *

§ 277.257. Leachate collection system within protective cover.

(a) The leachate collection system within the protective cover shall meet the following performance standards. The leachate collection system shall:
* * * * *

(2) Ensure that the depth of leachate on or above the primary liner does not exceed 1 foot, unless a greater depth is approved by the Department in the permit for sump areas or for unanticipated precipitation events where the 1 foot of head will be exceeded for less than 3 days.
* * * * *

§ 277.259. Noncoal mine disposal.

(a) Notwithstanding the provisions of § 277.252 (relating to general limitations) relating to disposal above the seasonal highwater table, perched water table and regional groundwater table, the Department may issue a permit for an expansion of a construction/demolition waste landfill in an abandoned noncoal mine permitted prior to _____. (Editor's note: The blank refers to the effective date of adoption of this proposal).
* * * * *

LEACHATE TREATMENT

§ 277.272. Basic treatment methods.

(a) Except as otherwise provided in this section, leachate shall be collected and handled by direct discharge into a permitted publicly owned treatment works, following pretreatment [or other], if pretreatment is required by Federal, State or local law or by discharge into another permitted treatment facility.
* * * * *

§ 277.274. Leachate recirculation.

In conjunction with the treatment methods in §§ 277.272 and 277.273 (relating to basic treatment methods; and leachate transportation) recirculation of leachate may be utilized if the following conditions exist:
* * * * *

(4) [Leachate] The leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.

(5) The leachate is not a hazardous waste.

§ 277.275. Leachate collection and storage.
* * * * *

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain [:

(1) Impoundments] impoundments or tanks for storage of leachate [prior to treatment]. The tanks or impoundments shall have [a flow equalization and surge] sufficient storage capacity at least equal to the maximum expected production of leachate for any 30-day period for the life of the facility estimated under § 277.162 (relating to leachate treatment plan) or 250,000 gallons, whichever is greater. No more than

25% of the total leachate storage capacity may be used for flow equalization on a regular basis.

[(2) Impoundments or tanks for storage of treated leachate. The tanks or impoundments shall have a capacity at least equal to that in subsection (b)(1).]

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, unless otherwise approved by the Department.

(d) The storage capacity of impoundments and tanks at a site shall be increased if additional storage is required prior to each major phase of construction and as otherwise necessary.
* * * * *

(g) Underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or tanks shall be equipped with secondary containment. The secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.

§ 277.276. Leachate analysis and sludge handling.

(a) Upon commencement of leachate flow from the facility, the operator shall sample and analyze the following:
* * * * *

(2) On a quarterly basis, unless otherwise specified in the permit, the chemical composition of leachate flowing into the leachate treatment system [, including total alkalinity, specific conductance, chlorides, sulfates, total dissolved solids, chemical oxygen demand, metals and volatile organic analysis]. The analysis shall be sufficient to determine the impact of leachate on the liner system, the effectiveness of the leachate treatment system, the need for modification of the groundwater monitoring system or the effluent limitations in an NPDES permit, and the actual characteristics of leachate from the waste disposed at the facility. For the purpose of this quarterly analysis, the leachate sample shall be collected from the influent storage tank or impoundment and shall be representative of the average mixed influent quality. The Department may modify the frequency of chemical analysis or not require certain constituents to be tested following four consecutive quarters of analysis if the operator demonstrates that modifying the frequency of chemical analysis will not compromise groundwater protection.
* * * * *

§ 277.277. [Remedial] Departmental notice and remedial action.

The operator shall immediately notify the Department and describe remedial steps to be taken whenever:

(1) Operation of the treatment facility [under] in accordance with the approved plan cannot prevent [one of the following:

(i) Violating] violation of the terms of its permits, The Clean Streams Law (35 P. S. §§ 691.1—691.1001) [and] or the regulations thereunder.

[(ii) Causing surface water pollution or ground-water pollution.]

* * * * *

WATER QUALITY MONITORING

§ 277.281. General requirements.

(a) A person or municipality that operates a construction/demolition waste landfill shall install, operate and maintain a monitoring system that can detect the entry of solid waste, solid waste constituents, leachate, contaminants or constituents of decomposition into the groundwater or surface water. The monitoring system shall comply with this section and §§ 277.282—277.288.

(b) [No] A person or municipality may not construct, install or use a monitoring system for a construction/demolition waste landfill until that system has first been approved by the Department, in writing.

§ 277.282. Number, location and depth of monitoring points.

(a) The water quality monitoring system shall accurately characterize groundwater flows, groundwater chemistry and flow systems on the site and adjacent area. The system shall consist, at a minimum, of the following:

(1) At least one monitoring well at a point hydraulically upgradient from the disposal area in the direction of increasing static head that is capable of providing representative data of groundwater not affected by the facility, except when the facility occupies the most upgradient position in the flow system. In that case, sufficient downgradient monitoring wells shall be placed to determine the extent of adverse effects on groundwater [degradation or pollution] from the facility.

* * * * *

(b) The upgradient and downgradient monitoring wells shall be:

* * * * *

(3) Located within 200 feet of the permitted disposal area and located at the points of compliance.

(c) In addition to the requirements of subsection (b), upgradient monitoring wells shall be located so that they will not be affected by adverse effect on groundwater [degradation or pollution] from the disposal area.

(d) In addition to the requirements of subsection (b), downgradient monitoring wells shall be located so that they will provide early detection of adverse effect on groundwater [degradation or pollution] from the disposal area.

(e) [Wells drilled under this section shall be drilled by drillers licensed under the Water Well Drillers License Act (32 P. S. §§ 645.1—645.13).] The well materials shall be decontaminated prior to installation.

§ 277.283. Standards for wells and casing of wells.

(a) [Monitoring wells] A monitoring well shall be constructed with a screen that meets the following requirements:

- (1) The screen shall be factory-made.
(2) The screen may not react with the groundwater being monitored.

(3) The screen shall maximize open area to minimize entrance velocities and allow rapid sample recovery.

(b) A monitoring well shall be filter-packed with chemically inert clean quartz sand, silica or glass beads. The material shall be well-rounded and dimensionally stable.

(c) A monitoring well shall be cased as follows:

(1) The casing shall maintain the integrity of the monitoring well borehole and shall be constructed of material that will not react with the groundwater being monitored.

* * * * *

(3) [The casing shall be screened or perforated, and packed with gravel or sand where necessary, to enable collection of samples at depths where appropriate aquifer flow zones exist.

(4)] The casing shall protrude at least 1 foot aboveground, unless otherwise approved by the Department, and shall be clearly visible.

(4) The casing shall be designed and constructed in a manner that prevents cross contamination between surface water and groundwater.

* * * * *

[(b) Monitoring] (d) A monitoring well [casings] casing shall be enclosed in a protective casing that shall:

* * * * *

(2) Be installed for at least the upper 10 feet of the monitoring well, as measured from the well cap with a maximum stick up of 3 feet, unless otherwise approved by the Department in writing.

* * * * *

(4) Be numbered for identification with a label capable of withstanding field conditions and painted in a highly visible color.

(5) Protrude [at least 1 inch higher] above [grade than] the monitoring well casing.

* * * * *

§ 277.284. Sampling and analysis.

A person or municipality operating a construction/demolition waste landfill shall conduct sampling and analysis from each monitoring [well] point for the following parameters at the following frequencies:

(1) Quarterly, for chloride, sulfate, chemical oxygen demand, pH, specific conductance, total organic carbon, total organic halogen, iron and sodium, and, if required by the Department, for other constituents found in the waste received at the facility.

* * * * *

§ 277.286. Groundwater assessment plan.

(a) Requirement. A person or municipality operating a construction/demolition waste landfill shall prepare and submit to the Department a groundwater assessment plan within [30] 60 days after one of the following occurs:

* * * * *

(2) Laboratory [**analyses**] **analysis** of one or more [**contiguous**] public or private water supplies shows the presence of degradation that could reasonably be attributed to the facility.

(b) **Exceptions.** The operator is not required to conduct an assessment under this section if **one of** the following [**apply**] **applies**:

(1) Within 10 **working** days after receipt of sample results showing groundwater degradation [,] the operator resamples the affected wells [.

(2) **Analysis] and analysis** from resampling shows to the Department's satisfaction that groundwater degradation has not occurred.

(2) **Within 20 working days after receipt of sample results indicating groundwater degradation, the operator demonstrates that the degradation was caused entirely by earthmoving and other activities related to facility construction, or by seasonal variations.**

(c) The groundwater assessment plan shall specify the manner in which the operator will determine the existence, quality, quantity, aerial extent and depth of groundwater degradation, and the rate and direction of migration of contaminants in the groundwater. A groundwater assessment plan shall be prepared by an expert in the field of hydrogeology. The plan shall contain, at a minimum, the following information:

* * * * *

(3) Evaluation procedures, including the use of previously gathered groundwater quality information, to determine the concentration, rate and extent of groundwater degradation [**or pollution**] from the facility.

* * * * *

(5) **Identification of the abatement standard that will be met.**

(d) The groundwater assessment plan shall be implemented upon approval by the Department under the approved implementation schedule, and shall be completed in a reasonable time not to exceed 6 months unless otherwise approved by the Department. If the Department determines that the proposed plan is inadequate, it may modify the plan and approve the plan as modified. **The operator shall notify, in writing, each owner of a private or public water supply located within 1/2-mile downgradient of the disposal area that an assessment has been initiated.**

* * * * *

(g) This section does not prevent the Department from requiring, or the operator from conducting, [**abatement of**] groundwater [**pollution**] **abatement or water supply replacement** concurrently with, or prior to, implementation of the assessment.

§ 277.287. Abatement plan.

(a) The operator of a construction/demolition waste landfill shall prepare and submit to the Department an abatement plan whenever one of the following occurs:

(1) The groundwater assessment plan prepared and implemented under § 277.286 (relating to groundwater assessment plan) shows the presence of groundwater [**pollution**] **degradation** at one or more monitoring

wells **and the analysis under § 277.286(c) indicates that an abatement standard under subsection (d) will not be met.**

(2) Monitoring by the Department or operator shows the presence of [**groundwater pollution at**] **an abatement standard exceedance** from one or more [**monitoring wells**] **compliance points as indicated in subsection (d)**, even if a groundwater assessment plan has not been completed. The operator is not required to implement an abatement plan under this paragraph if the following apply:

(i) Within 10 days after receipt of sample results showing [**groundwater pollution**] **an exceedance of an abatement standard, at a point of compliance described in subsection (d)**, the operator resamples the affected wells.

(ii) Analysis from resampling shows to the Department's satisfaction that [**groundwater pollution**] **an exceedance of an abatement standard** has not occurred.

(b) An abatement plan shall be prepared by an expert hydrogeologist and submitted to the Department. The plan shall contain [, **at a minimum,**] the following information:

* * * * *

[(3) **A schedule for implementation.**]

(c) **The abatement plan shall be completed and submitted to the Department for approval within 90 days of the time the obligation arises under this section unless the date is otherwise modified, in writing, by the Department.**

(d) **If abatement is required in accordance with subsection (a), the operator shall demonstrate compliance with one of the following abatement standards at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer:**

(1) **For constituents for which an MCL has been promulgated under the Federal Safe Drinking Water Act or the Pennsylvania Safe Drinking Water Act (42 U.S.C.A. §§ 300f—300j-18; and 35 P. S. §§ 721.1—721.17), the MCL for that constituent.**

(2) **For constituents for which MCLs have not been promulgated, the background standard for the constituent.**

(3) **For constituents for which the background standard is higher than the MCL or risk-based standard identified under paragraph (4), the background standard.**

(4) **The risk-based standard if the following conditions are met:**

(i) **The risk assessment used to establish the standard assumes that human receptors exist at the property boundary.**

(ii) **The level is derived in a manner consistent with Department guidelines for assessing the health risks of environmental pollution.**

(iii) **The level is based on scientifically valid studies conducted in accordance with good laboratory practice standards (40 CFR Part 792) promulgated under the Toxic Substances Control Act (15 U.S.C.A.**

§§ 2601—2692) or other scientifically valid studies approved by the Department.

(iv) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level of 1.0 x 10⁻⁵ at the property boundary.

(e) * * *

[(d)] (f) * * *

MINERALS AND GAS

§ 277.291. Mineral resources.

(a) The operator shall isolate coal seams [and], coal outcrops and coal refuse from waste deposits [by barriers of natural and compacted soil that are at least 25 feet in thickness] in a manner that prevents the combustion of the waste and that prevents damage to the liner system.

* * * * *

§ 277.292. Gas control and monitoring.

If the waste disposed at the facility generates or is likely to generate gas, the operator shall establish and implement a gas control and monitoring [is required by the Department] program approved under § 277.171 (relating to gas monitoring and recovery plan) [, the operator shall comply with the approved gas control and monitoring plan].

EMERGENCY PROCEDURES

§ 277.301. Hazard prevention.

[(a)] * * *

[(b) First aid facilities shall be available and job safety shall be practiced.]

§ 277.302. Emergency equipment.

(a) Except as provided in subsection (b), the operator shall have available in proper working condition, the following equipment at the immediate operating area of the facility:

* * * * *

(3) Portable fire extinguishers, fire control equipment, spill control equipment and decontamination equipment. For fire control equipment requiring water, the facility shall have a water supply of adequate quantity and pressure to supply the equipment.

* * * * *

§ 277.303. Implementation of contingency plan.

* * * * *

(b) During an emergency, the operator shall:

* * * * *

(3) Immediately telephone the Department and county emergency management agency, and report the following information:

(i) [Name] The name of the person reporting the incident and telephone number where that person can be reached.

(ii) [Name] The name, address and permit number of the facility.

(iii) [Date] The date, time and location of the emergency.

* * * * *

(vi) [Parts] The parts of the contingency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall do the following:

* * * * *

(2) Prevent disposal, processing, storage or treatment of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has inspected and approved the resumption of operation after the cleanup.

RECORDKEEPING AND REPORTING

§ 277.311. Daily operational records.

* * * * *

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

* * * * *

(9) A record of the rejected waste loads and the reasons for rejecting the loads.

* * * * *

§ 277.312. Annual operation report.

* * * * *

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$ [1,100] 2,800 in the form of a check payable to the "Commonwealth of Pennsylvania."

* * * * *

CLOSURE PROVISIONS

§ 277.322. Closure.

* * * * *

(b) At least 180 days before implementation of a closure [or partial closure,] plan the operator shall review its approved closure plan to determine whether the plan requires modification, and shall submit proposed changes to the Department for approval under § 271.222 (relating to permit modification).

(c) If groundwater degradation exists at closure or occurs after closure, a person shall meet one of the following:

(1) Continue to implement an approved abatement plan.

(2) Submit an application for a closure plan modification in accordance with the procedures for a major permit modification. The operator shall select one or more remediation standards that will be met in accordance with the final closure certification requirements in § 271.342 (relating to final closure certification). The Department will accept the operator's selection of remediation standards if the requirements of subsection (d) are met.

(d) An application for a closure plan modification shall include the following:

(1) Technical information and supporting documentation identifying the remediation activities that will be conducted to meet and maintain the remediation standards.

(2) If a remedy relies on access to or use of properties owned by third parties, for remediation or monitoring, documentation of cooperation or agreement.

CHAPTER 279. TRANSFER FACILITIES

Subchapter A. General

§ 279.1. Scope.

(a) * * *

(b) The Department may waive or modify a requirement of this chapter for permitted transfer facilities at which no actual loading, unloading or transferring of municipal waste occurs, if the absence of loading, unloading or transferring activity renders the requirement unnecessary.

Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES

GENERAL

§ 279.101. General requirements.

* * * * *

(b) Maps, plans and cross sections submitted to comply with this subchapter shall be on a scale in which 1 inch equals no more than 50 feet with 2-foot maximum contour intervals unless otherwise approved by the Department.

§ 279.102. Operating plan.

* * * * *

(c) An application shall contain a plan for [hiring and] training equipment operators and other personnel concerning the operation and approved design of the facility.

* * * * *

§ 279.103. Maps and related information.

(a) An application shall contain a topographic map of the proposed permit area and adjacent area, including necessary narrative descriptions, which shows the following:

(1) [Boundaries] The boundaries and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

* * * * *

(4) The location and name of public and private water [supplies] sources that are located on or within 1/4 mile of the proposed [permit area and adjacent area] facility. If more than 50 wells are located within the 1/4-mile radius, the applicant may identify only the closest wells in each direction and generally describe the location and number of wells within the 1/4-mile radius.

* * * * *

(7) The anticipated location of water quality monitoring points if monitoring is required by the Department.

* * * * *

(14) The solid waste storage or loading/unloading areas.

* * * * *

(16) The location and use of buildings and related facilities which will be used in the operation, including their horizontal and vertical dimensions.

* * * * *

(b) [An application shall also contain a United States Department of Agriculture Soil Conservation Service soils map, for aerial photographs where current soils maps are unavailable, for the proposed permit area and adjacent area showing the site boundaries and soil types.

(c) * * *

§ 279.104. Plan for access roads.

The application shall contain designs, cross sections and specifications for access roads, including load limits, under § 279.213 (relating to access roads). Access roads shall be designed and constructed to handle adequately the truck traffic expected at the facility.

§ 279.105. Soil erosion and sedimentation control plan.

* * * * *

§ 279.106. Soil and groundwater monitoring plan.

(a) If required by the Department, the applicant shall submit a groundwater monitoring plan to detect groundwater degradation [or pollution of groundwater] from the facility.

* * * * *

§ 279.109. Contingency plan.

An application shall contain a contingency plan consistent with §§ 279.241—279.243 (relating to emergency procedures). The plan shall include a Preparedness, Prevention and Contingency (PPC) Plan that is consistent with the Department's most recent guidelines for the development and implementation of [PPCs] PPC plans.

RECYCLING

§ 279.121. Recycling plan.

An application [for a facility that will be receiving waste after September 26, 1990,] shall contain the following information in accordance with § 279.271 (relating to salvaging of materials):

[(1) A detailed analysis of the potential for salvaging and recycling waste materials received at the facility, including the type of materials that will be received, the likelihood of receiving unmixed loads of waste materials and the markets for the materials.

(2) A plan for salvaging and recycling waste materials received at the facility for which recycling is cost effective, including proposed salvage areas, salvaging methods and anticipated markets for salvaged materials, in accordance with § 279.271.

Subchapter C. OPERATING REQUIREMENTS FOR TRANSFER FACILITIES

GENERAL PROVISIONS

§ 279.201. Basic limitations.

* * * * *

(d) A person or municipality that operates a transfer facility may not:

* * * * *

(2) Allow explosive [wastes] waste to be stored or processed at the facility.

* * * * *

(f) A person or municipality may not allow solid waste [generated outside the host county for a facility] to be received, disposed or otherwise managed at the facility if the transportation to, or processing or management at, the facility would violate applicable laws in effect in the county or state in which the waste was generated, or state or local solid waste management plans in effect where the waste was generated.

* * * * *

(h) The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.

§ 279.202. Areas where transfer facilities are prohibited.

(a) Except for areas that were permitted prior to April 9, 1988, [no] a transfer facility may not be operated as follows:

(1) **Floodplain.** In the 100-year floodplain of waters in this Commonwealth, unless the Department approves in the permit a method of protecting the facility from a 100-year flood consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

(2) **Wetland.**

(i) * * *

(ii) For a transfer facility permitted on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) other than an expansion of a transfer facility that was permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), in or within 100 feet of a wetland other than an exceptional value wetland, unless storage and processing will not occur within that distance or storage and processing take place in an enclosed facility and one of the following applies:

(A) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(B) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(3) **Occupied dwelling.** Within 300 feet measured horizontally from an occupied dwelling, unless the [current] owner has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the [current] owner.

(4) **Perennial stream.** Within 100 feet of a perennial stream, unless one of the following applies:

(i) The storage and processing take place in an enclosed facility and no adverse impacts to the perennial stream will result.

(ii) The facility transfers wastes to barges at the transfer facility location.

(5) **Property line.** Within 50 feet of a property line unless the [operator demonstrates that actual pro-

cessing of waste is not occurring within that distance] storage and processing take place in an enclosed facility or the owner of the adjacent property has provided a written waiver consenting to the facility being closer than 50 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(6) **School, park, playground.**

(i) For a municipal waste transfer facility permit issued on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), except an expansion of a municipal waste transfer facility permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300 yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

* * * * *

DAILY OPERATIONS

§ 279.211. Signs and markers.

(a) A person or municipality that operates a transfer facility shall identify the facility and the recycling drop-off center required under § 279.272 (relating to recycled materials collection center) for the duration of operations by posting and maintaining a sign which will be clearly visible and can be easily seen and read at the junction of each access road and public road unless otherwise approved by the Department. The sign shall be constructed of a durable, weather-resistant material [and shall be of a minimum size of 3 feet by 4 feet with a light background and contrasting letters and numbers of a minimum height of 3 inches that can be easily seen and read. The sign shall show the name, business address and telephone number of the person or municipality that operates the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility].

(b) Permit area markers and the benchmark for horizontal and vertical control shall be:

(1) [Be posted] Posted and maintained for the duration of the operation to which they pertain.

(2) [Be clearly] Clearly visible, readable and uniform throughout the operation.

(3) [Be permanently] Permanently fixed and made of a durable material.

§ 279.212. Access control.

* * * * *

(b) The operator shall [construct and] maintain a fence or other suitable barrier around the site sufficient to prevent unauthorized access.

* * * * *

§ 279.213. Access roads.

* * * * *

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. The drainage system shall [include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 279.232 (relating to soil erosion and sedimentation control)] also comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 279.104 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

* * * * *

(h) An access road shall be maintained to control dust and to prevent and control the tracking of mud on and off the site.

§ 279.215. Operations and equipment.

* * * * *

(c) [Standby equipment shall be located on the site or at a place where it can be available within 24 hours.] If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

* * * * *

(e) Equipment [used to handle putrescible solid waste with which operations personnel are in direct contact shall be cleaned at the end of each working day or every 24 hours. Other equipment] shall be cleaned at frequencies specified in the permit based on scheduled or emergency maintenance periods.

(f) The operator of a transfer facility shall inspect and monitor incoming waste to ensure that the waste received is consistent with this article and the permit, unless otherwise approved by the Department. Monitoring and inspection shall include screening of waste for radioactive isotopes and be consistent with § 271.613 (relating to waste analysis plan).

§ 279.216. Unloading area.

* * * * *

(b) The loading areas and unloading areas shall be constructed of impervious material which is capable of being cleaned by high pressure water spray and shall be equipped with drains or sumps connected to a sanitary sewer system or treatment facility to facilitate the re-

moval of water. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage treatment plant operator and the operator finds that the treatment plant can fully treat the waste stream. Leachate may be collected in holding tanks prior to its transport to the sewage treatment plant.

* * * * *

§ 279.217. Cleaning and maintenance.

* * * * *

(d) Macerators, hammer mills and grinders shall be cleanable and shall be equipped with drains that connect to a sanitary sewer system or treatment facility. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage treatment plant operator and the operator finds that the treatment plant can fully treat the waste stream.

* * * * *

§ 279.218. Air resources protection.

(a) The operator shall implement fugitive [dust] air contaminant control measures, and shall otherwise prevent and control air pollution [under] in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015 and regulations thereunder) 4014), Article III (relating to air resources) and § 279.219 (relating to nuisance control).

(b) [No] A person or municipality may not cause or allow open burning at the facility.

§ 279.219. Nuisance control.

(a) The operator [may not cause or allow] shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator [may not cause or allow] also shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

§ 279.221. Litter.

* * * * *

(c) Litter shall be collected at least weekly from fences, roadways, tree line barriers and other barriers and disposed or stored [under] in accordance with the act and regulations thereunder, unless a greater frequency is set forth in the permit.

SOIL AND WATER PROTECTION

§ 279.231. General requirements.

(a) The operator may not cause or allow a point or nonpoint source discharge [of pollution] in violation of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) from or on the facility to [the] surface waters of this Commonwealth.

(b) A transfer facility shall be operated to prevent and control water pollution. An operator shall operate and maintain necessary [surface] water [and groundwater] pollution treatment facilities until [surface] water [or groundwater] pollution from or on the facility has been permanently abated.

(c) The operator may not cause water pollution [of groundwater] on or off the site. [The operator may not cause or allow a discharge of a contaminant into groundwater except as authorized by a permit from the Department.]

* * * * *

§ 279.232. Soil erosion and sedimentation control.

The operator shall manage surface water and control erosion and sedimentation to [accomplish the following]:

(1) Divert surface water away from the storage area with measures and structures necessary to handle surface water flows based on a 25-year, 24-hour precipitation event, [and] supported by written calculations and also comply with Chapter 102 (relating to erosion control).

* * * * *

§ 279.233. Soil and groundwater monitoring.

If required by the Department as part of the permit, the operator shall conduct soil or groundwater monitoring, or both. The monitoring shall be [under] in accordance with the terms and conditions of the permit, and shall continue for the period specified in § 279.262 (relating to cessation of operations).

§ 279.234. Water supply replacement.

(a) A person or municipality operating a transfer facility which adversely affects a water supply by degradation, pollution or other means shall restore or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but no later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply, or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

EMERGENCY PROCEDURES

§ 279.242. Emergency equipment.

(a) Except as provided in subsection (b), a person or municipality operating a transfer facility shall have avail-

able in proper working condition the following equipment at the immediate operating area of the facility:

* * * * *

(3) Portable fire extinguishers, fire control equipment, spill control equipment [,] and decontamination equipment [and self-contained breathing apparatus]. For fire control equipment requiring water, the facility shall have a water supply of adequate quantity and pressure to supply the equipment.

* * * * *

§ 279.243. Implementation of contingency plan.

* * * * *

(b) During an emergency, the operator shall:

* * * * *

(3) Immediately telephone the Department and county emergency management agency, and report the following information:

(i) [Name] The name of the person reporting the incident and telephone number where that person can be reached.

(ii) [Name] The name, address and permit number of the facility.

(iii) [Date] The date, time and location of the emergency.

* * * * *

(vi) [Parts] The parts of the contingency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall do the following:

* * * * *

(2) Prevent processing or storage of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has [inspected and] approved the resumption of operation after the cleanup.

RECORDKEEPING AND REPORTING

§ 279.251. Daily operational records.

* * * * *

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

* * * * *

(10) A record of rejected waste loads and the reasons for rejecting the loads.

* * * * *

§ 279.252. Annual operation report.

* * * * *

(b) The annual operating report, which shall be submitted on a form supplied by the Department, shall include the following:

* * * * *

(5) Certification that the operator has received the analysis or certification [required] required by § 287.54 (relating to chemical analysis of waste) for each type of residual waste or special handling waste received at the facility, and that the residual waste or special

handling waste that is received at the facility meets the conditions in the facility's permit.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$ [600] 700 in the form of a check payable to the "Commonwealth of Pennsylvania."

CESSATION AND CLOSURE

§ 279.262. Cessation of operations.

* * * * *

(b) An operator required under § 279.233 (relating to soil and groundwater monitoring) to conduct soil monitoring may discontinue soil monitoring upon cessation of processing operations **with the Department's approval. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that soil contamination will manifest itself in the future and other factors.**

* * * * *

CHAPTER 281. COMPOSTING FACILITIES

Subchapter B. APPLICATION REQUIREMENTS FOR GENERAL COMPOSTING FACILITIES

GENERAL PROVISIONS

§ 281.101. General requirements.

* * * * *

(b) Maps, plans and cross sections submitted to comply with this subchapter shall be on a scale in which 1 inch equals no more than 50 feet with 2-foot maximum contour intervals, **unless otherwise approved by the Department.**

PLANS

§ 281.111. Operating plan.

An application to operate a general composting facility shall contain the following:

* * * * *

(9) A plan for **[hiring and]** training equipment operators and other personnel concerning the operation and approved design of the facility.

* * * * *

§ 281.112. Maps and related information.

(a) An application shall contain a topographic map, including necessary narrative descriptions, which shows the following:

(1) **[Boundaries]** The boundaries and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; **the boundaries of the land within the proposed permit area;** and a description of title, deed or usage restrictions affecting the proposed permit area.

(2) **[Boundaries]** The boundaries of land to be affected over the estimated total life of the proposed operation.

* * * * *

(4) The location and name of public and private water **[supplies]** sources that are located on the proposed permit area and adjacent area.

* * * * *

(13) **[Water]** The water diversion, collection, conveyance, sedimentation and erosion control, treatment, storage and discharge facilities to be used.

(14) **[Composting]** The composting pads, tipping areas, storage areas **[and],** windrows **and loading/unloading areas.**

(15) **[Areas]** The areas of land for which a bond will be posted under Chapter 271, Subchapter D (relating to financial assurances requirements).

* * * * *

(18) **[Utilities]** The utilities to be installed at the facility.

* * * * *

(b) **[An application shall contain a United States Department of Agriculture Soil Conservation Service soil map, or aerial photographs if current soil maps are unavailable, for the proposed permit area and adjacent area showing the site boundaries and soil types.**

(c)] * * *

§ 281.115. Plan for access roads.

The application shall contain designs, cross sections and specifications for access roads, including load limits, to demonstrate compliance with § 281.212 (relating to access roads). **Access roads shall be designed and constructed to handle adequately the truck traffic expected at the facility.**

COMPOSTING

§ 281.121. Composting pad and vessel design.

(a) An application shall contain plans and specifications for the design, construction and maintenance of composting pads **and vessels** that will be required for the proposed facility.

(b) The application shall also contain a plan for inspection of composting pads **and vessels** to ensure **[the]** **their integrity [of the composting pad].**

(c) Composting pad **and vessel** plans and designs shall be consistent with § 281.231 (relating to composting pad **or vessel**).

SOIL AND WATER

§ 281.132. Soil erosion and sedimentation control plan.

(a) The applicant shall submit a plan to manage surface water and control erosion during all phases of construction and operation at the facility. The plan shall be based on the requirements of Chapter 102 (relating to erosion control), § 281.252 (relating to soil erosion and sedimentation control) and other applicable State and Federal requirements. Calculations indicating water quantities shall be based on the 24-hour precipitation event in inches to be expected once in 25 years. **More stringent design standards may be required by the Department based on the most recent edition of the United States Department of Agriculture Soil Conservation Services' Engineering Field Manual for Conservation Practices.**

* * * * *

§ 281.134. Soil and groundwater monitoring plan.

(a) If required by the Department, the applicant shall submit a groundwater monitoring plan to detect groundwater degradation [or pollution of groundwater] from the facility.

* * * * *

Subchapter C. OPERATING REQUIREMENTS FOR GENERAL COMPOSTING FACILITIES
GENERAL PROVISIONS

§ 281.201. Basic limitations.

* * * * *

(f) The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste, unless a later date is authorized in writing by the Department for technical reasons.

§ 281.202. Areas where general composting facilities are prohibited.

(a) Except for areas that were permitted prior to April 9, 1988, [no] a general composting facility, may not be operated as follows:

(1) **Floodplain.** In the 100-year floodplain of waters of this Commonwealth unless demonstrated that the compost facility can be protected during flooding.

(2) **Wetland.**

(i) * * *

(ii) For a general composting facility permitted on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) other than an expansion of a general composting facility that was permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.) in or within 100 feet of a wetland other than an exceptional value wetland, unless storage and processing will not occur within that distance or storage and processing take place in an enclosed facility and one of the following is true:

(A) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(B) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(3) [Within 100 feet of a sinkhole or area draining into a sinkhole.

(4)] **Occupied dwelling.** Within 300 feet measured horizontally from an occupied dwelling, unless the [current] owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the [current] owner.

[(5)] (4) **Perennial stream.** Within 100 feet of a perennial stream, unless the storage and processing take place in an enclosed facility and no adverse impacts to the perennial stream will result.

[(6)] (5) **Property line.** Within 50 feet of a property line unless the [operator demonstrates that actual

composting of waste is not occurring within that distance] storage and processing take place in an enclosed facility.

[(7)] (6) **Water source.** Within 1/4 mile upgradient and within 300 feet downgradient of a private or public water source.

[(8)] (7) **Water table.** In an area where the pad or vessel will be in contact with the seasonal high water table or perched water table [is less than 4 feet from the surface].

(8) **School, park, playground.**

(i) For a municipal waste transfer facility permit issued on or after _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), except an expansion of a municipal waste transfer facility permitted prior to _____ (Editor's Note: The blank refers to the effective date of adoption of this proposal.), within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

* * * * *

DAILY OPERATIONS

§ 281.211. Signs and markers.

(a) A person or municipality that operates a general composting facility shall identify the facility for the duration of operations by posting and maintaining a sign which will be clearly visible and can be easily seen and read at the junction of each access road and public road unless otherwise approved by the Department. The sign shall be constructed of a durable, weather resistant material [and shall be of a minimum size of 3 feet by 4 feet with a light background and contrasting letters and numbers of a minimum height of 3 inches that can be easily seen and read. The sign shall show the name, business address and telephone number of the person or municipality operating the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility].

* * * * *

§ 281.212. Access roads.

* * * * *

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. The drainage system

shall [include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 281.252 (relating to soil erosion and sedimentation control)] comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 281.115 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

* * * * *

(h) [Disturbed] The disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(i) [An access road] Access roads shall be designed, constructed and maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

§ 281.214. Measuring and inspection of waste.

(a) An operator of a general composting facility that has received, is receiving or will receive 30,000 or more cubic yards of [municipal] solid waste in a calendar year shall weigh [municipal] solid waste when it is received. The scale used to weigh [municipal] solid waste shall conform to the Weights and Measures Act of 1965 (73 P. S. §§ 1651—1692) and regulations thereunder. The operator of the scale shall be a licensed public weighmaster under the Public Weighmasters Act (73 P. S. §§ 1771—1796) and regulations thereunder.

* * * * *

(c) The operator of a general composting facility shall inspect and monitor incoming waste to ensure that the waste received is consistent with this article and the permit, unless otherwise approved by the Department. Monitoring and inspection shall include screening of waste for radioactive isotopes and be consistent with § 271.613 (relating to waste analysis plan).

§ 281.215. Equipment.

* * * * *

(b) [Standby equipment shall be located on the site or at a place where it can be available within 24 hours.] If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

* * * * *

(d) Equipment [used to handle putrescible solid waste with which operations personnel are in direct contact shall be cleaned at the end of each working day or every 24 hours. Other equipment] shall be cleaned at frequencies specified in the permit based on scheduled or emergency maintenance periods.

* * * * *

§ 281.217. Air resources protection.

(a) The operator shall control fugitive [dust] air contaminants and otherwise prevent and control air pollution under the Air Pollution Control Act (35 P. S. §§ 4001—[4015 and regulations thereunder] 4014), Article III (relating to air resources) and § 281.218 (relating to nuisance control).

(b) [No] A person or municipality may not cause or allow open burning at the facility.

§ 281.218. Nuisance Control.

(a) The operator [may not cause or allow] shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator [may not cause or allow] shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

§ 281.220. Litter.

* * * * *

(c) At least weekly, blown off and intercepted litter shall be collected from fences, roadways, tree-lined barriers and other barriers, and disposed or stored in accordance with the act and regulations thereunder, unless a greater frequency is set forth in the permit.

COMPOSTING PROVISIONS

§ 281.231. Composting pad or vessel.

(a) No solid waste may be composted, loaded, unloaded or stored, except on a composting pad or vessel that meets the requirements of this section.

(b) The composting pad or vessel shall be adequate in size and capacity to manage the projected solid waste, compost and residue volumes.

(c) A composting pad or vessel shall be:

(1) [Be no more permeable than 1 x 10⁻⁷ cm/sec] For a pad, capable of preventing the migration of waste and leachate generated from the composting process through the pad.

(2) [Be designed] Designed, constructed and maintained to protect the integrity of the pad or vessel during the projected life of the facility.

(3) [Be designed] Designed to collect leachate.

(4) [Be] For a pad, constructed of nonearthen material.

(5) [Be inspected] Inspected for uniformity, damage and imperfections during construction and installation.

(6) [Be designed] Designed and operated so that the physical and chemical characteristics of the composting pad or vessel and its ability to restrict the flow of solid waste, solid waste constituents or leachate is not adversely affected by the leachate.

(d) The operator shall inspect the composting pad or vessel in a manner and frequency approved by the Department in the permit.

(e) Upon completion of the construction of a composting pad or vessel, the operator shall:

(1) Submit a certification by a registered professional engineer on forms provided by the Department. The certification shall describe the composting pad or vessel being certified, using drawings and plans if appropriate and shall state that the actual construction was observed by the engineer or persons under his direct supervision, and that the construction was carried out in a manner that is consistent with the permit.

(2) Notify the Department that the facility is ready for inspection. No solid waste may be composted, and no solid waste or compost may be stored, loaded or unloaded on the composting pad or in the composting vessel, until the Department has conducted an inspection and has transmitted its written approval to the permittee indicating that the construction was done according to the permit.

§ 281.234. Sale [,] or utilization [or disposal] of compost.

Prior to sale [,] or utilization [or disposal] of compost, the operator shall [provide the Department with a written chemical analysis of the compost on forms provided by the Department. If the Department determines that the compost has the potential for causing air, water or land pollution, the Department will notify the operator that the compost is to be disposed of at a permitted disposal facility] obtain a general permit from the Department under Chapter 271, Subchapters I or J (relating to beneficial use of municipal waste; and beneficial use of sewage sludge by land application).

SOIL AND WATER PROTECTION

§ 281.251. General requirements.

* * * * *

(d) The operator may not cause or allow water pollution [of groundwater] within or outside of the site. [The operator may not cause or allow a discharge of a contaminant into groundwater except as authorized by a permit from the Department.]

§ 281.253. Sedimentation ponds.

* * * * *

(b) Sedimentation ponds shall be constructed, operated and maintained under this section, Chapters 102 and 105 (relating to erosion control; and dam safety and waterway management) and the minimum design criteria contained in the United States Soil Conservation Service's Engineering Standard 378, 'Pond' Pa., as amended.

* * * * *

§ 281.255. Water supply replacement.

(a) A person or municipality operating a composting facility which adversely affects a water supply by degradation, pollution or other means shall restore or replace the affected water supply with an alternative source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after receipt of one of the following:

(1) Information showing that the operator is responsible for adversely affecting the water supply.

(2) Notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after receipt one of the following:

(1) Information showing that the operator is responsible for adversely affecting the water supply.

(2) Notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

EMERGENCY PROCEDURES

§ 281.263. Implementation of contingency plan.

* * * * *

(b) During an emergency, the operator shall:

* * * * *

(3) Immediately telephone the Department and county emergency management agency, and report the following information:

(i) [Name] The name of the person reporting the incident and telephone number where that person can be reached.

(ii) [Name] The name, address and permit number of the facility.

(iii) [Date] The date, time and location of the emergency.

(iv) A brief description of the nature of the emergency, the type and quantity of the solid waste involved and what dangers to public health and safety, public welfare and the environment exist or may occur.

* * * * *

(vi) [Parts] The parts of the emergency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall do the following:

* * * * *

RECORDKEEPING AND REPORTING

§ 281.271. Daily operational records.

* * * * *

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

* * * * *

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

* * * * *

§ 281.272. Annual operation report.

* * * * *

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

* * * * *

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$ [600] 700 in the form of a check payable to the "Commonwealth of Pennsylvania."

CESSATION AND CLOSURE

§ 281.282. Cessation of operations.

(a) Upon cessation of composting operations at the facility, the operator shall [**immediately**] remove solid waste and structures or other materials which contain or are contaminated with solid waste, and shall provide for the processing or disposal of the waste or material under the act, the environmental protection acts and this title.

* * * * *

(c) An operator required under § 281.254 (relating to soil and groundwater monitoring) to conduct soil monitoring may discontinue soil monitoring upon cessation of composting operations **with the Department's approval. In deciding whether to allow the discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that groundwater degradation will manifest itself in the future and other relevant factors.**

* * * * *

CHAPTER 283. RESOURCE RECOVERY AND OTHER PROCESSING FACILITIES

Subchapter B. APPLICATION REQUIREMENTS

GENERAL PROVISIONS

§ 283.102. Operating plan.

An application shall contain:

* * * * *

(5) A plan for [**hiring and**] training equipment operators and other personnel concerning the operation and approved design of the facility.

* * * * *

(8) An explanation of how the applicant intends to comply with § 283.214 (relating to measuring **and inspection** of waste).

* * * * *

§ 283.103. Maps and related information.

An application shall contain a topographic map of the **proposed permit area and adjacent area**, including necessary narrative descriptions, which show the following:

(1) [**Boundaries**] **The boundaries** and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; **the boundaries of the land within the proposed permit area**; and a description of title, deed or usage restrictions affecting the proposed permit area.

* * * * *

(4) The location and name of public and private water [**supplies**] **sources** that are located on or within 1/4-mile of the proposed [**permit area and adjacent area**] facility. **If more than 50 wells are located within the 1/4-mile radius, the applicant may identify only the closest wells in each direction and**

generally describe the location and number of wells within 1/4-mile of the proposed facility.

* * * * *

(7) The anticipated location of water quality monitoring points, **if monitoring is required by the Department.**

* * * * *

(15) The solid waste storage or loading/unloading areas.

* * * * *

§ 283.105. Plan for access roads.

The application shall contain designs, cross sections and specifications for access roads, including load limits, to demonstrate compliance with § 283.213 (relating to access roads). **Access roads shall be designed and constructed to handle adequately the truck traffic expected at the facility.**

§ 283.107. Soil and groundwater monitoring plan.

(a) If required by the Department, the applicant shall submit a groundwater monitoring plan to detect groundwater degradation [**or pollution**] from the facility.

* * * * *

§ 283.112. Relationship to county plans.

* * * * *

(b) An application shall contain the following:

(1) An explanation of whether the proposed facility is [**expressly**] provided for in the approved plan for the host county. [**A facility will be considered expressly provided for in the host county plan only to the extent that implementing documents submitted by the county under § 272.245 designate the facility to receive a specified volume of waste under the host county plan.**] A facility is "provided for" if it is designated by the host county to provide capacity assurance in the approved host county plan. A facility analyzed as part of a planning process, but not designated, will not be considered "provided for."

(2) If the proposed facility is not [**expressly**] provided for in the approved host county plan:

* * * * *

(iii) **A detailed response to objection, if any, filed by the governing body of the host county within 60 days of the written notice under section 504 of the act (35 P. S. § 6018.504).**

[(c) **To the extent that the application is for a facility that is not expressly provided for in the host county plan, an application for a proposed facility or for an expansion of capacity or volume at an existing facility shall contain an environmental siting analysis for each county generating municipal waste that will be disposed at the facility, demonstrating that the proposed location of the facility is at least as suitable as alternative locations within the generating county, giving consideration to environmental and economic factors. The environmental siting analysis shall include a discussion and analysis of each of the following:**

(1) **Transportation distances and associated impacts.**

(2) The environmental assessment criteria listed in § 271.127(a) (relating to environmental assessment).

(3) The siting criteria and technical standards of 40 CFR Part 257 (relating to classification of solid waste disposal facilities).

(d) The location of an existing permitted facility, including the reasonable expansion of the facility, that is not expressly provided for in the host county plan will be considered at least as suitable as alternative locations within the generating county to the extent that the implementing documents submitted by the county under § 272.245 designate the facility to receive waste under one or more county plans.

(e) The location of a proposed facility that is expressly provided for under subsection (b)(1) will be considered at least as suitable as alternative locations within the generating county to the extent that implementing documents submitted by the county under § 272.245 designate the facility to receive waste under one or more county plans.

(f) The Department will consider that a proposed facility or reasonable expansion of an existing facility is needed under § 271.127 only to the extent that the proposed facility or expansion is provided for in an approved county plan or is determined by the Department to be located at a proposed site that is at least as suitable as alternative locations under this section.

(g) The Department will require an applicant with a pending application to submit the information required under this section if, before the Department takes final action on the application, the Department receives from the county all legal documents necessary to implement the plan under § 272.145.]

RECYCLING

§ 283.121. Recycling plan.

[(a)] An application [for a facility that will be receiving waste after September 26, 1990,] shall contain [the following information in accordance with § 283.281 (relating to salvaging of materials):

(1) A detailed analysis of the potential for salvaging and recycling waste materials received at the facility, including the type of materials that will be received, the likelihood of receiving unmixed loads of waste materials and the markets for the materials. The analysis shall include the source separated recyclable materials as defined in § 271.1 (relating to definitions) at a minimum, plastics, high grade office paper, aluminum and newsprint.

(2)] A plan for salvaging and recycling waste materials received at the facility for which recycling is cost effective, including proposed salvage areas, salvaging methods and anticipated markets for salvaged materials in accordance with § 283.281 (relating to salvaging of materials).

[(b) If the proposed facility would incinerate municipal waste, the application shall contain a separate recycling analysis and plan in accordance with subsection (a) for ash generated by operation of the facility.]

**Subchapter C. OPERATING REQUIREMENTS
GENERAL PROVISIONS**

§ 283.201. Basic limitations.

* * * * *

(d) A person or municipality that operates a facility subject to this subchapter may not:

(1) Mix solid waste with, or store solid waste in close proximity to, other solid waste as to create a risk of fire or explosion, or a risk of the accumulation of poisonous or otherwise harmful vapors or gases.

(2) Allow explosive waste to be stored, processed or disposed at the facility.

* * * * *

(j) The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless otherwise authorized in writing by the Department for technical reasons.

§ 283.202. Areas where resource recovery facilities and other processing facilities are prohibited.

(a) Except for areas that were permitted prior to April 9, 1988, a municipal waste processing facility subject to this chapter may not be operated as follows:

(1) **Floodplain.** In the 100-year floodplain of waters of this Commonwealth, unless the Department approves in the permit a method of protecting the facility from a 100-year flood consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and the Dam Safety and Encroachment Act (32 P. S. §§ 693.1—693.27).

(2) **Wetlands.**

(i) * * *

(ii) For a processing facility permit issued on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*) other than an expansion of a processing facility that was permitted prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*), in or within 100 feet of a wetland other than an exceptional value wetland, unless for a processing facility other than a resource recovery facility storage and processing will not occur within that distance or storage and processing take place in an enclosed facility and one of the following is true:

(A) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(B) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(3) [Within] **Occupied dwelling.**

(i) For a processing facility permit issued prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*), or for an expansion of a resource recovery facility or other processing facility that was permitted prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*), within 300 feet measured horizontally from an occupied dwelling, unless the [current] owner of the dwelling has provided a written waiver consenting to the facility being

closer than 300 feet. The waiver shall be [made] knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the [current] owner. This siting limitation does not apply to onsite infectious and chemotherapeutic waste incineration facilities which are not commercial facilities.

(ii) For a processing facility permit issued on or after _____ (Editor's Note: The blank refers to effective date of adoption of this proposal, within 300 yards measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 yards. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(4) Perennial stream. Within 100 feet of a perennial stream unless the storage and processing will not occur within that distance and no adverse hydrologic or water quality impacts to the perennial or intermittent stream will result.

(5) Property line. Within 50 feet of a property line unless [one of the following applies:] storage and processing takes place in an enclosed facility or the owners of occupied dwellings within that distance have provided written waivers consenting to the facility being closer than 50 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

[(i) The operator demonstrates that actual processing of waste is not occurring within that distance.

(ii) The Department determines that the following are met:

(A) The proposed facility is in conformance with local zoning codes.

(B) The proposed facility would result in an overall reduction in air emissions.

(C) Owners of occupied dwellings within the distance have provided written waivers consenting to the facility being closer than 50 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.]

(6) School, park, playground.

[(b)] Except for areas that were permitted prior to [(i) For a resource recovery facility permit issued on or after September 26, 1988, [a resource recovery facility may not be operated] except an expansion of a resource recovery facility permitted prior to September 26, 1988, within 300 yards of the following:

[(1) Within 300 yards of a] (A) A building which is owned by a school district or school and used for instructional purposes.

[(2) Within 300 yards of a] (B) A park.

[(3) Within 300 yards of a] (C) A playground.

[(c)] (ii) The current property owner [under subsection (b) near which a new facility is proposed] of a school building, park or playground may waive

the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

[(d)] (b) Except as provided in subsection [(e)] (c), this section does not apply to a feature that may come into existence after the date of the first newspaper notice under § 271.141 (relating to public notice by applicant).

[(e)] (c) * * *

* * * * *

DAILY OPERATIONS

§ 283.211. Signs and markers.

(a) A person or municipality that operates a facility subject to this subchapter shall identify the [operation] facility and the recycling drop-off center required under § 283.282 (relating to recycled materials collection center) for the duration of municipal waste processing operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road. The sign shall be constructed of a durable, weather-resistant material [and shall be of a minimum size of 3 feet by 4 feet with a light background and contrasting letters and numbers of a minimum height of 3 inches that can be easily seen and read. The sign shall show the name, business address and telephone number of the person or municipality operating the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility] .

(b) Permit area markers and the permanent physical markers for the grid coordinate system shall be:

(1) [Be posted] Posted and maintained for the duration of the operation to which they pertain.

(2) [Be clearly] Clearly visible, readable and uniform throughout the operation.

(3) [Be permanently] Permanently fixed and made of a durable material.

* * * * *

§ 283.212. Access control.

* * * * *

(b) The operator shall [construct and] maintain a fence or other suitable barrier around the site sufficient to prevent unauthorized access.

* * * * *

§ 283.213. Access roads.

* * * * *

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 24-hour, 25-year precipitation event. [The drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and

other appropriate sediment control measures as required by § 283.232 (relating to soil erosion and sedimentation control).] The drainage system shall comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 283.105 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

* * * * *

(h) An access road shall be maintained to control dust and to prevent or control the tracking of mud on or off site.

[(h)] (i) * * *

§ 283.214. Measuring and inspection of waste.

(a) An operator of a municipal waste processing facility that has received, is receiving or will receive 30,000 or more cubic yards of [municipal] solid waste in a calendar year shall weigh [municipal] solid waste when it is received. The scale used to weigh [municipal] solid waste shall conform to the Weights and Measures Act of 1965 (73 P. S. §§ 1651—1692) and regulations thereunder. The operator of the scale shall be a licensed public weighmaster under the Public Weighmasters Act (73 P. S. §§ 1771—1796) and regulations thereunder.

* * * * *

(c) The operator of a facility shall inspect and monitor incoming waste to ensure that the disposal of waste is consistent with this article and the permit, unless otherwise approved by the Department, the monitoring and inspection shall include screening of waste for radioactive isotopes and be consistent with § 271.613 (relating to waste analysis plan).

§ 283.215. Equipment.

* * * * *

(b) [Standby equipment shall be located on the site or at a place where it can be available within 24 hours.] If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

* * * * *

§ 283.216. Unloading area.

* * * * *

(b) The loading areas and unloading areas shall be constructed of impervious material which is capable of being cleaned by high pressure water spray and shall be equipped with drains or sumps connected to a sanitary sewer system or treatment facility to facilitate the removal of water. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage sludge treatment plant operator and the operator finds that the treatment plant can fully treat the waste

stream. Leachate may be collected in holding tanks prior to its transport to the sewage treatment facility.

* * * * *

§ 283.217. Cleaning and maintenance.

* * * * *

(b) [Except for scheduled or emergency shut-down of processing operations, the] The operator may not allow putrescible waste to remain at the facility at the end of the day or for more than 24 hours except that putrescible waste may remain at the facility for any time period up to 72 hours over a weekend or 3-day weekend if provided for in the permit.

* * * * *

(d) Processing equipment and areas that have contact with solid waste shall be capable of being cleaned by high-pressure water spray or other methods, and shall be located near drains that connect to a sanitary sewer system or treatment facility. Drains or treatment systems may be connected in a sanitary sewer system if a waste characterization is submitted to the sewage sludge treatment plant operator and the operator finds that the treatment plant can fully treat the waste stream. Leachate may be collected in holding tanks prior to its transport to the sewage treatment facility.

* * * * *

§ 283.218. Air resources protection.

(a) Emissions from a facility subject to this chapter shall meet the requirements of the Air Pollution Control Act (35 P. S. §§ 4001—[4015] regulations thereunder,] 4014), Article III (relating to air resources), the terms or conditions of its permit and, if applicable, the most recent edition of the Department's criteria for best available technology, and other applicable Department guidelines.

(b) The operator may not cause or contribute to [the exceeding] an exceedance of any ambient air quality standards under § 131.3 (relating to ambient air quality standards).

* * * * *

§ 283.219. Nuisance control.

(a) The operator [may not cause or allow] shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator [may not cause or allow] shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

SOIL AND WATER PROTECTION

§ 283.231. General requirements.

(a) The operator may not cause or allow a point or nonpoint source discharge [of pollution] in violation of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) from or on the facility to surface waters of this Commonwealth.

(b) A municipal waste processing facility shall be operated to prevent and control water pollution. An operator

shall operate and maintain necessary [surface and groundwater] water pollution treatment facilities until [surface or groundwater] water pollution from or on the facility has been permanently abated.

* * * * *

(d) The operator may not cause or allow water pollution [of groundwater] on or off the site. [The operator may not cause or allow a discharge of a contaminant into groundwater except as authorized by a permit from the Department.]

* * * * *

§ 283.232. Soil erosion and sedimentation control.

The operator shall manage surface water and control erosion and sedimentation to:

(1) Divert surface water away from the storage area with measures and structures necessary to handle surface water flows, based on a 25-year, 24-hour precipitation event, [and] supported by written calculations and also in compliance with Chapter 102 (relating to erosion control).

* * * * *

§ 283.234. Water supply replacement.

(a) A person or municipality operating a municipal waste processing facility subject to this chapter which adversely affects a water supply by degradation, pollution or other means shall restore or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply, or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

EMERGENCY PROCEDURES

§ 283.253. Implementation of contingency plan.

* * * * *

(b) During an emergency, the operator shall:

* * * * *

(3) Immediately telephone the Department and county emergency management agency, and report the following information:

(i) [Name] The name of the person reporting the incident and telephone number where that person can be reached.

(ii) [Name] The name, address and permit number of the facility.

(iii) [Date] The date, time and location of the emergency.

* * * * *

(vi) [Parts] The parts of the contingency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall do the following:

* * * * *

(2) Prevent processing, [or] storage or disposal of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has [inspected and] approved the resumption of operation after the cleanup.

RECORDKEEPING AND REPORTING

§ 283.261. Daily operational records.

* * * * *

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

* * * * *

(10) A record of rejected waste loads and the reasons for rejecting the loads.

* * * * *

§ 283.262. Annual operation report.

* * * * *

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amounts:

(1) [One thousand four] Seven hundred dollars for facilities that incinerate municipal waste.

(2) [Six] Seven hundred dollars for other municipal waste processing facilities subject to this chapter.

CESSATION AND CLOSURE

§ 283.272. Cessation of operations.

(a) Upon cessation of processing operations at the facility, the operator shall immediately remove solid waste and structures or other materials which contain or are contaminated with solid waste, and shall provide for the processing or disposal of the waste or material [under the act] in accordance with the environmental protection acts and this title.

* * * * *

RECYCLING AND WASTE REMOVAL

§ 283.281. Salvaging of materials.

(a) [After September 26, 1990, a] A person or municipality may not operate a resource recovery facility unless the operator has developed and is implementing a program to recycle waste materials received at the facility for which recycling is cost effective, in accordance with

the plan approval under § 283.121 (relating to recycling plan). [The materials may include, but are not limited to, plastics, high grade office paper, aluminum, clear glass and newsprint. If the facility incinerates municipal waste, the operator shall also salvage and recycle materials contained in ash generated by operation of the facility to the extent the recycling is cost effective, in accordance with the plan approved under § 283.121.]

* * * * *

Subchapter E. ADDITIONAL OPERATING REQUIREMENTS FOR SPECIAL HANDLING WASTES

§ 283.402. Infectious waste monitoring requirements.

(a) A person or municipality that disinfects infectious waste shall monitor the waste to ensure the following:

* * * * *

(2) For other disinfection processes, [total destruction of specified indicator organisms in 95% of the samples tested during disinfection.] both of the following are met:

(i) The process shall be capable of inactivating vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 log 10 reduction or greater.

(ii) Inactivating B. stearothermophilus spores, b. pumilus or B. subtilis spores at a 4 log 10 reduction or greater.

* * * * *

(d) If the facility disinfects infectious waste by means other than incineration or thermal processing, the operator shall perform a microbiological analysis of indicators removed from the processed waste. The analysis shall be conducted at a minimum, every 40 hours during the operational life of the facility, unless otherwise provided in a permit. The analyses shall be made available to the Department upon request.

* * * * *

(m) In addition to other applicable requirements, an autoclave facility shall comply with the following:

(1) The processing of pathological waste is prohibited.

(2) The facility shall maintain a retention time for processing bulk fluids (greater than 500 ml) which allows for the complete vaporization of fluids.

CHAPTER 285. STORAGE, COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE

Subchapter A. STORAGE OF MUNICIPAL WASTE GENERAL

§ 285.111. General requirements.

[No] A person or municipality that stores municipal waste may not do the following:

* * * * *

(4) Allow [litter] waste or constituents of waste to be blown or otherwise deposited outside of the storage area.

§ 285.115. Nuisance control.

(a) A person or municipality that stores municipal waste shall:

* * * * *

(2) Take other measures necessary to [prevent] minimize and control the presence of vectors.

* * * * *

(b) A person or municipality storing municipal waste shall also [prevent and eliminate] minimize and control conditions not otherwise prohibited by this subchapter that are harmful to the public health, public safety or the environment, or which create safety hazards, odors, dust, unsightliness or other public nuisances.

§ 285.116. Surface and groundwater protection.

(a) Surface water runoff from storage areas shall be minimized. Collection of surface water runoff shall be managed in accordance with The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the regulations promulgated thereunder.

(b) Surface water run-on to storage areas shall be minimized.

(c) Waste may not be stored in a manner that causes groundwater degradation.

§ 285.117. Emergency storage.

Notwithstanding a provision of this article or term or condition of a permit for a solid waste processing or disposal facility, the Department may allow the storage of municipal waste at a permitted facility if the following conditions are met:

(1) The waste was created, spilled or released during or as a result of an emergency. The waste may also be created as a result of adverse effects on groundwater from a solid waste management facility, materials storage tank or similar source.

(2) The permitted facility includes the following:

(i) A designated waste storage area.

(ii) An approved storage and handling plan that will allow storage of the waste without any adverse effect on public health, safety, welfare or the environment.

(iii) Plans for prompt removal of the waste and disposal or processing at another permitted facility if the Department denies the application for permit modification under paragraph (3).

(3) Within 5 working days after storage begins, the Department has received an application for permit modification under § 271.222 or § 287.222 (relating to permit modification; and permit modification) to allow the disposal or processing of the waste at the facility.

TYPES OF STORAGE

§ 285.121. Containers.

(a) A person or municipality storing municipal waste shall provide a sufficient number of containers to prevent leaks, odors and vector attraction and to contain solid waste generated during periods between regularly scheduled collections.

* * * * *

[(c) Putrescible municipal waste shall be stored in an individual container or bulk container that has the following characteristics:

(1)] (3) * * *

[(2)] (4) * * *

(5) The container shall be clearly labeled as "municipal waste" or a specific type of municipal waste.

* * * * *

§ 285.124. Impoundments—failure.

* * * * *

(b) [No] A surface impoundment that has been removed from service due to failure may not be restored to service unless the following requirements are met:

* * * * *

(c) If a storage impoundment fails and the impoundment or surrounding area cannot be cleaned up in a manner that will protect public health, safety and the environment and that is satisfactory to the Department, the operator shall submit a closure plan to the Department that meets one of the following and, upon Department approval, implement the closure plan:

(1) Removal of waste.

(i) The closure plan provides for removal of the waste and structures or other materials which contain or are contaminated with solid waste.

(ii) The closure plan provides for the processing or disposal of the waste and material under the environmental protection acts and this title.

(iii) If required by the Department, the closure plan includes a soil and groundwater monitoring plan to assess the impact of the failure on groundwater consistent with § 273.286 (relating to assessment plan).

(iv) If the groundwater assessment shows the presence of groundwater degradation at one of the monitoring wells, the operator shall comply with § 273.287 (relating to abatement plan).

(2) Waste remaining in place. If the closure plan provides for leaving the waste in place, the operator shall comply with the requirements of § 271.113 (relating to closure plan).

ADDITIONAL REQUIREMENTS FOR INFECTIOUS AND CHEMOTHERAPEUTIC WASTE

§ 285.147. Marking of containers.

(a) The outermost container for each package of infectious or chemotherapeutic waste for offsite transportation shall be labeled immediately after packing. The label shall be securely attached and shall be clearly legible. Indelible ink shall be used to complete the information on the label. [and the] If handwritten, the label shall be at least 3 inches by 5 inches in dimension.

* * * * *

(d) The labeling information specified in subsection (c)(1) shall be black. The labeling information specified in subsection (c)(2) shall be fluorescent orange or orange-red in color, or predominantly so, with a background of a contrasting color for infectious waste, and yellow in color, or predominately so, with a background of a contrasting color for chemotherapeutic waste.

* * * * *

Subchapter B. COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE

GENERAL PROVISIONS

§ 285.211. General requirements.

(a) Municipal waste, including ash residue from municipal waste incineration and infectious or chemotherapeutic waste incineration, shall be completely covered during transportation and parking with a cover that meets the following requirements. The cover shall:

(1) Be [waterproof] water resistant.

* * * * *

§ 285.212. Collection and transportation.

* * * * *

§ 285.214. [Equipment] Transportation equipment cleaning areas and securing loads in vehicles.

(a) [Equipment] Transportation equipment cleaning areas shall meet the following requirements:

* * * * *

§ 285.216. Wastes from accidents and spills.

* * * * *

(b) The Department may immediately approve emergency storage, transportation, processing or disposal methods necessary to mitigate harm to the public health, safety or the environment. Storage may be at the site of emergency at a permitted processing or disposal facility under § 285.117 (relating to emergency storage) or at a site approved by the Department.

* * * * *

§ 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;

* * * * *

(2) The name [and], mailing address and telephone number of the person or municipality collecting or transporting the waste.

* * * * *

§ 285.219. Transporting foodstuffs and feedstuffs in vehicles used to transport waste.

* * * * *

(b) A person or municipality may not knowingly accept a food product or produce from, or provide a food product or produce to, a vehicle used to transport municipal, residual or hazardous waste, or, chemical or liquid, in bulk, which is not a food product or produce.

(c) As used in this section, the following words and phrases have the following meaning:

(1) Food product or produce—* * *

(2) In bulk—* * *

(3) Chemical or Liquid—The term includes any chemical or liquid, including any pesticide or her-

bicide regardless of its use or intended use. The term does not include the following:

(i) A chemical or liquid food product or produce.

(ii) A chemical or liquid being transported for use directly in the production and preparation for market of poultry, livestock and their products or in the production, harvesting or preparation for market of agricultural agronomic, horticultural, silvicultural or aquicultural crops and commodities.

(iii) A chemical or liquid being transported for use as an ingredient in a product used in the production and preparation for market of poultry, livestock and their products or in the production, harvesting or preparation for market of agricultural, agronomic, horticultural, silvicultural or aquicultural crops and commodities.

* * * * *

**Subchapter C. TRANSPORTER LICENSING FOR INFECTIOUS AND CHEMOTHERAPEUTIC WASTE
LICENSE APPLICATION REQUIREMENTS**

§ 285.311. General application requirements.

* * * * *

(b) [The application shall be in two parts. The second part of the application may be submitted with the first part. If the two parts are not submitted simultaneously, the second part shall be submitted within 90 days after the Department's written request.

(c)] The [first part of an] application shall contain the following:

* * * * *

[(d) The second part of an application shall contain the following:

(1)] (6) * * *

[(2)] (7) * * *

[(3)] (8) * * *

[(4)] (9) * * *

* * * * *

**Subchapter D. MANIFESTING FOR INFECTIOUS AND CHEMOTHERAPEUTIC WASTE
FACILITY RESPONSIBILITIES**

§ 285.432. Use of manifest.

(a) Except [as provided in] for waste managed in accordance with § 285.401 (relating in scope), an owner or operator of a designated facility may not accept shipments of infectious or chemotherapeutic waste or processed infectious or chemotherapeutic waste that is recognizable from offsite sources unless the shipment is accompanied by a Pennsylvania manifest in accordance with this subchapter.

* * * * *

[Pa.B. Doc. No. 98-1435. Filed for public inspection August 28, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 92, 93 AND 95—97]

Water Quality

The Environmental Quality Board (Board) proposes to amend Chapters 92, 93, 95 and 97, and to add Chapter 96 (relating to water quality standards implementation) to read as set forth in Annex A.

This notice is given under Board order at its meeting of June 16, 1998.

A. Effective Date

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

B. Contact Persons

For further information on Chapters 92 and 97 contact Glenn Maurer, Director, Bureau of Water Quality Protection, 11th Floor, Rachel Carson State Office Building, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 787-2666, or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

For further information on Chapters 93, 95 and 96 contact Stuart I. Gansell, Director, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-5267 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed. This proposal is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

These proposed amendments are made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (CSL) (35 P. S. §§ 691.5(b)(1) and 691.402), and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorize the Board to develop and adopt rules and regulations to implement the provisions of the CSL.

D. Background and Purpose of the Amendment

The purpose of this proposal is to revise existing water quality management regulations including Chapters 92, 93, 95 and 97, and create a new Chapter 96, as part of the Regulatory Basics Initiative (RBI). A new chapter on water quality standards implementation is needed to consolidate requirements from existing regulations and incorporate Total Maximum Daily Loads (TMDLs) into the regulatory calculus. The RBI is a multistep process to evaluate regulations considering several factors including whether requirements: are more stringent than Federal regulations without good reason; impose economic costs disproportionate to the environmental benefit; are pre-

scriptive rather than performance-based; inhibit green technology and pollution prevention strategies; are obsolete or redundant; lack clarity; or are written in a way that causes significant noncompliance.

These regulatory revisions attempt to streamline and clarify regulatory requirements, update the regulations to be consistent with Federal regulatory changes, and consolidate certain chapters. These proposed amendments may affect persons who discharge wastewater into surface waters of this Commonwealth, or otherwise conduct activities which may impact these waters. The parties affected could include municipalities, municipal authorities, individuals, industries and other entities required to obtain an NPDES wastewater discharge permit.

Advisory committees were involved in the development of these regulatory proposals. On April 17, 1997, the Air and Water Quality Technical Advisory Committee (AWQTAC) provided comments on the proposed revisions to Chapters 92, 93, 95 (portions of which have since been renumbered 96) and 97, and discussed them with Department staff involved in development of the proposals. Additionally, on June 16, 1997, the Water Resources Advisory Committee (WRAC), a successor committee to AWQTAC, commented on and discussed versions of these draft regulations which were revised as a result of AWQTAC's comments on the April 17th proposals. WRAC submitted formal comments to the Department on the proposed revisions by a letter dated July 11, 1997. Specific issues in this proposal relating to the agricultural community were presented to the Agricultural Advisory Board on December 17, 1997, for their information and comment. Finally, comments were received by the Department on the draft proposals published on the Department's Web site. All of these comments were considered in the development of these proposed amendments.

Many of the recommendations were incorporated into the rulemaking. Some of the major comments raised on the proposed changes to Chapter 92 are as follows:

Several comments addressed proposed changes to § 92.7 (relating to reporting of new or increased discharges). The Department has revised the section to provide that a new permit application must be submitted if the "wastestream" is changed in a manner which would result in a violation of effluent limits. The Department did not adopt WRAC's suggestion to limit notification of facility expansions, production increases, and process modifications to those which may result in effluent limit violations, since to do so may violate Federal regulations at 40 CFR 122.41(l). In addition, WRAC had concerns regarding the authority in § 92.41 (relating to monitoring) for the Department to require additional monitoring when pollutants are identified in a discharge which are not subject to effluent limits in an NPDES permit. WRAC agreed that there may be circumstances where this authority is appropriate, but suggested that the regulations identify those situations in which the authority will be used and provide discretion for the requirement of the follow-up activities. The Department is concerned that limiting its authority to specific circumstances will limit its flexibility to react to discharges of toxic or other pollutants which fall outside the identified circumstances but which still pose a problem.

Section 92.81(a)(5) (relating to general NPDES permits), which currently precludes the issuance of NPDES general permits to point sources which discharge toxic or

hazardous pollutants or other substances which may cause or contribute to increased mortality or morbidity or pose a substantial hazard to health or the environment, is proposed to be revised to provide that dischargers under a general permit must satisfy any effluent limitations established in the general permit for toxic or hazardous substances which may be discharged. WRAC considered this revision and was unable to reach a consensus on it. Some members believe it is inappropriate for general permits to cover the discharge of these types of substances, while others assert that it is appropriate. There is no comparable provision in the Federal regulations with respect to NPDES general permits.

A member of WRAC commented on the proposed deletion of the 0.5 mg/l default technology-based effluent limit for Total Residual Chlorine (TRC) in the proposed § 92.2d(3) (relating to technology-based standards) (moved from current § 93.5(f)), and the clarification of the inclusion of Instantaneous Maximum (IMAX) effluent limits in § 92.57 (relating to effluent limitations). After considering the comments, the Department has decided not to make a change to the existing language in § 93.5(f)(1)(i); the existing language as transferred to § 92.2d(3) provides flexibility for site-specific limits other than 0.5 mg/l. The provisions in § 92.81 and § 92.83 (relating to inclusion of individual discharges in general NPDES permits) have not been amended, as suggested in initial discussion drafts, to eliminate the requirement for the consideration of the individual and cumulative impacts of discharges.

WRAC also recommended that the public notification process outlined in § 92.61 (relating to public notice of permit application and public hearing) be revised to provide that an applicant for an NPDES permit for a new discharge must publish a notice of the applicant's intent to submit an application. The notice would be published in a newspaper of general circulation, once a week for 4 weeks with a 60-day public comment period. The intent of this suggestion is that comments received as a result of the publication could be used by the applicant to help guide future actions related to the permit application. The Committee also recommended that the Department publish an additional notice in the *Pennsylvania Bulletin* upon receipt of an application for a new discharge. To obtain more input into when and how often to provide opportunities for public comment on newly proposed NPDES discharges, the Board solicits comments and suggestions on the recommendations.

With regard to Chapter 93, the following comments were made. One commentator requested that the definition of "water quality criteria" in § 93.1 (relating to definitions) be clarified. The Department has done so. Another commentator requested that the language for the protection of Statewide uses in § 93.4(a) (relating to Statewide water uses) be modified and clarified. The Department has made these changes in response to the comment. Finally, several comments were received on proposed revisions to the aluminum, turbidity and osmotic pressure criteria. No changes have been made in response to these comments: explanations were given that the turbidity standard was being moved to § 93.9(e) (relating to designated water uses and water quality criteria), not eliminated; the ability for site-specific criteria for osmotic pressure is no longer necessary because the provision it applies to (§ 93.5(d)) is proposed to be deleted, and § 93.8 (relating to development of site-specific water quality criteria) sets forth provisions for site-specific criteria development; and the aluminum acute criteria is being revised to match the Federal EPA

criteria, while the Federal chronic aluminum criteria is not proposed for adoption because it is based on dubious science.

Several comments were made on the proposed new water quality standards implementation chapter (Chapter 96). Several commentators questioned the procedures for Load Allocations (LAs) for nonpoint sources, and TMDLs. In response, a definition of "significant pollution source" has been added, and proposed § 96.4(g) (relating to total maximum daily loads (TMDLs)) has been amended. Other comments were received asking how the Department would implement effluent trading. The Department responded that it would implement effluent trading in a TMDL, basin plan or remediation plan, and that it needed more experience in this area before guidance could be developed. Finally, in response to comments, a new public participation section (§ 96.7 (relating to public participation)) has been added to allow for public input in the formulation of lists of impaired waters prepared under section 303(d) of the Clean Water Act, and TMDLs.

E. *Summary of Regulatory Revisions*

These regulatory revisions attempt to streamline and clarify regulatory requirements, update the regulations to be consistent with Federal regulatory changes, and consolidate certain chapters into other chapters. More specifically, Chapter 92 has been modified to incorporate portions of Chapters 93, 95 and 97 that address the permitting of wastewater discharges into surface waters, and contains a new subchapter for civil penalties for violations of NPDES Permits. Chapter 93 is amended by moving, and in some cases modifying, the water quality standards implementation provisions in that chapter to the newly proposed Chapter 96, and the wastewater discharge provisions to Chapter 92. In addition, several water quality criteria are proposed to be modified to reflect the latest scientific information. Portions of Chapter 95, including §§ 95.2, 95.7 and 95.8, are being moved, sometimes in modified form, to Chapter 92. Other portions, including §§ 95.3 and 95.6 are being incorporated, sometimes in modified form, into proposed Chapter 96. Section 95.1 is retained, except for subsection (a) which appears, in modified form, as newly proposed § 92.2a. Proposed Chapter 96 incorporates, sometimes in modified form, existing provisions of Chapters 93, 95 and 97. It also includes new language describing policies and procedures addressing TMDLs and individual water quality-based effluent limitations. The proposed changes to Chapter 97 involve the relocation of some provisions to Chapter 92 and proposed Chapter 96 to consolidate related provisions in a single chapter.

By making these modifications, revised Chapters 92, 93, 95 and 96 present a more streamlined and understandable description of the regulatory provisions for NPDES permitting, water quality standards development and water quality standards implementation.

Detailed Description of Proposed Revisions by Chapter and Section

Chapter 92. National Pollutant Discharge Elimination System

Note: Sections not listed are not proposed to be modified by this proposed rulemaking.

Section 92.1. Definitions.

This section contains a number of new or revised definitions which are necessary to track numerous updates to the Federal regulations at 40 CFR Part 122

which have been made since the Pennsylvania NPDES regulations were last substantially amended.

Terms or phrases added or newly defined are: "application," "average annual discharge limitation," "average monthly discharge limitation," "average weekly discharge limitation," "BAT—best available technology," "BMP—best management practices," "bypass," "CSO—combined sewer overflow," "combined sewer system," "complete application," "concentrated animal feeding operations," "concentrated aquatic animal production facility," "CCW—contact cooling water," "conventional pollutant," "daily discharge," "draft permit," "effluent limitations guideline," "existing discharge," "facility or activity," "industrial waste," "instantaneous maximum effluent limitation," "large municipal separate storm sewer system," "LA—load allocation," "loading capacity," "log sorting and log storage facilities," "major facility," "maximum daily discharge limitation," "medium municipal separate storm sewer system," "municipal separate storm sewer," "natural quality," "new discharger," "new source," "noncontact cooling water," "nonconventional pollutant," "NOI—notice of intent," "NPDES primary industry categories," "operator," "owner," "pollution prevention," "primary industrial facility," "process wastewater," "publicly owned treatment works," "rock crushing and gravel washing facilities," "sanitary sewer overflow," "separate storm sewer overflow," "separate storm sewer," "sewage," "silvicultural point source," "single residence sewage treatment plant," "stormwater," "stormwater associated with construction activity," "stormwater discharge associated with industrial activity," "surface waters," "TMDL—total maximum daily load," "WLA—wasteload allocation," "water quality-based effluent limitation," "water quality standards," "wetlands," "whole effluent toxicity" and "WETT—whole effluent toxicity testing."

Terms or phrases that are revised are: "applicable effluent standards and limitations," "applicable water quality standards," "discharge," "effluent limitation or standard," "Federal Act," "industrial user," "minor discharge," "NPDES form," "NPDES permit," "NPDES reporting form," "person," "point source," "pollutant" and "toxic pollutant."

Terms that are deleted are: "Department," "director," "EPA," "navigable waters," "NPDES application," "Refuse Act," "Refuse Act application" and "Refuse Act permit."

As noted previously, the definition of "pollutant" has been revised. The existing language, which outlines the types of substances which do and do not constitute pollutants, has been simplified. However, the types of substances listed in the current definition which are excluded from the definition of pollutants for the purposes of Chapter 92, and are thus excluded from the requirement for obtaining a permit, have been transferred largely intact to § 92.4(a)(4)—(5).

It is to be noted that the current and revised definitions of "toxic pollutant" are broader than the Federal definition of this term. The Pennsylvania definition includes, but is not limited to, any pollutant listed as toxic under section 307(a)(1) of the Federal Act (33 U.S.C.A. § 1317(a)(1)). The Board believes this broader definition, and thus more stringent requirement, is justified to continue the Department's authority to establish water quality criteria and discharge limits for substances that may pose a threat to human health or aquatic life but are not one of the 126 priority pollutants listed by EPA under section 307(a) of the Federal Act. The Board believes the Department should have the authority to address toxics which may not happen to be EPA priority pollutants, but

which the Department believes poses concern to human health or aquatic life of the Commonwealth, without having to await the time-consuming and National focus on the procedure envisioned by section 307(a) of the Federal Act.

Section 92.2. Incorporation of Federal Regulations by reference.

This section provides that specified Federal regulations outlined in 40 CFR Parts 122 and 125, which relate to the administration of the NPDES program, are incorporated by reference. This section is proposed to update the Commonwealth's NPDES regulations and track the Federal regulations without substantially lengthening the text of the current regulations. Also incorporated by reference are all appendices, future amendments and supplements to these Federal regulations to the extent the provisions are applicable and not contrary to Commonwealth law. If there is a conflict between the Federal regulations and the provisions of Chapter 92, or the provisions of Chapter 92 are more stringent than the applicable Federal requirement, the provisions of Chapter 92 would apply.

Subsection (b) outlines those provisions of the Federal regulations which specifically are proposed to be incorporated by reference. After careful review, the Federal provisions not incorporated were determined to be unnecessary, redundant, or inconsistent with the Commonwealth's NPDES program.

Proposed subsection (c) provides that any Federal regulation promulgated after the proposed amendments become final and effective which creates a variance to existing substantive or procedural NPDES permitting requirements would not be incorporated by reference.

Section 92.2a. Treatment requirements.

Existing § 95.1(a) (relating to general requirements) is transferred to § 92.2a(a) with modifications, including a reference to the water quality protection levels in proposed § 96.3 (relating to water quality protection levels), and a clarification that the overflows being described are combined sewer overflows. The remainder of § 95.1 is retained in that chapter and renumbered.

Proposed subsection (b) is moved from § 93.2(b) (relating to scope) and modified to provide that in the event an interstate or international agency under an interstate compact or international agreement establishes effluent requirements applicable to dischargers in this Commonwealth which are more stringent than those required by Commonwealth law or regulation, the more stringent requirements would apply. This subsection is intended to address situations where a river basin commission or international commission, such as the Delaware River Basin Commission, Ohio River Valley Sanitation Commission, or the International Joint Commission, promulgates effluent requirements which are more stringent than those established in Pennsylvania law or regulation.

Subsection (c) is adopted from a regulatory proposal published at 27 Pa.B. 1459 (March 22, 1997). This provision clarifies the Department's authority to limit discharges when necessary to ensure the protection of Pennsylvania and Federal Endangered and Threatened Species and their habitat.

Section 92.2b. Pollution prevention.

This section incorporates and modifies the provisions of existing § 97.14, and outlines examples of pollution control methods. The mandatory language of the existing § 97.14 ("wastes shall be reduced") regarding pollution

prevention is proposed to be changed to "the pollution load of wastes generated should be reduced." The title of the section is proposed to be changed from "measures to be used" to "pollution prevention" to emphasize and highlight the importance of pollution prevention. In addition, the text is modified slightly to include additional examples of pollution prevention such as materials substitution and recycling of water. Section 97.14 is proposed to be deleted.

Section 92.2c. Minimum sewage treatment requirements.

This section incorporates and revises parts of existing §§ 95.2 and 95.7 (relating to waste treatment requirement; and effective disinfection). Subsection (a) incorporates § 95.2(a) (relating to waste treatment requirement), with a revision providing that sewage, except that discharged from a combined sewer overflow which meets the requirements of the newly proposed § 92.21a(f) (relating to additional application requirements for classes of discharges), is to be given a minimum of secondary treatment. This is consistent with Federal case law interpreting the applicability of secondary treatment requirements to combined sewer overflows (*Montgomery Environmental Coalition v. Costle*, 646 F.2d 568 (D.C. Cir. 1980)). Subsection (b) is a slightly revised version of § 95.2(b). Section 95.2(c), which currently provides secondary treatment requirements for wastes other than sewage is proposed to be deleted. Secondary treatment requirements for many industrial operations are addressed in the Federal effluent limitation guidelines at 40 CFR Parts 405—471 and the newly added § 92.2d.

Section 92.2d. Technology-based standards.

Section 92.2d (relating to technology-based standards) describes the minimum technology-based treatment requirements applicable to dischargers subject to this chapter, as applicable. The provisions of paragraphs (1) and (2) are partially based on the existing provisions of § 97.15 (relating to quality standards for industrial wastes), which are proposed for deletion. Among the minimum requirements proposed are effluent limitation guidelines promulgated by EPA under section 304(b) of the Clean Water Act and, in the case of industrial categories for which no effluent limitations have been established, Department-developed technology-based limitations established in accordance with 40 CFR 125.3 (relating to technology-based treatment requirements).

Paragraph (3) outlines proposed technology-based treatment requirements for facilities utilizing chlorine. This paragraph incorporates the provisions of existing §§ 93.5(f)(1)(i) and (2), in modified form. Also, the jurisdictional scope of this subsection is clarified to apply to "surface waters."

Paragraph (4) outlines proposed technology-based treatment requirements for oil-bearing waste waters. To a large extent, the proposed requirements incorporate the existing provisions of § 97.63(b)—(d) (relating to oil-bearing waste waters). However, the provisions of paragraphs (1)—(7) of § 97.63(d) are being deleted, as well as § 97.63(a) and (e), because those provisions concern analytical techniques and oil-water separator design requirements which are either obsolete or overly prescriptive. Also, the jurisdictional scope of this subsection is clarified to apply to "surface waters."

Section 92.3. Permit requirements.

This section is slightly modified to make it clear an NPDES permit authorization is required for the discharge of pollutants to "surface waters" of this Commonwealth, rather than navigable waters as currently provided. The

term "surface waters" is consistent with the jurisdictional extent of the Federal NPDES program in the definition of "Waters of the United States" in 40 CFR 122.2.

Section 92.4. Exclusions from permit requirements.

Subsection (a) outlines types of activities or discharges which are excluded from obtaining an NPDES permit.

Subsection (a)(1) is proposed to be modified to track applicable Federal regulations at 40 CFR 122.3(e) and (f) to make it clear that agricultural nonpoint sources and irrigation return flows are excluded from NPDES permit requirements. Several exclusions are proposed to be added to be consistent with the other Federal exclusions outlined at 40 CFR 122.3, and the Federal definition of "pollutant" at 40 CFR 122.2. The added exclusions relate to discharges of sewage from vessels, deep well injection relating to the production of oil or gas, dredge or fill material, discharges of waste into a sewage treatment plant, and discharges associated with emergency instructions relating to cleaning up spills. Note that the exclusion relating to deep well injection is based on clause (b) of the definition of "pollutant" found at 40 CFR 122.2.

The Federal exclusion relating to the introduction of sewage, industrial wastes or other pollutants into privately or publicly owned treatment works by indirect discharges is not proposed to be fully incorporated because it is inconsistent with section 307(a) of the CSL (35 P. S. § 691.307(a)). In the case of these discharges, the Department may require that an indirect discharger of sewage, industrial waste or other pollutants obtain a permit to discharge into a treatment works where necessary to assure protection of the waters of this Commonwealth in certain situations such as when the indirect discharger has failed to take adequate measures to pretreat its discharge prior to conveying the discharge to the treatment works, or is otherwise resulting in interference with proper operations of the POTW, upsets at the POTW or pass-throughs of pollutants.

Section 92.5a. Concentrated animal feeding operations.

A new section is proposed to provide a permit by rule for certain types of concentrated animal feeding operations (CAFOs). It is proposed that owners or operators of concentrated animal feeding operations will be deemed to have an NPDES general permit-by-rule if: (1) the operation has a nutrient management plan under § 83.261 (relating to general) which has been approved by the applicable county conservation district in accordance with the requirements of Chapter 83 (relating to State Conservation Commission) and the operation has 301—1,000 animal equivalent units; (2) the operation does not have or is not proposing a discharge to surface waters; (3) the operation is in compliance with applicable provisions of the nutrient management regulations outlined in Chapter 83; and (4) the operator implements and maintains a nutrient management plan in accordance with the requirements of Chapter 83. The permit by rule would not apply to CAFOs which have more than 1,000 animal equivalent units as defined in the Nutrient Management Act (3 P. S. §§ 1701—1718), or for which the Department may require a permit on a case-by-case basis. Those CAFOs must apply for and obtain an individual NPDES permit.

Section 92.6a. Persons who must apply when a facility is owned by one person, but operated by another.

The existing provisions of § 92.6, which address NPDES permits issued by the Regional Administrator of the EPA prior to 1978, are proposed to be deleted because they are obsolete. A new § 92.6a is proposed which

provides that where a facility or activity is owned by one person, but operated by another, it is the responsibility of the person operating the facility or activity to obtain an NPDES permit. The term "operator" in this context refers to one who has financial control over the operation of the facility (usually through a lease agreement); it does not refer to a person or consultant who was contracted specifically to run the treatment plant. Thus, where one entity owns a facility and another entity is entirely responsible for its operation and maintenance, the entity responsible for operation and maintenance needs to obtain the NPDES permit (see for example, *Sun Company, Inc. v. Pennsylvania Turnpike Commission*, 708 A.2d 875 (Pa. Cmwlth. 1998)). On the other hand, where a contract consultant is hired to run a plant, and is merely a hired service, that contract consultant is not an "operator" required to obtain an NPDES permit. The proposed provisions are consistent with the requirements of 40 CFR 122.21(b).

Section 92.7. New or increased discharges, or change of waste streams.

This section currently outlines the types of new or increased discharges which must be reported to the Department. This section has been revised to provide that a new permit application must also be submitted if the "wastestream" is changed in a manner which would result in a violation of effluent limits.

Section 92.8a. Changes in treatment requirements.

The existing provisions of §§ 95.8 and 93.5(e)(4) are proposed to be incorporated into this section. Subsections (a) and (b) would incorporate the provisions of existing § 95.8(a) and (b) substantially intact, with the addition of pollution prevention provisions and some new references to additional provisions. The additional provisions outline the duties of a permittee whenever there is a change in Chapter 92, 93, 95 or 96, or whenever the Department makes a determination which would change existing or impose additional water quality criteria or treatment requirements. These duties become effective upon notice from the Department.

Subsection (c) incorporates the provisions from existing § 93.5(e)(4). This subsection relates to the establishment of more stringent effluent limitations for the discharge of certain enumerated types of pollutants to protect the point of water withdrawal whenever a new potable water supply not previously considered is identified by an update to the State Water Plan or a river basin commission plan or by an application for a water allocation permit from the Department. The revisions propose to delete the requirement for the Department to notify a discharger of phenolics that more stringent limitations are needed to protect the point of withdrawal. Existing § 93.5(e)(4) is proposed to be deleted.

Section 92.9. Duration of permits.

The term "Director" is replaced by "Department." Subsection (b) is amended to delete the phrase "pending the issuance of a new permit."

Section 92.11. Duration of standards for certain new sources.

Currently, this section essentially provides that any point source constructed so as to meet all applicable standards of performance is not subject to any more stringent standard of performance for 10 years following completion of construction or during the period of depreciation or amortization of the facility for the purposes of section 167 or 169 of the Internal Revenue Code. To

ensure consistency with 40 CFR 122.29(d), this section is proposed to be revised to make it clear that the facility must have been constructed to meet all applicable requirements, rather than standards of performance, and that the facility would not be subject to more stringent treatment technology standards, rather than more stringent standards of performance as currently provided. A facility also would not be subject to any more stringent technology standard for 10 years from the date the source begins to discharge process or other nonconstruction wastewater. A sentence is also added clearly stating that this section, including the 10 year exception, does not apply to water quality-based effluent limitations.

Section 92.13. Reissuance of permits.

This section outlines the requirements for the submission of a new NPDES application whenever a permittee wishes to continue to discharge after the expiration date of its NPDES permit.

Subsection (a) is maintained largely intact except for a minor revision replacing "Director" with "Department." In addition, the term "NPDES application" is replaced with the term "application" throughout this proposal because the term "application" is now defined in § 92.1 as an application for approval to discharge pursuant to an NPDES permit.

Subsection (b) outlines two determinations which must be made before a permit may be reissued. Paragraph (1) currently provides that it must be determined that the permittee is in compliance with all existing NPDES permit terms, conditions, requirements and schedules of compliance. A new clause is proposed to provide that any noncompliance with the existing permit that has been resolved by an appropriate compliance action or by the terms and conditions of the permit is also a basis for that determination. Paragraph (2) provides that it must also be determined that the discharge is consistent with applicable water quality standards and other legally applicable requirements. This paragraph is proposed to be revised to add a provision stating that it must be determined that the discharge is, or will be pursuant to a compliance schedule issued under § 92.55 (relating to schedules of compliance), consistent with the requirements listed in the paragraph. These proposed revisions would enable the Department to issue NPDES permits containing conditions which will ensure compliance of a discharge currently in noncompliance, and is consistent with the requirements of 40 CFR 122.4 and § 92.55.

Section 92.13a. Effect of modification of permit.

A new section is proposed which clarifies that when an NPDES permit is modified, only those permit conditions which are new or are materially changed in the modified permit will be reopened. All other conditions of the permit are to remain in full force and effect and remain administratively final. This section codifies Commonwealth case law regarding administrative finality and is consistent with the language of 40 CFR 122.62 which states that "[W]hen a permit is modified, only the conditions subject to modification are reopened."

Section 92.15. Regional Administrator's right to object to the issuance or modification of certain permits.

A minor editorial change is being proposed to clarify that this section applies to the Department's activities, not activities of the Director of the Bureau of Water Quality Management.

Section 92.17. Other chapters applicable.

This section generally provides that to the extent provisions of certain enumerated chapters of Title 25 pertain to a discharge for which an NPDES permit is required, the provisions of those chapters govern whenever their application produces a more stringent effluent limitation than that which would be produced by application of Federal requirements. References to two of the enumerated chapters are proposed to be deleted since those chapters (97 and 101) are being deleted in this and another rulemaking (see 27 Pa.B. 4343 (August 23, 1997)). References to Chapters 102 and 105 (relating to erosion and sedimentation control; and dam safety and waterways management) are proposed to be added. With these changes, the provisions of Chapters 102 and 105 would now also govern whenever their application produces a more stringent effluent limitation than would be produced by application of Federal requirements.

Section 92.21. Applications.

This section sets forth application requirements for individual NPDES permits. Subsection (a) outlines the general requirement for the submission of applications for individual NPDES permits. Minor changes to the text of this subsection are proposed for clarity.

Existing subsection (b) outlines requirements for Refuse Act applications. Since this is now obsolete, the existing language of subsection (b) is proposed to be deleted and replaced with new provisions outlining the minimum materials and information which must be submitted by all applicants for an individual NPDES permit. Unless otherwise specified, the following must be submitted by all applicants for individual NPDES permits: (1) applicable fees; (2) written proof of notification to the municipality in which the activity is located; (3) proof of publication in a newspaper in the locality in which an industrial waste discharge is to be located; and (4) a description of the activities which require an NPDES permit and other identifying information specified.

A new subsection (c) provides that the Department may require an applicant to submit any other information or data which the Department may need to assess the discharges of the facility and the impact of such discharges on a receiving water and to determine whether to issue an NPDES permit or what conditions or effluent limitations, including water quality-based effluent limitations, to place in the permit. The types of additional information include effluent assessments, waterbody assessments, whole effluent toxicity testing, and quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and to determine the cause of any toxicity. In addition, the Department may require information relating to the biological, physical and chemical characteristics of water and habitat immediately upstream and downstream of the facility, and results of pollutant source or waterbody monitoring.

Existing subsection (c) provides that four copies of applications must be submitted. This subsection is renumbered as subsection (d), and is revised to provide that three copies of complete applications must be submitted. Existing subsections (d) and (e) are proposed to be renumbered as subsections (e) and (f) with minor modifications.

Section 92.21a. Additional application requirements for classes of dischargers.

This is a new section which incorporates Federal requirements relating to additional application requirements for certain classes of dischargers. To a large extent, the provisions in subsections (a)—(d) and (g) are based

on, and incorporate by reference, requirements outlined in parts of 40 CFR 122.21. The classes of discharges are existing industrial waste discharges, new sources and new discharges, nonprocess industrial waste discharges, stormwater discharges associated with industrial activity, and large and medium municipal separate storm sewers.

Subsection (e) proposes to establish additional application requirements for new and existing sewage dischargers, as applicable, except where aquatic communities are excluded, pollution cannot be remedied or water quality data indicates no trend of water quality improvement in the waterbody. Sewage dischargers with design influent flows of at least one million gallons per day, and/or those sewage dischargers with approved pretreatment programs, or who are otherwise required to develop a pretreatment program, are required to provide results of whole effluent toxicity testing to the Department, except in certain specified circumstances. The Department may require other sewage dischargers to submit the results of toxicity tests upon a consideration of enumerated factors such as the variability of the pollutants or pollutant parameters in the sewage effluent, dilution of the effluent in the receiving water, existing controls on point or nonpoint sources, receiving stream characteristics or other considerations which the Department determines could cause or contribute to adverse water quality impacts. Toxicity testing must be conducted utilizing EPA's methods or other established protocols approved by the Department and must have been done since the last NPDES permit issuance or major modification of the permit.

Subsection (f) provides that dischargers with approved pretreatment programs are to provide the Department with an evaluation of the need to revise local limits under 40 CFR 403.5.

Subsection (g) outlines additional application requirements applicable to combined sewer overflows (CSOs). The additional information which must be submitted includes the results of an evaluation determining the frequency, extent and cause of the CSO discharge, an evaluation of the water quality impacts of the CSO discharge on receiving waters, and a description of the best management practices utilized at the facility to minimize or eliminate the impact of the CSO discharge on receiving water quality. CSOs which comply with these requirements are not subject to secondary treatment as prescribed in § 92.2c(a).

Subsection (h) provides that operators of large and municipal separate storm sewers are to submit the information required in 40 CFR 122.26(d) in their permit applications.

Section 92.22. Application fees.

Minor editorial changes are proposed for this section.

Section 92.23. Identity of signatories to NPDES forms.

Minor editorial changes are proposed for this section.

Section 92.25. Incomplete applications or notices of intent.

This section provides that the Department will not complete processing of an application or notice of intent which is incomplete or otherwise deficient. Provisions are proposed to be added which describe what constitutes a complete application, or a notice of intent (NOI) to participate in an NPDES general permit. An application for an individual NPDES permit would be complete when the Department receives an application form and any other supplemental information which are completed in accordance with the requirements of Chapter 92. An NOI

to participate in an NPDES general permit issued by the Department would be complete when the Department receives a notice of intent containing information specified by the terms of the general permit.

Section 92.31. Effluent standards or limitations.

This section provides that permits for discharges of pollutants will not be issued unless the discharge is in compliance with eight enumerated requirements, including effluent limitations, standards of performance for new sources and certain more stringent limitations. The existing provisions are proposed to be incorporated into a new subsection (a) with certain changes. The lead-in sentence is proposed to be modified to create an exception, which is more fully explained in this Preamble. Subsection (a)(1) would be slightly revised to correct references to the codified Federal law. Subsection (a)(5) contains a requirement relating to more stringent limitations required to implement any applicable water quality standard. Currently such limitations include any legally applicable requirements necessary to implement total maximum daily loads established under section 303(d) of the Federal Clean Water Act and incorporated in the continuing planning process approved under that section. This language is proposed to be revised by adding a reference to total maximum daily loads established under proposed Chapter 96 (retaining the reference to section 303(d)) and deleting the existing language relating to incorporation in the continuing planning process approved under section 303(c).

Subsection (a) prohibits the issuance of permits to dischargers who are not in compliance with all of the applicable requirements listed in that subsection. A discharger subject to this permit bar should have an opportunity to continue operations so long as it meets certain requirements in a legally enforceable schedule ensuring that the requirements will be attained. Accordingly, a new subsection (b) is proposed to be added to authorize the issuance of a permit to dischargers who do not meet the requirements of subsection (a) by allowing them to meet such requirements pursuant to a compliance schedule in a reissued or amended permit.

Section 92.41. Monitoring.

Except as noted as follows, minor editorial changes are being proposed and existing subsections would be renumbered.

Proposed subsection (b) is intended to better explain the Department's monitoring requirements. Except for sewage discharges from single residence sewage treatment plants, dischargers may be required to monitor and report all toxic, conventional, nonconventional and other pollutants in their discharges at least once a year or on a more frequent basis if requested by the Department or required by a permit condition. Results would be reported to the Department by July 1st each year or on a more frequent basis as outlined in the text of the proposal. If monitoring results indicate the existence of pollutants which are not limited in the permit, the permittee would be required to identify the pollutants and their concentrations on the monitoring report and explain how the discharge of these pollutants will be eliminated or whether a permit amendment will be sought.

Existing subsection (d)(2) (subsection (e)(2) of the proposal) is proposed to be slightly revised to more closely mirror 40 CFR 122.44(i)(2). The revision provides that the 3-year retention period for monitoring records may be extended during the course of unresolved litigation. Currently, the retention period must be extended in these circumstances.

Proposed subsection (g), based on 40 CFR 122.44(i)(4), is amended to provide that the requirements for the reporting of monitoring results from stormwater discharges associated with industrial activity are established on a case-by-case basis with a frequency dependent on the discharge. Stormwater discharges which are subject to an effluent limitation guideline or an NPDES general permit would be exempted from the requirement.

Section 92.51. Standard conditions in all permits.

Existing paragraphs (1)—(5) are retained with minor editorial changes. Existing paragraph (5) provides a standard condition relating to any toxic effluent standard or prohibition established under section 307(a) of the Federal Clean Water Act. The language of that subsection is proposed to be revised to include toxic effluent standards or limitations established under certain other sections of the Federal Clean Water Act. Thus, if a toxic effluent standard or prohibition under the Federal Clean Water Act for a toxic pollutant is more stringent than the permit limitation, the Department will revise or modify the permit and notify the permittee.

A new standard condition is proposed to be added as paragraph (6) to provide that there be no discharge of such substances as floating material, oil, grease, scum, foam, sheen and substances which produce color, taste, turbidity or form deposits and which are not limited in the permit in concentrations or amounts sufficient that may harm human, animal, plant or aquatic life. This section provides a tie-in for dischargers to the general water quality criteria set forth at § 93.6.

Section 92.52a. Site-specific permit conditions.

This is a new section which is proposed to provide that the Department may establish special permit conditions in an NPDES permit as needed, on a case-by-case basis, to ensure protection of surface waters of the Commonwealth. Among the special conditions which may be established are a requirement to identify best management practices, toxic reduction activities or other measures which eliminate or substantially reduce releases of pollutants at their source. Permittees are also encouraged to achieve compliance with performance-based permit conditions through the implementation of pollution prevention plans.

Section 92.53. Additional standard conditions in permits for publicly-owned treatment works which serve industrial users.

Minor editorial changes are proposed to this section.

Section 92.55. Schedules of compliance.

This section sets forth the procedures for establishing remedial actions in an NPDES permit where a discharge is not in compliance with effluent standards and limitations. Subsection (a) is proposed to be revised in two respects. First, the subsection is clarified to apply to existing discharges. Second, a sentence is proposed to be added providing that if a deadline specified in section 301 of the Federal Clean Water Act has passed, a schedule of compliance specified in the permit must require compliance with enforceable effluent limits as soon as practicable, but in no case longer than 3 years, unless a court issues an order allowing a longer time for compliance.

Subsection (b) provides for the establishment of a compliance schedule in an NPDES permit with interim requirements and dates for their achievement where the period of time for compliance specified in subsection (a) is longer than 9 months. This time frame is proposed to be changed to 1 year to more closely mirror 40 CFR 122.47(a)(3).

Section 92.57. Effluent limitations.

This section provides that NPDES permits must specify certain effluent limitations. This section is proposed to be revised to clarify the Department's existing authority to include instantaneous maximum provisions in NPDES permits (*Borough of Ridgway v. DER*, 1994 EHB 1090), and provide that NPDES permits may also include best management practices, pollution prevention measures or other limitations as may be necessary.

Section 92.59. Documentation for permit conditions.

A minor editorial change is proposed for this section.

Section 92.61. Public notice of permit application and public hearing.

This section outlines the public notice and public hearing requirements applicable to applications for NPDES permits. Subsection (a) sets forth the minimum information which must be included in public notices of applications. Existing subsection (a)(5) provides that where there is a tentative determination to issue a permit, the public notice must include a statement of the proposed effluent limitations for those effluents proposed to be limited, a proposed schedule of compliance and a brief description of any proposed special conditions which would have a significant impact upon the discharge.

A new subsection, (a)(6), is proposed to provide that the public notice must identify the location of the nearest downstream potable water supply which was considered in establishing proposed effluent limitations or a finding that no potable water supply will be affected by the proposed discharge. Existing subsections (a)(6) and (7) are proposed to be renumbered.

Section 92.63. Public access to information.

This section outlines the process by which the Department protects confidential information contained in NPDES forms. Subsection (b) currently provides that information other than effluent data would be treated as confidential information if a person shows that such information would divulge confidential commercial information or trade secrets. The subsection also outlines the procedure to be followed by the Department for consultation with EPA where a claim of confidentiality is made. This subsection is proposed to be revised to more closely mirror the requirements of section 607 of the CSL (35 P. S. § 691.607) and 40 CFR 122.7 by providing that the Department may protect as confidential documents which are not public records under section 607 of the CSL, such as documents pertaining to the analysis of the physical and chemical properties of the coal (except information about toxic content).

Section 92.65. Notice to other government agencies.

This section outlines the procedures the Department uses in notifying other agencies of an application and in responding to comments. Minor editorial changes are proposed with respect to subsection (b).

Subsection (d) outlines notification procedures with respect to the Army Corps of Engineers. The subsection is proposed to be revised to make it clear that the Corp's objection to an NPDES permit is to be based on whether the issuance of the permit would impair anchorage and navigation of any of the surface waters. This is consistent with the requirement of section 402(b)(6) of the Clean Water Act (33 U.S.C.A. § 1342(b)(2)).

Section 92.71a. Transfer of permit.

This is a new section which would outline the procedure to be followed in the event of any pending change in

control or ownership of any facility with an authorized discharge. These changes are consistent with procedures outlined at 40 CFR 122.61(b). The permittee would be required to provide written notification to the Department at least 30 days prior to the change in ownership and include a written agreement between the existing permittee and the new owner or operator. The agreement is to contain a specific date for transfer of permit responsibilities, coverage and liability between them. The permit transfer would be effective on the transfer date if the Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit.

Section 92.72a. Cessation of discharge.

A new section is proposed to address those situations where a permittee intends to cease operations or cease a discharge for which an NPDES permit has been issued. The permittee would be required to notify the Department of its intent to cease an operation or discharge at least 180 days prior to the cessation, unless the Department has granted permission for a later date.

Section 92.73. Prohibition of certain discharges.

This section provides that no NPDES permit will be issued authorizing the discharge of certain types of warfare agents or high-level radioactive waste or any discharge which is in conflict with a plan or amendment approved under section 208(b) of the Federal Clean Water Act. The section is proposed to be revised to clarify the language of subsection (a), renumber subsections (a) and (b) as paragraphs (1) and (2) and to add paragraphs (3)—(8). Subsection (a) is revised to provide that no permits will be issued authorizing the discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste. Paragraphs (3)—(8) prohibit the issuance of a permit when an applicant has not obtained a required State water quality certification or other appropriate certification under section 401 of the Federal Clean Water Act; where the EPA has objected to the issuance of a permit; when the conditions cannot ensure compliance with the applicable water quality requirements of other affected states; when anchorage and navigation on surface waters would be substantially impaired; to a new source or new discharges if its discharge would contribute to a violation of water quality standards; or to a discharger with a sanitary sewer overflow unless the discharger can demonstrate it is taking measures to eliminate the overflows.

Section 92.75. Transmission of NPDES forms.

Minor editorial changes are proposed to this section.

Section 92.77. Requirement of additional data in certain cases.

Minor editorial changes are proposed to this section.

Section 92.79. Reports of violations.

Minor editorial changes are proposed to this section.

Section 92.81. General NPDES permits.

This section outlines the procedures for the issuance of general NPDES permits by the Department. Subsection (a) outlines requirements which must be met for coverage under a general permit. Subsection (a)(5) requires that a point source not discharge toxic or hazardous pollutants. This provision is proposed to be revised to provide that effluent limitations for any toxic or hazardous substance may be established in the general permit. The provisions of subsection (a)(8) and § 92.83(b)(8), which preclude the issuance of general permits for discharges to waters

classified as "special protection" under Chapter 93, are proposed to be amended to continue to prohibit the use of NPDES permits in "Exceptional Value Waters" as defined in Chapter 93 and allow them on an activity-by-activity basis in High Quality Waters. See 27 Pa.B. 1549 (March 22, 1997).

Existing subsection (b) contains provisions relating to the administration of NPDES general permits. Minor editorial changes are proposed to this subsection.

New subsection (c) allows an eligible person who submits a complete notice of intent to be authorized to discharge in accordance with the terms of the general permit either after a waiting period specified in the general permit, on a date specified in the general permit, upon receipt of notification of inclusion by the Department or upon receipt of the notice of intent by the Department. This regulatory proposal is based on language in the Federal regulations at 40 CFR 122.28(b)(2)(iv).

New subsection (d) would authorize the Department to allow a discharge under an NPDES general permit in certain instances without the submission of a notice of intent. This authority specifically would not apply to discharges from publicly owned treatment works, combined sewer overflows, primary industrial facilities and stormwater discharges associated with industrial activity. This regulatory proposal is based on language in the Federal regulations at 40 CFR 122.28(b)(2)(v).

New subsection (e) provides that the Department may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. This regulatory proposal is based on language in the Federal regulations at 40 CFR 122.28(b)(2)(vi).

Section 92.82. Public notice and public hearing.

Subsection (a)(5) is proposed to be revised in concert with the proposed revisions to § 92.81(c)—(e), to provide limited exceptions to existing public notice procedures for general NPDES permits which are issued pursuant to these provisions.

Section 92.83. Inclusion of individual dischargers in general NPDES permits.

This section outlines the application procedure for coverage under a general NPDES permit. Subsections (a), (b), and (f) are proposed to be amended to clarify that the documents submitted by those seeking NPDES general permit coverage are "NOI" and not "applications."

Subsection (a)(1) outlines the minimum NOI requirements for this coverage. Among other things, the NOI must demonstrate that each source meets the eligibility requirements for inclusion in the general permit and demonstrate that the discharge from the point sources, individually or cumulatively, will not result in a violation of an applicable water quality standard. Instead of the NOI "demonstrating" that the point source meets the requirements described in the previous sentence, the NOI requirements are proposed to be changed to require that the discharger "certify" that the point source meets those requirements.

Subsection (a)(2) outlines how the Department formally notifies a discharger whose NOI for coverage under a general permit is acceptable. A change is proposed to incorporate an exception to this process for certain dischargers in order to accompany the proposed revisions to § 92.81(c)—(e).

Subsection (a)(3) currently provides that the Department will provide notice of each NOI for coverage under a

general NPDES permit and of each approval for the coverage by publication of a notice in the *Pennsylvania Bulletin*. This subsection is proposed to be revised to indicate that the procedure for notices of intent and approval would be indicated in the publication of a general permit. Under the proposal, the Department would have three options: (1) provide notice in the *Pennsylvania Bulletin* of each notice of intent for coverage under an applicable general NPDES permit and of each approval for such coverage; (2) provide notice only of every approval of coverage; or (3) provide no notice of notice of intents or approvals of coverage.

Subsection (b) describes eight conditions which result in the denial of a notice of intent for coverage under a general NPDES permit. The lead-in sentence to subsection (b) is proposed to be revised to provide that the Department has discretion to deny a notice of intent if any of the eight conditions exist. Subsection (b)(2) provides that a notice of intent may be denied if the discharger has a significant history of noncompliance with a prior NPDES permit issued by the Department rather than any prior permit. Subsection (b)(8) was proposed to be revised to continue to prohibit the use of NPDES permits in "Exceptional Value Waters" as defined in Chapter 93 and allow them on an activity-by-activity basis in High Quality Waters. See 27 Pa.B. 1549.

Section 92.91. Applicability.

A new subchapter entitled "Civil Penalties for Violations of NPDES Permits" is proposed to be added. Sections 92.91—92.94 outline the procedure and factors to be used in assessing civil penalties for violations of NPDES requirements pursuant to section 605(a) of the CSL (35 P. S. § 691.605(a)).

Section 92.92. Method of seeking civil penalty.

This section provides that the Department may seek a civil penalty in one of two ways: (1) by filing a complaint for civil penalties before the Environmental Hearing Board; or (2) assessing a civil penalty, after an opportunity for an informal hearing.

Section 92.93. Procedure for civil penalty assessments.

This section outlines the procedure which would be used in those cases where the Department assesses a civil penalty under § 92.92. The procedures relate to service of the proposed civil penalty assessment, informal hearing and appeal of the final assessment.

Subsection (a) provides that the Department will serve a proposed civil penalty assessment upon the discharger by registered or certified mail or by personal service. If delivery of the mail at an address specified in the permit or where the discharger is located is refused or not collected, the service requirements shall be deemed to have been complied with.

Subsections (b) and (c) outline the procedure for an informal hearing. A discharger would have 30 days to request by registered or certified mail that the Department hold an informal hearing. Subsection (b) provides that if no timely request for a hearing is made, the failure to submit a request operates as a waiver of the opportunity for a hearing and the proposed assessment of the Department becomes a final assessment upon the expiration of the 30-day time period, unless the Department determines to hold a hearing on the proposed assessment pursuant to the procedures in (c).

Subsection (c) provides that if a timely request for hearing is made, the Department would then assign a representative to hold an informal hearing, establish a

hearing date and post notice of the informal hearing at least 5 days prior to the hearing. The Department is to consider all relevant information in making a decision on the final assessment.

Subsection (d) provides that a person subject to a final assessment may contest the penalty assessment by filing a timely appeal with the Environmental Hearing Board.

Section 92.94. Disbursement of funds pending resolution of appeal.

This section outlines the effect of certain types of actions on the final penalty. Subsection (a) provides that where a person fails to file an appeal to the Environmental Hearing Board, the penalty assessed becomes due and payable. Similarly, subsection (b) provides that where a final decision results in an order increasing the penalty, the difference to the Department is due and payable within 30 days after the order is mailed. Failure to pay under both subsections will result in the amount due being collected in any manner provided by law. In addition, subsection (b) provides that a person who fails to pay the amount in full may be precluded from obtaining or renewing any Department permits.

Subsection (c) provides that funds collected under §§ 92.91—92.94 are to be deposited into the "Clean Water Fund" upon completion of administrative and judicial review.

Chapter 93. Water Quality Standards

Section 93.1. Definitions.

The following terms are proposed to be deleted from this section because they would no longer be used in the chapter: "ambient stream concentration," "ambient temperature," "application factor," "balanced indigenous aquatic community," "carcinogenesis," "cumulative pollutant," "effluent limits," "existing potable water supply," "existing sensitive industrial water supply," "LC₅₀ value," "maximum allowable daily load (MDL)," "no demonstrable adverse effect on an ecological community," "noncumulative pollutant," "Q₇₋₁₀," "representative important species," "safe concentration value," "State water plan," "test water" and "water quality-based effluent limitations."

A new definition of the term "critical use" is added. This definition is currently housed in § 93.7(c) under Table 3. A new definition of the term "natural quality" is proposed to be added to replace "ambient stream concentration" to be consistent with EPA's terminology. Additionally, a new definition of "30 day average" is proposed to be added.

The term "designated uses" is proposed to be revised to clarify that it applies to all Statewide uses as well as the uses specified in the stream drainage lists. The term "epilimnion" is modified to correct a typographical error. Also, a modification is proposed to clarify the definition of "nonthreshold effect" by referring to carcinogenic effects. In addition, a minor reference change is made to the definition of "Clean Water Act." Finally, the definition of "water quality criteria" is proposed to be revised to clarify the term in response to comments by WRAC. This definition is consistent with the Federal definition of the term at 40 CFR 131.3(b).

Section 93.2. Scope.

This section is proposed to be revised to reflect the scope and applicability of water quality standards to "surface waters" by adding the word "surface" to subsections (a) and (b). Also, grammatical and editorial changes to subsection (b) are proposed in order to enhance clarity.

Section 93.3. Protected water uses.

The category of "Recreation" is proposed to be changed to "Recreation and Fish Consumption" to clarify the applicability of uses to both recreation and fish consumption. In addition, the water use "Fishing" is being modified to include the taking of fish for consumption purposes, as well as for recreational purposes. These changes reflect the Department's ongoing commitment to provide human health protection standards for the consumption of fish.

Section 93.4. Statewide water uses.

This section is proposed to be modified to provide that, except where otherwise specified, the uses set forth in Table 2 are applicable to all surface waters in the Commonwealth. Some situations where the uses are "otherwise specified" include: (1) the specification of aquatic life uses and the deletion of certain uses for certain waters set forth in the stream drainage lists in §§ 93.9a—93.9z; and (2) uses protected as existing uses under § 93.4(d)(1) and 40 CFR 131.32(a).

A sentence is proposed to be added to subsection (a) providing that the uses set forth in Table 2 shall be protected in accordance with Chapter 95 and the newly proposed water quality standards implementation chapter (Chapter 96), and other applicable State and Federal laws and regulations.

Another change which is proposed is the elimination of "warm water fishes" as a Statewide use in Table 2. This change has been proposed because aquatic life uses (Cold Water Fishes (CWF), Warm Water Fishes (WWF), Trout Stocking Fishery (TSF), and Migratory Fishery (MF)) are assigned on a water segment-specific basis in the drainage lists in §§ 93.9a—93.9z, and it is therefore unnecessary to include it in this section.

Subsection (b) is proposed to be modified to more closely mirror the companion Federal regulations at 40 CFR 131.10(g) which set forth the circumstances for the removal of a designated use which is not an existing use.

In the proposed rulemaking, potable water supply has been retained as a Statewide water use so that, except in three specified circumstances, water quality criteria for the protection of potable water supply are applicable to all surface waters. The Board is soliciting comment on whether protection of potable water supply should continue to be a Statewide use, or whether it should be changed so that applicable water quality criteria are only applied at existing or planned potable water supply intakes. It should be noted that if this change is made, public health based fish consumption criteria would continue to be applied Statewide, because of the proposed change to the "Fishing" use category in § 93.3.

Section 93.5. Application of water quality criteria to discharge of pollutants.

This section is proposed to be deleted. Many of the provisions relating to design conditions and other specifications which are currently in this section are proposed to be either: (1) incorporated into the newly proposed water quality standards implementation chapter (Chapter 96); (2) incorporated into Chapter 92; or (3) eliminated because they are redundant with other provisions of the chapter. These changes are being proposed for the following reasons:

First, subsection (a) currently provides that water quality criteria do not constitute point source discharge effluent limitations. The newly proposed § 96.3, "water quality protection levels," continues the conceptual frame-

work that water quality criteria do not constitute effluent limits. Section 96.3 is explained in more detail as follows.

Subsection (b) currently outlines design conditions for the application of water quality criteria. Design condition specifications are proposed to be part of the "water quality protection levels" and "total maximum daily loads" sections of the newly proposed Chapter 96; these provisions are explained in more detail below.

Subsection (c) presently addresses situations where water quality criteria are exceeded under natural conditions. These situations are proposed to be dealt with in the newly proposed § 93.7(c) and in Chapter 96, which are explained in more detail as follows.

Subsection (d) outlines a procedure for determining and applying an alternative osmotic pressure criterion for the protection of aquatic life. This section is proposed to be eliminated because the application factor procedure is obsolete. If needed, site-specific osmotic pressure criterion can be developed under § 93.8.

Subsection (e) addresses the application of water quality criteria for total dissolved solids, nitrite-nitrate, phenolics and fluoride for the protection of potable water supplies. Paragraph (1), with the exception of phenolics, is proposed to be part of § 96.3. The criteria for phenolics are deleted; toxic phenols are listed in Chapter 16 (relating to water quality toxics management strategy—statement of policy) and must continue to be achieved in all surface waters at least 99% of the time. Paragraph (2), which requires public notification of the location of the nearest downstream potable water supply in NPDES permit applications, is proposed to be moved to § 92.61(a)(6). Paragraph (3), which addresses the application of these criteria in High Quality and Exceptional Value Waters, is replaced by § 96.3(d). Paragraph (4), which covers situations such as needed revisions to NPDES permits when a new potable water supply location is identified, is proposed to be moved to newly proposed § 92.8a(c).

Subsection (f) addresses the application of total residual chlorine (TRC) criteria. Paragraph (1) establishes technology-based point source effluent limitations. The proposal proposes to move the requirements of paragraph (1) to § 92.2d(3)(i). Paragraph (2), which addresses discharges of TRC to Exceptional Value Waters, and High Quality waters where social or economic justification (SEJ) has not been demonstrated, is proposed to be moved, in modified form, to § 92.2d(3)(ii). Paragraph (3), which deals with the development of site-specific TRC criteria, is being eliminated because it is redundant with § 93.8. Paragraph (4), which deals with compliance with effective disinfection requirements is also being eliminated because it is redundant with the effective disinfection requirements for NPDES discharges which may be found in newly proposed § 92.2c(b).

Section 93.6. General water quality criteria.

The word "waste" is proposed to be deleted in § 93.6(a) because it is not relevant as a descriptor for point and nonpoint source discharges.

Section 93.7. Specific water quality criteria.

Subsections (a), (b), (d) and (e) are proposed to be deleted. They are no longer necessary because the provisions of these sections which specify waters for which specific criteria have been established, and Statewide water criteria and Statewide water uses, have been reformatted and more clearly set forth in proposed revisions to § 93.4 (Statewide designated water uses),

§ 93.7(c) (proposed as § 93.7(a) specific water quality criteria), and §§ 93.9a—93.9z which have been revised to more clearly reflect the relationship to § 93.4. Newly proposed subsection (a) modifies existing subsection (c) to more clearly describe the applicability of the criteria in Table 3.

Table 3 is being modified as follows:

- All Delaware River Basin Commission (DRBC) criteria are proposed to be deleted from the table and referenced in the appropriate segments where they are applicable in §§ 93.9c and 93.9e. The DRBC criteria are proposed to be deleted because they are not Department derived or sponsored, and the Department is unable to modify the criteria; this request must be made with the DRBC. The DRBC criteria which are being deleted from the table are: Alkalinity (Alk₃ and Alk₄); Bacteria (Bac₄ and Bac₅); Chloride (Ch₃ and Ch₄); Dissolved Oxygen (DO₃ and DO₄); Hardness (Hd₁ and Hd₂); Methylene Blue Active Substance (MBAS₁ and MBAS₂); pH (pH₂ and pH₄); Phenolics (Phen₂); Radioactivity (Rad); Temperature (Temp₄, Temp₅, Temp₆, Temp₇, Temp₈, and Temp₉); Total Dissolved Solids (TDS₃ and TDS₄); and Turbidity (Tur₁, Tur₂, Tur₅, and Tur₆).

- The "Critical Uses" column is proposed to be modified for all parameters. Instead of using a separate set of symbols (actually numbers), the symbols from Table 1 in § 93.3 are used. This clarifies which criteria are associated with each designated use, and facilitates the elimination of Tables 4 and 5 from the section. Tables 4 and 5 have, on occasion, been the cause of confusion concerning which criteria apply to individual stream segments in §§ 93.9a—93.9z.

- Aluminum—The current criterion for protection of aquatic life is site-specific based on a factor (0.1) applied to literature toxicity data or bioassay test developed toxicity data tailored to the ambient quality of the receiving water. The existing criterion is proposed to be modified to track the EPA National criterion for acute protection (Criteria Maximum Concentration) of 750 ug/l and moved to Table 1, Chapter 16—Water Quality Toxics Management Strategy—Statement of Policy, where other metals water quality criteria are listed.

- Alkalinity—The Alkalinity₁ criterion is proposed to be clarified by eliminating unnecessary language, resulting in a simpler, more straightforward expression of criteria. The Alkalinity₂ criterion is proposed to be eliminated because the changes to the Alkalinity₁ criterion make it identical to the existing Alkalinity₂ criterion.

- Ammonia Nitrogen—The design condition specification for design flow (Q₃₀₋₁₀) is proposed to be deleted from this section because it is proposed to be consolidated with other design condition specifications in the newly proposed Chapter 96.

- Bacteria—The Bac₁ category is proposed to be amended by adding the words "fecal coliforms/100 ML." Also added, is the provision that a minimum of 5 consecutive samples are to be collected during a 30-day period. The Bac₃ category is proposed to be deleted because use protection is more adequately protected under categories Bac₁ and Bac₂.

- Chloride—Ch₁, 150 mg/l, is proposed to be deleted and replaced with the Statewide chloride criterion of 250 mg/l, which is a secondary maximum contaminant level (SMCL) specified in the Safe Drinking Water Act regulations at 40 CFR 143.3. The Department believes that the SMCL number is more appropriate for the protection of the potable water supply use; the 150 mg/l number was

developed many years ago and may be outdated. The six surface waters for which Ch_1 is proposed to be deleted are: § 93.9p—Allegheny River, Main Stem, Source to PA-NY State Border; Oswayo Creek, Main Stem, Source to Honeoye Creek; Honeoye Creek, Main Stem, PA-NY State Border to Mouth; Oswayo Creek, Honeoye Creek to PA-NY State Border. Section 93.9q—Allegheny River, Main Stem, PA-NY State Border to Clarion River; Brokenstraw Creek, Main Stem, PA-NY State Border to Mouth.

- **Color**— Col_1 , maximum 50 units on the platinum cobalt scale, no other colors perceptible to the human eye, is proposed to be deleted from Table 3. Since the criterion applies to only one surface water in the State, it will be specified for that water in § 93.9o (Codorus Creek, Main Stem Oil Creek to Mouth). Color category Col_2 (proposed to be Col) of 75 units on the platinum cobalt scale will continue to be applied Statewide as required. Specific references for Col_2 are proposed to be deleted from §§ 93.9a—93.9z since they are no longer necessary and their specification is redundant and confusing.

While use of the platinum cobalt scale is an appropriate unit of measure for many sources and types of color found in the water, the Department seeks public input and comment on alternative methods of analysis for color for those situations for which a more accurate method of analysis may be appropriate.

- **Fluoride**— F_2 , 4-day average 0.01 of the 96-hour LC50; 1 hour average 0.05 of the 96-hour LC50 for representative important species determined through substantial available literature data or bioassay test tailored to the ambient quality of the receiving water, or both, is proposed to be deleted. This general application factor method of developing criteria is proposed to be withdrawn because it may be outdated and not based on current science for criteria development.

- **Iron**—It is proposed to split iron criteria into two categories to differentiate between the aquatic life protection (1.5 mg/l as total recoverable iron) and potable water supply (0.3 mg/l as dissolved iron) uses.

- **Manganese**—The Mn criterion is proposed to be clarified by specifying that it is a total recoverable number.

- **Nitrite plus Nitrate**—A nonsubstantive reference change is proposed for this criterion.

- **Osmotic Pressure**—The provision for development of site-specific criteria in accordance with § 93.5(d) is proposed to be deleted because § 93.5(d) is proposed to be deleted. Site-specific criteria development for the osmotic pressure criterion is proposed to be addressed in accordance with the provisions of § 93.8.

- **pH**—The pH_3 category, 7.0 to 9.0 inclusive, is proposed to be deleted. The pH_1 category, from 6.0 to 9.0 inclusive, is proposed to be applied Statewide.

- **Phenolics**—It is proposed that $Phen_1$, 0.005 mg/l, based on taste and odor considerations, and the $Phen_3$, four-day average 0.02 mg/l; 1-hour average 0.1 mg/l, based on aquatic life protection, be deleted. These criteria were developed based on an evaluation of available literature in the 1980s, and may not be consistent with current national guidelines for criteria development. The major phenolics of concern are listed in Chapter 16—Water Quality Toxics Management Strategy—Statement of Policy.

- **Temperature**—The 2°F per hour maximum change allowance, and case-specific exceptions to thermal

maxima criteria under § 97.82(a)(2), are proposed to be deleted under the $Temp_1$ through $Temp_3$ categories and are proposed to be included in a modified form in the newly proposed § 96.6. Additionally, protection for existing uses is proposed to be added. Finally, the presentation of the temperature criteria has been modified by combining the existing criteria charts to improve clarity.

- **Threshold Odor Number**—The basis for the Threshold Odor Number (TON) criterion, 24 at 60°C is uncertain. The Safe Drinking Water Act lists a Secondary Contaminant level of 3 TON for finished potable water; USEPA has no comparable category for ambient water; Although the TON criterion is specified for 156 surface waters in §§ 93.9a—93.9z, it is not included in any major NPDES permit in the Commonwealth, nor does the Department's Bureau of Laboratories have any records of performing analyses for this analyte. Given these considerations it is proposed that this criterion be deleted from Table 3 and from the 156 surface waters for which it is specified in §§ 93.9a (3 surface waters), 93.9c (2 surface waters), 93.9g (2 surface waters), 93.9p (1 surface water), 93.9q (25 surface waters), 93.9r (109 surface waters), 93.9u (1 surface water), 93.9v (1 surface water), 93.9w (5 surface waters) and 93.9x (2 surface waters). Nuisance odors continue to be subject to provisions of § 93.6, General water quality criteria.

- **Total Dissolved Solids**— TDS_2 , Maximum 1,500 mg/l, is proposed to be deleted. This criterion has been utilized for protection of aquatic life; it is unnecessary and redundant to retain this criterion because aquatic life protection is more properly provided for this parameter through the osmotic pressure criterion.

- **Turbidity**—The turbidity criteria categories Tur_3 and Tur_4 are specified for 18 surface waters in the State. These surface waters are all in § 93.9e. It is proposed that these turbidity categories be deleted from Table 3 and included in § 93.9(e) where they are applicable.

Existing subsection (f), now proposed as subsection (b), is amended to provide that the Department may develop a criterion for a substance using the best available scientific information. A new subsection (c) is proposed to clarify that where the natural quality of a surface water is determined by the Department to be lower than the applicable water quality criterion, the natural quality becomes the criterion following publication of the draft determination in the *Pennsylvania Bulletin* and a public comment period of 30 days or more. The subsection also establishes a mechanism for listing surface water segments where the natural quality criteria apply.

Section 93.8. Development of site-specific water quality criteria.

Subsection (a)(1) is proposed to be amended to reference the TMDL process in the newly proposed chapter 96. Section (c) is proposed to be deleted to conform to changes proposed in § 93.7(c). Section (f) is proposed to be revised to reflect the proposed deletion of § 93.5.

Section 93.8a. Toxics substances.

The design conditions specification in subsection (e) are proposed to be deleted and replaced with a reference to the newly proposed Chapter 96, which will contain all design condition specifications. Existing subsection (h), which allows the Department to require effluent toxicity testing, is proposed to be deleted from this section. Authorization to require whole effluent toxicity testing and establish water quality-based effluent limitations is provided in proposed §§ 92.21(c) and 92.52a.

Section 93.9. Designated water uses and water quality criteria.

Subsection (a) is proposed to be modified to cross-reference the section to proposed new Chapter 96—Water Quality Standards Implementation. The subsection has also been modified to clarify the relationship of § 93.9 to Statewide uses. In addition, the DRBC water quality criteria, deleted from § 93.7, the Ohio River Valley Sanitation Commission (ORSANCO) water quality criteria, and the Great Lakes Water Quality Agreement (GLWQA) water quality criteria, have been incorporated by reference in the appropriate sections of the drainage list descriptions, §§ 93.9a—93.9z.

Chapter 95. Wastewater Treatment

As described, many existing sections of this chapter are proposed to be incorporated into other chapters.

Section 95.1. General requirements.

Subsection (a), which concerns the establishment of specific treatment requirements and effluent limitations, is proposed to be transferred to § 92.2a(a) with some modifications relating to citations of relevant regulatory and statutory provisions. The basic requirements would remain the same.

Existing subsections (b)—(d) were proposed to be revised and transferred to proposed § 93.4 in a separate rulemaking (27 Pa.B. 1459). It is proposed to retain these subsections in this proposal until such time as the proposal outlined in the March 22, 1997, *Pennsylvania Bulletin* notice becomes final. Accordingly, existing subsections (b)—(d) would be renumbered as subsections (a)—(c).

Section 95.2. Waste treatment requirement.

This section provides that wastes are to be given a minimum of secondary treatment and outlines secondary treatment requirements. Subsection (a), which provides a general requirement that waste receive a minimum of secondary treatment, is proposed to be transferred to § 92.2c(a) with modifications that make it inapplicable to combined sewer overflows which are in compliance with proposed § 92.21a(f).

Subsection (b), which outlines the secondary treatment requirements for discharges from POTWs, would be transferred to proposed § 92.2c(b) with some modifications, including the addition of a definition for effective disinfection to control disease producing organisms in paragraph (2).

Subsection (c), which establishes secondary treatment requirements for waste discharges other than sewage discharges, is proposed to be deleted and replaced with newly proposed § 92.2d, with some modifications.

Section 95.3. Wasteload allocations.

This section describes procedures and other considerations for making wasteload allocations for continuous point source discharges. With the exception of subsection (i), it will be replaced by provisions in proposed Chapter 96.

Existing subsection (a) is being replaced by a definition of wasteload allocations in proposed § 96.1.

Existing subsection (b) is replaced by proposed § 96.4(d), which describes how wasteload allocations are to be used to set effluent limitations in the NPDES program.

Existing subsection (c) is replaced by proposed § 96.4(a) and (b).

Existing subsection (d) is being replaced and updated by proposed § 96.4(c).

Existing subsection (e) is being replaced by proposed § 96.4(f).

Existing subsection (f) is being replaced and modified to provide greater consideration of nonpoint sources in proposed § 96.4(c), (g) and (h).

Existing subsection (g) is replaced by § 96.4(i) and (l).

Existing subsection (h) is being replaced by proposed § 96.4(k).

Existing subsection (i) is being eliminated because it is redundant with other point source monitoring requirements under the NPDES program.

Existing subsection (j) is being replaced by proposed § 96.4(m).

Existing subsection (k) is being replaced by proposed § 96.4(h).

Section 95.6. Discharges to lakes, ponds and impoundments.

All provisions in this section will be replaced by proposed § 96.5.

Section 95.7. Effective disinfection.

This section is being moved to § 92.2c(b)(2) without substantive revision.

Section 95.8. Change in treatment requirements.

This section is being moved to § 92.8a, without substantive change.

Section 95.9. Phosphorus discharges to streams.

This section is being replaced by proposed § 96.5.

Chapter 96. Water Quality Standards Implementation (proposed new chapter)

Section 96.1. Definition.

This section is proposed to provide definitions for key words and terms used in the new chapter including: "allowable discharge concentration," "concentration," "conservative substance," "continuous point source discharge," "cumulative loading," "design discharge flow," "dilution ratio," "harmonic mean flow," "impaired surface water," "lake, pond, or impoundment," "load allocation," "loading capacity," "margin of safety," "mass load," "NPDES" or "National Pollutant Discharge Elimination System Permit," "natural quality," "nonconservative substance," "nonpoint source best management practice," "nonpoint source discharge," "nonpoint source remediation plan," "precipitation induced point source discharge," "point source discharge," "pollutant," "potable water supply," " Q_{7-10} flow," " Q_{30-10} flow," "significant pollutant source," "steady state modeling," "surface waters," "total maximum daily load," "wasteload allocation," "water quality criteria duration," "water quality protection levels," "water quality standards" and "wetlands."

Section 96.2. Purpose.

The purpose of Chapter 96 is the establishment of a process for achieving and maintaining water quality standards in surface waters.

Section 96.3. Water quality protection levels.

This section incorporates, and in some cases, modifies provisions of existing § 93.5; that section is proposed to be deleted. Existing § 93.5(a) provides that water quality criteria do not necessarily constitute effluent limits, but rather are one of the major factors to be considered in

developing specific effluent limitations. Current § 93.5(b) establishes "design conditions" at which water quality criteria and standards are to be achieved.

Proposed § 96.3(a) provides that existing and designated surface water uses shall be protected; and subsection (b) provides that the antidegradation requirements set forth in Chapters 93, 95 and 105 apply in waters classified as High Quality or Exceptional Value Waters. The antidegradation requirements of Chapter 105 are implemented through the administration of that chapter by the Department. In particular, the regulation at § 105.18a(1) is an antidegradation provision which prohibits the permitting of structures and activities in "Exceptional Value Wetlands" if the activity would have any "adverse" impact on the wetland. Subsection (c) specifies that the water quality criteria described in Chapter 93 shall be achieved at least 99% of the time in all surface waters of this Commonwealth unless otherwise specified in this regulation; subsection (d) establishes special provisions for the applicability of water quality criteria for total dissolved solids, nitrite-nitrate and fluoride for the protection of the potable water supply use. This proposed subsection reflects existing § 93.5(e), but deletes the phenolics requirement because the phenolics criteria are being deleted from Table 3.

Proposed subsection (e) provides that if a water quality criterion cannot be attained at least 99% of the time due to natural quality, the natural quality that is achieved at least 99% of the time is the applicable protection level; this provision is a modification of existing § 93.5(c). Subsection (f) is a modified version of existing § 93.5(b)(1) which provides that if the minimum flow of a stream is determined or estimated to be zero, applicable water quality criteria shall be achieved at least 99% of the time at the first downstream point where the stream is capable of supporting existing or designated uses. Finally, subsection (g) provides that the functions and values of wetlands shall be protected under Chapter 105. The protection of the values and functions of wetlands in Chapter 105 was incorporated into the water quality standards program at 24 Pa.B. 922 (February 12, 1994).

Section 96.4. Total maximum daily loads (TMDLs).

This section incorporates, and in some cases, modifies provisions of existing §§ 93.5(b), 93.7(c), 93.8a(e) (which are proposed to be deleted from Chapter 93), and § 95.3. Overall, it describes when and how TMDLs, which are an estimate of the pollutant loading capacity of a surface waterbody, shall be developed, and how associated wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources shall be developed and used in the establishment of water quality-based effluent limitations for point source discharges, and in the development of recommended remediation plans for nonpoint sources. The new section further describes specific factors that the Department must consider in developing TMDLs, WLAs and LAs; the allocation procedure to establish individual WLAs and LAs and how alternative procedures (including "effluent trading") may be considered by the Department is also described. Finally, the most significant additions provide for fuller consideration of nonpoint source pollutant loadings in the water quality management process where it is demonstrated that they are causing or contributing to the nonattainment of water quality protection levels.

Subsection (a) provides that the Department will identify surface waters that require TMDLs, prioritize these waters for TMDL development, and then develop TMDLs for these waters. This newly proposed subsection mirrors

the Federal TMDL development process set forth at 40 CFR 130.7. Subsection (b) is proposed to provide that, in addition to the TMDLs developed under subsection (a), TMDLs for other waters shall be developed under § 96.4 when: (1) the Department determines that the Water Quality Protection Levels (WQPLs) specified in § 96.3 are or would be violated after the imposition of applicable technology-based limitations; and (2) one or more point sources are or would be the primary cause of the violation of the WQPLs.

Subsection (c) is proposed to specify that the sum of WLAs and LAs may not be greater than the loading capacity of the surface water, after allowances are made for natural quality, seasonal variations, and a margin of safety. Subsection (d) specifies that WLAs developed in accordance with this chapter shall serve as the basis for water quality-based effluent limitations for pollutant sources regulated under Chapter 92.

Subsection (e) specifies that in developing TMDLs, WLAs and LAs, the Department shall: (1) consider relevant design factors; (2) treat all pollutants as conservative unless information indicates otherwise; and (3) include a margin of safety. The Department may also consider any increase in pollutant loadings that may be reasonably expected over a 10-year period.

Subsection (f) sets forth an allocation procedure. Subsection (f)(1) provides that WLAs and LAs assigned to individual pollutant sources shall be the more stringent of: (1) the pollutant loading authorized to be discharged under applicable technology-based requirements; (2) the pollutant loadings under §§ 96.5 and 96.6; and (3) the pollutant loadings that can be discharged by the source that will achieve the WQPLs specified in § 96.3. In addition, subsection (f)(2) provides that WLAs and LAs for significant pollutant sources shall be made more stringent if the cumulative loading exceeds the TMDL.

Subsection (g) provides that the Department may approve effluent trading, provided that: (1) all pollutant sources comply with applicable technology-based requirements; (2) WQPLs specified in § 96.3 are achieved in all portions of the surface water under consideration; and (3) the Department has published a description of the effluent trading procedure in the *Pennsylvania Bulletin* and solicited comments thereon.

Subsection (h) provides that steady State modeling at the design flow conditions listed in Table 1 shall be used to develop TMDLs, WLAs, and LAs, where continuous point sources are the primary cause of a violation of WQPLs, unless an alternative method is approved. The "design condition" specifications of existing § 93.5(b), and Table 3 of § 93.7(c) (relating to ammonia-nitrogen) for continuous point source discharges have been retained in § 96.4(i). In addition, design conditions for the application of carcinogen criteria under § 93.8a have been clarified. Also, this subsection provides that an LA may be a total allotment for nonpoint source loadings and need not be assigned to individual nonpoint sources.

Subsection (i) provides that the Department shall revise WLAs and LAs because of new or increased pollutant loadings. WLAs shall be incorporated into applicable NPDES permits at or before the expiration date of the permit. Subsection (j) states that where mathematical modeling techniques are used to determine TMDLs, WLAs and LAs, they should be generally accepted in the scientific community. Subsection (k) provides that the Department may require NPDES dischargers and other persons subject to the CSL to conduct appropriate moni-

toring of pollutant sources and waters to obtain data to develop TMDLs, WLAs and LAs, and to determine their effectiveness. Finally, subsection (l) sets forth the burden of proof for persons challenging TMDLs, WLAs or LAs prepared by the Department.

Section 96.5. Nutrient discharges.

This section incorporates provisions from existing §§ 95.6 and 95.9 and simplifies the regulatory language to make it easier to understand.

Proposed § 96.5(a) is an adaptation of existing § 95.9(b)(5) which requires that, whenever feasible, and environmentally sound, land disposal of wastewater shall be used to prevent or minimize the discharge of nutrients if the discharge would threaten surface water quality. Section 96.5(a) applies to both point and nonpoint source discharges of nutrients. Nutrients include both phosphorous and nitrogen because both have been identified as potential sources of impairment. Other reasons to include nitrogen are as follows. Excess total nitrogen may be present in the water column in several chemical species including ammonia, nitrite and nitrate. Under certain conditions of temperature and pH, ammonia can be directly toxic to fish and aquatic life. Also, nitrite-nitrogen has been identified as a potential human health risk in water supplies. If the concentrations of ammonia and nitrite are below toxic levels, both will exert an oxygen demand in converting to the more stable nitrate form. In lakes and impoundments, and occasionally in streams, nitrogen may be the limiting nutrient and control the growth of algae and other aquatic plants, thus, using dissolved oxygen and blocking the penetration of sunlight which is needed for the growth of submerged aquatic vegetation (SAV); SAV serves as important habitat for aquatic life. In addition, the Chesapeake Bay program requires the reduction of nitrogen. This change makes this provision consistent with that important program and furthers the goal of ensuring a healthy and viable Chesapeake Bay.

The newly proposed subsection (b) is based on existing § 95.6(a) and provides that to control eutrophication in a lake, pond or other impoundment, the Department will develop a TMDL and associated WLAs, and LAs based on annual loading estimates. Eutrophication occurs due to increased levels of nutrients in a lake and is manifested in algal blooms. Lake trophic status is based on Carlson's Trophic Status Index (TSI). If a lake indicates TSI values of 50—80, the Department requires phosphorus controls for point sources discharging into the lake or discharging into waters flowing into the lake.

Finally, proposed subsection (c) is based on existing § 95.9(a) and (b)(1) and provides that if the discharge of phosphorous contributes to impairment of existing or designated uses in a free flowing surface water, phosphorous discharges from point sources shall be limited to 2 mg/l, or less if a TMDL has been developed.

Section 96.6. Heated wastewater discharges.

This section modifies provisions from existing §§ 97.81 and 97.82 which are proposed to be deleted. Heated wastewater discharges are discharges that increase, or have the potential to increase, the temperature of the receiving surface water such that thermal water quality criteria are or may be violated. Typically, heated waste discharges include the discharge of noncontact cooling water from power plants and other industrial facilities. Subsection (a) provides that WLAs for point source discharges of heated wastewater must comply with all applicable state and Federal requirements; subsection (b)

limits the rate of change in surface water temperature to no more than 2° during any 1 hour period from a point source discharge. Subsection (c) provides that a heated wastewater discharge is limited to: (1) no more than the applicable temperature criteria established in § 93.7; or (2) an amount based on a specific evaluation conducted under section 316(a) of the Federal Clean Water Act.

Section 96.7. Public participation.

This section outlines public participation procedures for the listing of surface waters requiring TMDLs, and for the development of TMDLs. This section assures that interested and affected parties are made aware of and are involved in TMDL determinations.

Subsection (a) provides that the Department shall publish a notice in the *Pennsylvania Bulletin* of the availability of draft and final lists of surface waters requiring TMDLs under § 96.4(a), setting forth a 30-day public comment period. Subsection (b) provides that the Department shall publish a notice in the *Pennsylvania Bulletin* of the availability of any draft or final TMDL prepared under this chapter, setting forth a 30-day public comment period, with an opportunity for a public hearing if there is significant public interest. Where a TMDL is prepared under § 96.4(b), the notice may be included in the notice of permit application prepared under § 92.61(a).

Chapter 97. Industrial Wastes

The provisions of Chapter 97 are proposed to be deleted in their entirety. Sections 97.15 and 97.63 are proposed to be incorporated into §§ 92.2b, 92.2d(1) and (2) and 92.2d(4) respectively. The reader should refer to the discussion of the provisions of Chapter 92 in this Preamble for a discussion of the provisions of Chapter 97 proposed to be incorporated in this rulemaking. Chapter 97 generally outlines requirements applicable to the discharge of industrial wastes to waters of the Commonwealth. Many of the deleted provisions involve the pretreatment of industrial wastes by industrial users. The Department has not received delegation from the EPA to administer an industrial waste pretreatment program and does not intend to seek delegation to administer this program. Accordingly, the pretreatment provisions of existing Chapter 97 are proposed to be deleted because they are unnecessary. The Department's authority to regulate pretreatment, as affirmed in *Borough of Ridgway v. DER*, 1994 EHB 1090, is retained in other provisions of these regulatory amendments.

F. Benefits, Costs, and Compliance

Executive Order 1996-1 provides for a cost/benefit analysis of the proposed amendments.

Benefits

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they provide appropriate protection of designated and existing uses of surface waters in this Commonwealth in a more efficient and easily administrable manner. The proposed amendments reorganize and consolidate existing water management regulations in a more understandable manner, and should help to assure that pollution control actions are as cost-effective as possible and that pollution control costs are equitably distributed. The proposed language should also make it easier for citizens to understand how NPDES permits are developed and administered, and how water quality standards are developed and implemented.

These revisions also assure compliance with applicable Federal requirements. Under the proposed revisions to Chapter 92, persons required to obtain a new or renew an existing NPDES permit may benefit because of the clarification provided in the amendments, as well as improved consistency with Federal regulations. In addition, such persons may benefit by the modification of some requirements which are more stringent than Federal regulations without a compelling public interest. Among the sections modified to make them more closely mirror Federal requirements are § 92.4 (relating to exclusions from permit requirements), which adds a number of activities which would be excluded from the requirement to obtain an NPDES permit; § 92.11 (relating to duration of standards for certain new sources), which adds a third event, the date the discharge begins in the calculation of the 10-year period during which a point source would not be subject to a more stringent treatment technology standard; existing § 92.41(d) and (e) (relating to monitoring) by providing that the retention period for maintaining monitoring records may be extended during the course of any unresolved litigation (as opposed to the current requirement that the records shall be maintained) and incorporating the language of 40 CFR 122.44(i)(4) relating to the establishment of monitoring requirements for stormwater discharges not subject to an effluent limitation on a case-by-case basis into a new subsection (g); § 92.55 (relating to schedules of compliance), which is revised to provide a 1-year window for compliance before a compliance schedule is required in a permit as opposed to the current 9-month window; § 92.65 (relating to notice to other government agencies), which is revised to limit the circumstances in which the District Engineer of the Corps of Engineers may object to the issuance of a permit consistent with the requirement of section 402(b)(6) of the Federal Clean Water Act (33 U.S.C.A. § 1342(b)(6)); and § 92.83 (relating to inclusion of individual discharges in general NPDES permits) which has been revised to provide that an eligible discharger "certify" that its discharge meets the requirements for coverage under a general permit and to provide options for notification of coverage under the general permit consistent with the provisions of 40 CFR 122.28(b). In addition, a proposed amendment which would allow the Department to grant coverage to an applicant under a general NPDES permit without the submittal of an NOI will result in a cost savings.

Compliance Costs

The proposed amendments to Chapters 92 and 93 are not expected to impose any significant additional compliance costs on the regulated community. Under the proposed revisions to Chapter 96, it is possible that some activities, including some point source and nonpoint source activities, may experience additional compliance costs. For example, § 96.4(f)(2) provides that WLAs and LAs shall be made more stringent if the cumulative loading in the waterbody exceeds the TMDL. In addition, § 96.4(k) may impose some additional monitoring costs on NPDES discharges and other persons subject to regulation under the CSL if these entities are required to develop TMDLs. Decisions on when to require additional monitoring will be made on a case-by-case basis and cannot, therefore, be estimated in advance.

Since the TMDLs, WLAs and LAs developed under this rulemaking will be used as the basis for regulating point and nonpoint pollutant dischargers, the regulation may impose additional costs on some of these entities. Other entities may experience a reduction in treatment costs as a result of these regulations; the regulations have been

designed to equitably allocate the responsibility for pollution control among both point and nonpoint source pollutant contributors. Overall, these regulatory changes are not expected to increase total pollution control expenditures over that which would otherwise be required under existing regulations.

Compliance Assistance Plan

The proposed amendments to Chapter 92 are primarily intended to consolidate existing requirements into a single chapter, clarify existing requirements and make the State regulations more closely mirror Federal regulations. Compliance assistance is provided to applicants through numerous guidance documents the Department has made available for permit applicants and permittees, and by Department staff through contacts with permittees.

Chapter 96 is primarily aimed at describing how and when the Department will develop TMDLs, WLAs, LAs and nonpoint source remediation plans. The Department is currently undertaking efforts to develop program guidance to address the various issues relating to TMDL development. Other guidance is in place for conducting additional monitoring, and for allocating pollution treatment costs equitably when more stringent treatment costs are required, and is being developed for the achievement of LAs and WLAs. These guidances should aid regulated entities in complying with the regulatory requirements.

Paperwork Requirements

These regulatory revisions should have no significant paperwork impact on this Commonwealth, its political subdivisions or the private sector. The development of TMDLs by the Department under Chapter 96 may require some additional paperwork.

G. Pollution Prevention

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, Chapter 92 of these proposed amendments incorporates language encouraging the use of pollution prevention techniques, and suggesting measures to be taken to achieve environmental benefits. The existing mandatory pollution prevention language contained in existing § 97.15 has been deleted and replaced with other language which does not require, but instead suggests and encourages pollution prevention efforts. Additionally, the newly proposed Chapter 93 prevents pollution by incorporating the latest science into the water quality standards. Chapter 95 retains existing antidegradation implementation measures, thereby preventing pollution. Finally, Chapter 96 prevents pollution by more closely addressing point and nonpoint pollutant sources and measures to achieve water quality standards in waters which are threatened or impaired.

H. Sunset Review

These 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. In addition, revisions to water quality standards are required to be reviewed by the Department at least once every 3 years, with the results of the review to be submitted to the EPA. The proposed revisions to Chapters 93 and 96 constitute the major portion of the Commonwealth's triennial water quality standards review.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 11, 1998, the Department

submitted a copy of the proposed amendments 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 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the amendments.

J. 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 October 28, 1998 (within 60 days of publication in the *Pennsylvania Bulletin*). 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 October 28, 1998 (within 60 days following publication in the *Pennsylvania Bulletin*). 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-form regulations 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 October 28, 1998.

In addition to general public comment, public comment is specifically sought on three specific areas of these amendments. First, during the review of the proposed amendments to Chapter 92, WRAC proposed the creation of an additional opportunity for public comment during the NPDES permitting process. Currently, public comment on proposed sewerage projects requiring an NPDES permit is provided during the sewage facilities planning process under the Pennsylvania Sewage Facilities Act, and when the draft NPDES permit is published in the *Pennsylvania Bulletin*. WRAC proposed adding a public notice and comment period upon receipt of the application for an NPDES permit. It was agreed to seek additional input on this recommendation in the Preamble to the proposed rulemaking. Individuals interested in this issue are encouraged to submit comments. Second, in the proposed amendments, potable water supply has been retained as a Statewide water use in § 93.4 so that,

except in three specified circumstances, water quality criteria for the protection of potable water supply are applicable to all surface waters. The Board is soliciting comment on whether protection of potable water supply should continue to be a Statewide use, or whether it should be changed so that applicable water quality criteria are only applied at existing or planned potable water supply intakes. It should be noted that if this change is made, public health based fish consumption criteria will continue to be applied Statewide, because of the proposed change to the "Fishing" use category in § 93.3. Third, comment is sought on alternative methods of analysis for color for those situations for which a more accurate method of analysis than the platinum cobalt scale may be appropriate.

K. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this regulatory proposal. Each of the hearings will include an afternoon session beginning at 3 p.m. and an evening session beginning at 7 p.m. The date and locations are listed as follows:

- October 15, 1998 Department of Environmental Protection
Southwest Regional Office
400 Waterfront Drive
Pittsburgh, PA
- October 20, 1998 Department of Environmental Protection
Southcentral Regional Office
Susquehanna River Conference Room
909 Elmerton Avenue
Harrisburg, PA
- October 22, 1998 Department of Environmental Protection
Southeast Regional Office
Suite 6010, Lee Park
555 North Lane
Conshohocken, 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 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 in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Kate Coleman at (717) 787-4526 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,
Chairperson

Fiscal Note: 7-338. No fiscal impact; (8) recommends adoption.

Annex A

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 92. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITTING, MONITORING AND COMPLIANCE GENERAL PROVISIONS

§ 92.1. Definitions.

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

Administrator—The Administrator of the [**United States Environmental Protection Agency**] EPA.

Applicable effluent standards and limitations—State, interstate and Federal effluent standards and limitations to which a discharge is subject under the State and Federal Acts, including, but not limited to, **water quality-based and technology-based** effluent limitations, standards of performance, toxic effluent standards and prohibitions, **best management practices** and pretreatment standards.

Applicable water quality standards—Water quality standards to which a discharge is subject under the State and Federal Acts, and **regulations promulgated thereto [and which have been either:**

(i) **Approved or permitted to remain in effect by the Administrator under section 303(a) or (c) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1313(a) or (c)).**

(ii) **Promulgated by the Administrator under section 303(b) or (c) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1313(b) or (c)).**]

Application—The Department's form for applying for approval to discharge pollutants to surface waters of this Commonwealth under a new NPDES permit, or reissuance of an existing NPDES permit, or the modification, revision or transfer of an existing NPDES permit.

Average annual discharge limitation—The highest allowable average of daily discharges over a calendar year, calculated as the sum of all daily discharges measured during a calendar year divided by the number of daily discharges measured during that year.

Average monthly discharge limitation—The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges (a minimum of 4 daily discharge sample results is recommended for toxics; 10 is preferred) measured during a calendar month divided by the number of daily discharges measured during that month.

Average weekly discharge limitation—The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

BAT—Best available technology—The maximum degree of effluent reduction attainable through the application of the best treatment technology economically achievable within an industrial category or subcategory, or other category of discharger, taking into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques and process changes (including in-plant source reduction measures in addition to end of pipe controls), the cost of achieving the effluent reduction, nonwater quality environmental impacts (including energy requirements), and other factors the Department deems appropriate. The term includes categorical effluent limitation guidelines (ELGs) promulgated by the EPA under section 304(b) of the Federal Act (33 U.S.C.A. § 1314(b)). For sewage treatment plants, BAT is secondary treatment as defined in § 92.2c(b) (relating to minimum sewage treatment requirements). Dischargers of total residual chlorine (TRC), including sewage treatment plants, may establish BAT under this chapter.

BMP—Best management practices—Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollution to surface waters of this Commonwealth. The term includes pollution prevention measures; source reduction procedures; water conservation practices; erosion and sedimentation control plans; stormwater management measures; and treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass—The intentional diversion of wastewater from a portion of a treatment facility after the headworks.

CCW—Contact cooling water—Cooling water that comes into contact with any raw material, intermediate product, finished product, byproduct or waste product, or which otherwise has the potential to become contaminated.

CSO—Combined sewer overflow—Any intermittent overflow, or other untreated discharge from a municipal combined sewer system (including domestic, industrial and commercial wastewater, and stormwater) which results from a flow in excess of the dry weather carrying capacity of the system.

Combined sewer system—A sewer system which has been designed to serve as both a sanitary sewer and a storm sewer.

Complete application—An application which contains an application form properly completed, signed and witnessed, a filing fee, proof of municipal notification, proof of local newspaper publication, standard reports and forms required by the Department to process a permit and other data required by the Department.

Concentrated animal feeding operations—Animal feeding operations which meet the criteria in 40 CFR Part 122, Appendix B (relating to criteria for determining a concentrated animal feeding operation), or which the Department designates under the criteria in 40 CFR 122.23(c) (relating to concentrated animal feeding operations).

Concentrated aquatic animal production facility—A hatchery, fish farm or other facility which meets the criteria in 40 CFR Part 122, Appendix C (relating to criteria for determining a concentrated aquatic animal production facility), or which the Department designates under the criteria in 40 CFR 122.24(c) (relating to concentrated aquatic animal production facilities).

Conventional pollutant—Biochemical oxygen demand, carbonaceous biochemical oxygen demand, nitrates, nitrate nitrogen, phosphorous, suspended solids, pH, fecal coliform, and oil and grease.

Daily discharge—The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably and accurately represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, daily discharge is calculated as the average measurement of that pollutant during the day.

[**Department**—The Department of Environmental Resources of the Commonwealth.

[**Director**—The Director of the Bureau of Water Quality Management of the Department or his designee.]

Discharge—An addition of any pollutant to [navigable] surface waters of this Commonwealth from a point source, including additions of pollutants from surface runoff and stormwater which is collected or channelized; discharges through pipes, sewers or other conveyances which do not lead to a treatment works; and discharges through pipes, sewers or other conveyances.

Draft permit—A document prepared by the Department indicating the Department's tentative decision to issue or deny, modify, revoke or reissue a permit.

Effluent limitation or standard—A restriction established by the [Commonwealth] Department or the Administrator on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into [navigable] surface waters, including BMP's and schedules of compliance.

ELG—Effluent limitations guideline—A regulation published by the Administrator under section 304(b) of the Federal Act (33 U.S.C.A. § 1314(b)), or by the Department, used to revise or adopt effluent limitations.

[**EPA**—The United States Environmental Protection Agency.]

Existing discharge—A discharge which is not a new discharge or a new source.

Facility or activity—Any NPDES point source or other operations, lands or activities which require coverage under the NPDES Program, or are associated with an NPDES discharge.

Federal Act—The Federal Water Pollution Control Act [, act of June 30, 1948 (Ch. 758, 62 Stat 1155)] (33 U.S.C.A. §§ 1251—1376), also known as the Clean Water Act or CWA.

* * * * *

Industrial user—Those industries identified in the Standard Industrial Classification Manual, [Bureau] Office of [the] Management and Budget, [1967] 1987, as amended and supplemented, under the category "Division D-Manufacturing" and other classes of significant waste producers, as by regulation, the Administrator deems appropriate.

Industrial waste—A liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from manufacturing or industry, or from an establishment, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. The term includes all of these substances whether or not generally characterized as waste.

Instantaneous maximum effluent limitation—The highest allowable discharge of a concentration or mass of a substance at any one time as measured by a grab sample.

* * * * *

LA—Load allocation—The portion of a surface water's loading capacity that is assigned or allocated to existing and future nonpoint sources and natural quality.

Large municipal separate storm sewer system—A municipal separate storm sewer system defined in 40 CFR 122.26(b)(4) (relating to stormwater discharge (application to State NPDES programs)).

Loading capacity—The greatest amount of loading expressed in terms of mass per unit time, toxicity or other appropriate measure, that a surface water can receive, while still achieving the water quality protection levels and other requirements in Chapter 96 (relating to water quality standards implementation).

Log sorting and log storage facilities—Facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR Part 429, Subpart J (relating to log washing), including the effluent limitations guidelines.

Major facility—An NPDES facility or activity classified as such by the Regional Administrator in conjunction with the Department.

Maximum daily discharge limitation—The highest allowable daily discharge.

Medium municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(7).

Minor discharge—A discharge which has a total volume of less than 50,000 gallons on every day of the year, does not affect the waters of another state, and is not identified by the [Director] Department, the Regional Administrator, or by the Administrator in regulations issued under section 307(a) of the Federal Act (33 U.S.C.A. § 1317(a)) as a discharge which is not a minor discharge. If there is more than one discharge from a facility and the sum of the volumes of all discharges from the facility

exceeds 50,000 gallons on any day of the year, then no discharge from the facility is a minor discharge.

Municipal separate storm sewer—A separate storm sewer (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) which is all of the following:

(i) Owned or operated by a state, city, town, borough, county, district, association or other public body (created by or under State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Federal Act (33 U.S.C.A. § 1288) that discharges to surface waters of this Commonwealth.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Not a combined sewer.

(iv) Not part of a POTW.

NOI—Notice of intent—A complete form submitted for NPDES general permit coverage which contains information and certifications required by the terms of the permit and by §§ 92.81—92.83 (relating to general permits). An NOI is not an application.

NPDES form—An issued NPDES permit and a [national] National form developed for use in the NPDES, including [the Refuse Act application,] the [NPDES] application[,] and the NPDES reporting form.

NPDES permit—A permit or equivalent document or requirements issued by the Administrator, or, [where] when appropriate, by the [Director] Department after enactment of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.A. §§ 1281 and 1361), to regulate the discharge of pollutants [pursuant to] under section 402 of the Federal Act (33 U.S.C.A. § 1342).

NPDES primary industry categories—The primary industry categories in 40 CFR Part 122, Appendix A (relating to NPDES primary industry categories), which is hereby incorporated by reference.

NPDES reporting form—The form for reporting monitoring results approved by the Administrator for use in this Commonwealth, also referred to as a discharge monitoring report (DMR), which includes any supplemental forms provided by the Department.

* * * * *

Natural quality—The water quality conditions that exist or that would reasonably be expected to exist in the absence of human related activity.

[**Navigable waters**—Surface streams in this Commonwealth, lakes connected thereto, Lake Erie and the Delaware Estuary.]

New discharger—A building, structure, facility, activity or installation from which there is or may be a discharge of pollutants that did not commence the discharge at a particular site prior to August

13, 1979, which is not a new source, and which has never received a final effective NPDES permit for discharges at that site.

New source—A building, structure, facility activity or installation from which there is or may be a discharge of pollutants, the construction of which commenced after promulgation of standards of performance under section 306 of the Federal Act (33 U.S.C.A. § 1316) which are applicable to the source, or after proposal of standards of performance in accordance with section 306 of the Federal Act which are applicable to the source.

Noncontact cooling water—Cooling water that does not contact any raw material, intermediate product, finished product, byproduct or waste product.

Nonconventional pollutant—A pollutant which is not a conventional or toxic pollutant.

[**NPDES application**—The form for application for an NPDES permit approved for use in this Commonwealth by the Administrator].

Operator—A person responsible for the operation or maintenance, or both, of a facility or activity with a discharge subject to this chapter.

Owner—The person holding legal title to a facility or activity with a discharge subject to this chapter.

POTWs—Publicly owned treatment works—A device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality. The term includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

Person—Any individual, public or private corporation, partnership, association, municipality or political subdivision of the Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; department, agency or instrumentality of State, Federal or local government, or an agent or employe thereof; or any other legal entity.

Point source—Any discernible, confined or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged. The following are point sources requiring NPDES permits for discharges:

(i) Industrial waste discharges.

(ii) Sewage discharges.

(iii) Concentrated animal feeding operations.

(iv) Concentrated aquatic animal production facilities.

(v) Discharges from aquaculture projects.

(vi) Discharges of stormwater associated with industrial activity, including discharges from stormwater associated with construction activity.

(vii) Discharges of stormwater from large and medium separate storm sewers.

(viii) Silvicultural point sources.

(ix) Other discharges of pollutants from a discernible, confined or discrete conveyance.

Pollutant—[Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean "sewage from vessels" within the meaning of section 312 of the Federal Act (33 U.S.C.A. § 1322), or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if such state determines that such injection or disposal will not result in the degradation of ground or surface water resources.] Any contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of the State Act (35 P. S. § 691.1).

Pollution prevention—Source reduction and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water or other resources, or protection of natural resources by conservation.

Primary industrial facility—An industrial facility in a primary industrial category, as defined in 40 CFR 122.2 (relating to definitions).

Process wastewater—Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. The term also includes any type of discharge which is covered by an ELG.

[*Refuse Act*—Section 13 of the River and Harbor Act of March 3, 1899 (33 U.S.C.A. §§ 401—413).

Refuse Act application—The application for a permit under the Refuse Act.

Refuse Act permit—Any permit issued under the Refuse Act.]

* * * * *

Rock crushing and gravel washing facilities—Facilities which process crushed and broken stone, gravel and riprap (See 40 CFR Part 436, Subpart B (relating to crushed stone subcategory), including the effluent limitations guidelines).

SSO—Sanitary sewer overflow—An intermittent overflow of wastewater, or other untreated discharge from a separate sanitary sewer system (which is not a combined sewer system), which results from a flow in excess of the carrying capacity of the system or from some other cause prior to reaching the headworks of the sewage treatment facility.

* * * * *

Separate storm sewer—A conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying stormwater runoff.

Separate storm sewer overflow—An event during which stormwater runoff collected in a separate storm sewer system is discharged from points on the separate storm sewer system into surface waters of this Commonwealth.

Sewage—A substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals.

Silvicultural point source—A discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of this Commonwealth. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is runoff.

Single residence sewage treatment plant—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot, which collects, disposes and treats solely direct or indirect sewage discharges from the residence into surface waters of this Commonwealth.

* * * * *

Stormwater—Stormwater runoff, snow melt runoff and surface runoff and drainage.

Stormwater discharge associated with construction activity—The discharge or potential discharge into surface waters of this Commonwealth, municipal separate storm sewers or nonmunicipal separate storm sewers from any conveyance which is used for collecting and conveying stormwater and which is related to construction activities including clearing, grubbing, grading and excavation. These activities require a permit under this chapter whether or not they discharge to waters of this Commonwealth. The term does not include operations that result in the disturbance of less than 5 acres of total land area which are not part of a larger common plan of development or sale.

Stormwater discharge associated with industrial activity—The discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial area, as defined in 40 CFR 122.26(b)(14) which is incorporated by reference.

Surface waters—Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.

TMDL—Total maximum daily load—The sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural quality and a margin of safety.

Toxic pollutant—Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or

assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, [**will**] **may**, on the basis of information available to the Administrator or Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in [**such**] these organisms or their offspring.

WETT—Whole effluent toxicity testing—A test, survey, study, protocol or assessment which includes the use of aquatic, bacterial, invertebrate or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation, bioconcentration or impact on established aquatic and biological communities. The term includes any established, scientifically defensible method which is sufficiently sensitive to measure toxic effects.

WLA—Wasteload allocation—The portion of a surface water's loading capacity that is allocated to existing and future point source discharges.

Water quality-based effluent limitation—An effluent limitation derived from application of the requirements, methods, and procedures in Chapters 16, 93, 95 and 96.

Water quality standards—The combination of water uses to be protected and the water quality criteria necessary to protect those uses.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

Whole effluent toxicity—The total toxic effect of an effluent measured directly with a toxicity test.

PERMITS

§ 92.2. Incorporation of Federal regulations by reference.

(a) Except as specified in subsection (c), the Federal NPDES regulations in subsection (b), including all appendices, future amendments and supplements thereto, are hereby incorporated by reference to the extent that these provisions are applicable and not contrary to Pennsylvania law. In the event of any conflict among Federal and Pennsylvania regulatory provisions, the provision expressly set out in this chapter shall be utilized. Whenever the requirements of this chapter are more stringent than the requirements of the Federal Act or Federal regulations, the requirements of this chapter apply.

(b) The following Federal regulatory provisions in 40 CFR are incorporated by reference:

- (1) 122.2 (relating to definitions).
- (2) 122.4 (relating to prohibitions).
- (3) 122.5 (relating to effect of a permit).
- (4) 122.7(b) (relating to confidentiality of information).
- (5) 122.21(g)(1)—(7), (g)(9)—(13), (h)(1), (m)(6) and (p) (relating to application for permit).
- (6) 122.23 (relating to concentrated animal feeding operations).

(7) 122.24 (relating to concentrated aquatic animal production facilities).

(8) 122.25 (relating to aquaculture projects).

(9) 122.26(a)—(b), (c)(1), (d), (e)(1), (3)—(7) and (f)—(g) (relating to stormwater discharges).

(10) 122.27 (relating to silvicultural activities).

(11) 122.29 (relating to new sources and new discharges).

(12) 122.41(a)—(m) (relating to conditions applicable to all permits).

(13) 122.42 (relating to additional conditions applicable to all permits).

(14) 122.43 (relating to establishing permit conditions).

(15) 122.44 (relating to establishing limitations, standards, and other permit conditions).

(16) 122.45 (relating to calculating NPDES permit conditions).

(17) 122.48 (relating to requirements for recording and reporting monitoring results).

(18) 122.50 (relating to disposal of pollutants into wells, into publicly owned treatment works or by land application).

(19) 122.61—122.64 (relating to transfer, modification, revocation and reissuance, and termination of permits).

(20) 125.1—125.3 (relating to criteria and standards for imposing technology-based treatment requirements under sections 301(b) and 402 of the act).

(21) 125.10—125.11 (relating to criteria for issuance of permits to aquaculture projects).

(22) 125.70—125.73 (relating to criteria for determining alternative effluent limitations under section 316(a) of the act).

(23) 125.100—125.104 (relating to criteria and standards for best management practices authorized under section 304(e) of the act).

(c) Any new or amended Federal regulation enacted after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*) which creates a variance to existing substantive or procedural NPDES permitting requirements is not incorporated by reference.

§ 92.2a. Treatment requirements.

(a) Specific treatment requirements and effluent limitations for each discharge shall be established based on the more stringent of requirements specified in Chapters 93, 95 and 96 (relating to water quality standards; wastewater quality standards and; and water quality standards implementation), the applicable treatment requirements and effluent limitations to which a discharge is subject under this chapter and the Federal Act or the treatment requirements and effluent limitations of this title. Specific treatment requirements and effluent limitations for waste discharges from combined sewer overflows shall be established based on applicable treatment requirements and effluent limitations to which the discharge is subject under the Federal Act.

(b) When interstate or international agencies under an interstate compact or international agreement establish applicable effluent standards and limitations for dischargers of this Commonwealth which are more stringent than those required by this title, the more stringent standards and limitations apply.

(c) If the Department has confirmed the presence or critical habitat of endangered or threatened, Federal or Pennsylvania species listed in "The Pennsylvania Natural Diversity Inventory" (PNDI), discharges to these waters shall be limited to ensure protection of these species and critical habitat.

§ 92.2b. Pollution prevention.

(a) Permittees are encouraged to maximize the use of pollution prevention approaches including: resource reduction through materials substitution, process changes, wastewater conservation, wastewater reuse and wastewater recycling.

(b) The pollution load (in terms of mass) of wastes generated should be reduced by permittees, prior to any required treatment, to the maximum extent practicable by the application of pollution prevention techniques including any combination of the following: in-plant process changes, materials substitution, segregation of wastestreams of differing strengths and constituents, reduction in the volume of water use, in-plant recycling and reuse of water or other constituents in the wastewater, and by improvements in general housekeeping practices within the facility which minimize the need for water-based cleanup. Actions which minimize the contamination of sewage sludge while maximizing its beneficial reuse are encouraged. The most highly effective pollution prevention program may eliminate the need for the discharge of wastewater to surface waters, potentially eliminating the need for a permit required under this chapter. POTWs should encourage pollution prevention practices by dischargers to their systems. A permittee should implement or cause to be implemented a Pollution Prevention Plan (PPP).

§ 92.2c. Minimum sewage treatment requirements.

(a) Sewage, except that discharged from a combined sewer overflow which is in compliance with § 92.21a(f) (relating to additional application requirements for classes of dischargers), shall be given a minimum of secondary treatment.

(b) Secondary treatment for sewage is that treatment which accomplishes the following:

(1) Compliance with the requirements of secondary treatment as defined by the Administrator under section 304 of the Federal Act (33 U.S.C.A. § 1314). The regulations promulgated by the EPA in 40 CFR Part 133 (relating to secondary treatment regulations) including amendments thereto, are incorporated by reference.

(2) Provision of effective disinfection to control disease-producing organisms during the swimming season—May 1 through September 30. Effective disinfection to control disease-producing organisms shall be defined as the product of an effluent which will contain a concentration not greater than 200/100 milliliters of fecal coliform organisms as a geometric mean value nor greater than 1,000/100 milliliters of these organisms in more than 10% of the samples tested.

(3) Provision for the disposal or beneficial use of sludge in accordance with applicable Department regulations.

(4) Reduction to the maximum extent practicable, after direct application or encouragement of pollution prevention approaches including in-process recycling and reuse, the discharge of oils, greases, acids, alkalis and toxic, taste or odor-producing substances inimical to the public interest.

§ 92.2d. Technology-based standards.

Discharges that are regulated by this chapter shall meet the following minimum requirements when applicable:

(1) EPA-promulgated effluent limitation guidelines established under section 304 of the Federal Act (33 U.S.C.A. § 1314).

(2) For those industrial categories for which no effluent limitations have been established under paragraph (1), Department-developed, technology-based limitations established in accordance with 40 CFR 125.3 (relating to technology-based treatment requirement in permits).

(3) For facilities utilizing chlorine, the following applies:

(i) For those facilities utilizing chlorine which discharge to surface waters, an effluent limitation representing the BAT for the discharge of total residual chlorine (TRC). If the EPA adopts a National categorical ELG for TRC for a specific industry or activity under section 301 or 304(b) of the Federal Act (33 U.S.C.A. §§ 1311 and 1314(b)), that ELG constitutes BAT for the industry or activity. If the EPA has not promulgated a National ELG for an industry or activity, the Department may develop a facility-specific BAT effluent limitation. Factors which will be considered in developing a facility-specific BAT effluent limitation include the age of equipment and facilities involved, the engineering aspects of the application of various types of control techniques and alternatives to the use of chlorine or reductions in the volume of chlorine used during the disinfection process, other pollution prevention approaches, the cost of achieving the effluent reduction, nonwater quality environmental impacts (including energy requirements) and other factors the Department deems appropriate. For facilities when the EPA has not promulgated a National ELG for an industry or activity, and the Department has not developed a facility-specific BAT effluent limitation under the factors in this subparagraph, an effluent limitation for TRC of 0.5 mg/l (30-day average) shall constitute BAT.

(ii) Facilities utilizing chlorine which discharge to exceptional value waters or high quality waters where necessary economic or social justification of significant public value and other factors have not been demonstrated under applicable State or Federal law or regulations shall discontinue the use of chlorine or dechlorinate their effluents prior to discharge into the waters.

(4) For oil-bearing wastewaters, the following applies:

(i) Oil-bearing wastewaters, except those from petroleum marketing terminals, discharged into surface waters shall comply with all of the following:

(A) At no time cause a film or sheen upon or discoloration of the waters of this Commonwealth or adjoining shoreline.

(B) At no time contain more than 15 milligrams of oil per liter as a daily average value nor more than 30 milligrams of oil per liter at any time, or whatever lesser amount the Department may specify for a given discharge or type of discharge as being necessary for the proper protection of the public interest or to meet any requirements based upon the Federal Act.

(ii) Pollution prevention approaches, including source reduction, or recycling and environmentally safe reuse of oils, in order to reduce the volume of oil discharged to levels below those allowed by clause (A) are encouraged.

(iii) Petroleum marketing terminals shall be provided with facilities to remove oil from waters, including stormwater runoff, before discharge into surface waters. Compliance with this paragraph shall constitute compliance with clause (A) except to the extent that the Federal Act imposes a more stringent requirement. Pollution incident prevention plans as described in § 91.34 (relating to activities utilizing pollutants) are required for all petroleum marketing terminals.

(iv) Unless it can be shown that an alternate design is equivalent, oil removal facilities of petroleum marketing terminals shall consist of an American Petroleum Institute (A.P.I.) listed oil separator.

(Editor's Note: Section 91.34 is the subject of a separate rulemaking as outlined at 27 Pa.B. 4343 (August 23, 1997). That section incorporates provisions of existing § 101.3.)

§ 92.3. Permit requirement.

[No person shall] A person may not discharge pollutants from a point source into [navigable] surface waters except as authorized under [a] an NPDES permit.

§ 92.4. Exclusions from permit requirements.

(a) The following are excluded from the requirement of obtaining an NPDES permit under this chapter:

(1) [Agricultural] Introduction of pollutants from nonpoint source agricultural activities[, except this exclusion shall not apply to] and irrigation return flows. As used in this paragraph, "irrigation return flows" means [surface water containing] pollutants discharged into [navigable] surface waters from a discernible, confined[,] and discrete conveyance which results from the controlled application of water by any person to land used primarily for crops, forage growth[,] or nursery operations[, and "surface water" means water that forms exclusively across the surface of the land from the point of application to the point of discharge].

(2) Silviculture activities, except that this exclusion [shall] does not apply to silvicultural point sources. [As used in this paragraph, "silvicultural point sources" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which

are operated in connection with silvicultural activities and from which pollutants are discharged into navigable waters.]

(3) Sewage from vessels within the meaning of section 312 of the Federal Act (33 U.S.C.A. § 1322).

(4) Water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes, is approved by authority of the Department, and if the Department determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(5) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of the Federal Act (33 U.S.C.A. § 1344).

(6) Indirect discharges:

(i) Except as provided in subparagraph (ii), the discharge of sewage, industrial wastes or other pollutants into a POTW or privately owned treatment works which is, or will be when connected, conveying and treating the discharge into the system, and is operated and maintained in accordance with the State Act, rules and regulations promulgated thereto, the permit and any applicable orders.

(ii) The Department may require that an indirect discharger of sewage, industrial waste or other pollutants obtain a permit under the State Act to discharge into a POTW or privately owned treatment works where necessary to assure protection of waters of this Commonwealth in situations including, but not limited to, where the indirect discharger has failed to take adequate measures to prevent, reduce or otherwise eliminate the discharge through pollution prevention techniques or to take adequate measures to pretreat its discharge prior to conveying the discharge to the POTW, or otherwise resulting in interference with proper operations of the POTW, upsets at the POTW or pass-throughs of pollutants.

(7) A discharge in compliance with the instructions of the Department in an environmental emergency cleanup situation remediating a one time spill or release of pollutants, or the instructions of an on-scene coordinator under 40 CFR Part 300 or 33 CFR Part 153 (relating to National Oil and Hazardous Substances Pollution Contingency Plan; and control of pollution by oil and hazardous substances, discharge removal), where necessary to abate an imminent threat to the public health or safety.

* * * * *

§ 92.5a. Concentrated animal feeding operations.

(a) Except as provided in subsection (b), owners or operators of concentrated animal feeding operations will be deemed to have an NPDES general permit by rule if the operation meets the following conditions:

(1) The operation has a nutrient management plan under § 83.261 (relating to general) which has been approved in accordance with Chapter 83 (re-

lating to State Conservation Commission) and the operation consists of at least 301 but not more than 1,000 animal equivalent units.

(2) The operation does not have or is not proposing a discharge to surface waters.

(3) The operation is in compliance with applicable provisions of Chapter 83.

(4) The operator implements and maintains a nutrient management plan in accordance with Chapter 83.

(b) Subsection (a) does not apply to concentrated animal feeding operations described in paragraphs (1) and (2). These operations shall apply for an individual NPDES permit.

(1) Those operations which have or are proposing more than 1,000 animal equivalent units as defined in the Nutrient Management Act (3 P. S. §§ 1701—1718).

(2) Those operations which the Department requires to obtain a permit on a case-by-case basis.

§ 92.6. [NPDES permits issued by the Regional Administrator] (Reserved).

[(a) The Department adopts as permits issued under the State Act all NPDES permits issued by the Regional Administrator prior to the effective date of this chapter which are transferred by the Regional Administrator and accepted by the Department for administration and enforcement.

(b) Acceptance of an NPDES permit from the Regional Administrator shall not supersede any permit previously issued under the State Act. All provisions of both permits shall be in force; except, in the event of a conflict between the provisions of a Clean Streams Law permit and an NPDES permit applicable to the same discharge, the more stringent provision shall apply.]

§ 92.6a. Persons required to apply when a facility is owned by one person, but operated by another.

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

§ 92.7. [Reporting of new] New or increased discharges, or change of wastestreams.

Facility expansions, production increases[,] or process modifications which result in new or increased discharges of pollutants, which discharges do not violate effluent limitations specified in the NPDES permit, [must] shall be reported by submission to the director of notice of [such] the new or increased discharges. A new permit application [must] shall be submitted and a new permit obtained before commencing a new or increased discharge, or change of the wastestream which would violate effluent limitations in the NPDES permit.

§ 92.8a. Changes in treatment requirements.

(a) Whenever there is a change in the provisions of Chapters 93, 95 and 96 (relating to water quality standards; wastewater treatment requirements; and water quality standards implementation), or this chapter, or whenever the Department adopts a plan or makes a determination which would change existing or impose additional water quality criteria

or treatment requirements, it shall be the duty of the permittee of facilities affected thereby, upon notice from the Department, to promptly take steps necessary to plan, obtain a permit or other approval and construct facilities that are required to comply with the new water quality standards or treatment requirements. Permittees should consider pollution prevention practices as a means of achieving compliance with this section.

(b) Within 90 days of the receipt of the notice, or within a lesser period as the Department may specify, the permittee shall submit to the Department either a report establishing that its existing facilities are capable of meeting the new water quality standards or treatment requirements or a schedule setting forth the nature and date of completion of steps that are necessary to plan, obtain a permit or other approval and construct facilities to comply with the new water quality or treatment requirements. The permittee shall comply with the schedule approved by the Department. Pollution prevention practices proposed to comply with this section should be included in both the report and schedule.

(c) Whenever a point of projected withdrawal for a new potable water supply not previously considered is identified by an update to the State Water Plan or a River Basin Commission Plan, or by the application for a water allocation permit from the Department, the Department will notify a discharger of total dissolved solids, nitrite-nitrate nitrogen and fluoride of more stringent effluent limitations needed to protect the point of withdrawal. The discharger shall meet more stringent effluent limitations in accordance with a schedule approved by the Department. The Department will issue orders directing dischargers to achieve compliance, when necessary.

§ 92.9. Duration of permits.

(a) All NPDES permits shall have a fixed term not to exceed [five] 5 years.

(b) The terms and conditions of an expired permit are automatically continued [pending the issuance of a new permit] when the following conditions are met:

* * * * *

(2) The [Director] Department is unable, through no fault of the permittee, to issue or deny a new permit before the expiration date of the previous permit.

(c) Permits continued under subsection (b) shall remain effective and enforceable against the discharger until such time as the [Director] Department takes final action on the pending permit application.

§ 92.11. Duration of standards for certain new sources.

Any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.A. §§ 1281 and 1361) and which is so constructed as to meet all applicable [standards of performance shall] requirements will not be subject to any more stringent treatment technology standard of performance during a 10-year period beginning on the date of completion of [such] the construction[,] during the period of depreciation or amortization of [such] the facility

for the purpose of [section] section 167 or [Section] section 169, or both, of the Internal Revenue Code of 1954 (26 U.S.C.A. §§ 167 and 169), or 10 years from the date the source begins to discharge process or other nonconstruction related wastewater, whichever period ends first. [; provided, however, that a] A more stringent standard may be imposed if [such] the imposition is allowed under section 510 of the Federal Act (33 U.S.C.A. § 1370). **This section does not apply to water quality based effluent limitations.**

§ 92.13. Reissuance of permits.

(a) [Any] A permittee who wishes to continue to discharge after the expiration date of [his] its NPDES permit [must] shall submit a new [NPDES] application for reissuance of the permit at least 180 days prior to the expiration of the permit unless permission has been granted for a later date by the [Director] Department. The application fees specified in § 92.22 (relating to application fees) [shall] apply.

(b) Upon completing review of the new application, the [Director] Department may reissue the permit if, based on up-to-date information on the permittee's waste treatment practices and the nature, contents[,] and frequency of the permittee's discharge, the [Director] Department determines that the:

(1) [That the permittee] Permittee is in compliance with all existing NPDES permit terms, conditions, requirements[,] and schedules of compliance, or that any noncompliance with the existing permit has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit), consistent with § 92.55 (relating to schedules of compliance).

(2) [That the discharge] Discharge is, or will be under a compliance schedule issued under § 92.55, consistent with the applicable water quality standards, effluent standards and limitations, and other legally applicable requirements, including [any] revisions or modifications of [such] the standards, limitations and requirements which may have occurred during the term of the existing permit.

§ 92.13a. Effect of modification of permit.

When a NPDES permit is modified, only those permit conditions which are new or are materially changed in the modified permit are reopened. All other conditions of the permit remain in full force and effect and remain administratively final.

§ 92.15. Regional Administrator's right to object to the issuance or modification of certain permits.

The EPA Administrator has a right to review or object to issuance of certain permits. The scope of EPA review and the procedures for its exercise are described in a Memorandum of Agreement which was incorporated in the Program Description submitted to the EPA by the [Director] Department. A copy of the Memorandum of Agreement is on file with the [Director of the Bureau of Water Quality Management] Department and with the Administrator of EPA Region III.

§ 92.17. Other chapters applicable.

To the extent that Chapters 91, 93, 95, [97, 99 and 101] 96, 102 and 105 pertain to a discharge for which an NPDES permit is required, [the provisions of] Chapters 91, 93, 95, [97, 99 and 101] 96, 102 and 105 shall govern whenever their application produces a more stringent effluent limitation than would be produced by application of Federal [Standards] requirements. Effluent limitations resulting from the application of these [Chapters 91, 93, 95, 97, 99 and 101] chapters shall be expressed in an NPDES permit issued under this chapter.

APPLICATION FOR PERMITS

§ 92.21. Applications.

(a) Persons wishing to commence discharges of pollutants shall file a complete [NPDES] application [not less than] 180 days before the date on which it is desired to commence the discharge of pollutants or within another period of time which the [Director] Department determines is sufficient to insure compliance with [the requirements of section 306 of the Federal Act (33 U.S.C.A. § 1316), or with an applicable zoning or siting requirements established under sections 208(b)(2)(C) of the Federal Act (33 U.S.C.A. § 1288(b)(2)(C)) and other] State and Federal law, including applicable water quality standards and applicable effluent standards and limitations.

(b) [A person who filed a complete Refuse Act application and whose application has not been denied is not required to apply for a permit under this chapter unless the discharge described in the application for a Refuse Act permit has changed in nature, volume or frequency. A complete Refuse Act permit application shall be considered to be an application under the NPDES and shall be treated accordingly. If, however, the discharge described in the Refuse Act permit application has changed in nature, volume or frequency, the applicant shall complete, sign and submit the appropriate NPDES application form.] At a minimum, the following are required to be submitted by all applicants for an individual permit, except as otherwise specified:

(1) A permit application fee and other fees as set forth in § 92.22 (relating to application fees).

(2) Except for mining activity water quality permits, proof that written notice of an application has been submitted to the municipality in which the activity is or will be located at least 30 days before the Department may take action on the application.

(3) For discharges of industrial waste, including process wastewaters, contact cooling waters and noncontact cooling waters, proof that public notice of the application has been published in a newspaper of general circulation in the locality in which the activity is or will be located once a week during a consecutive 4-week period.

(4) A description of the activities conducted by the applicant which require an NPDES permit; name, mailing address and location of the facility; up to four standard industrial codes (SIC) which best reflect the principal products or services provided by the facility; the operator's name, address, telephone number, ownership status and entity status; a listing of all Department and EPA environmental quality permits for the facility; a topo-

graphic or other map extending 1 mile beyond the boundaries of the facility or activity; and a brief description of the nature of the business.

(c) In addition to the information required under subsection (b), the Department may require an applicant to submit other information or data the Department may need to assess the discharges of the facility and any impact on receiving waters, and to determine whether to issue an NPDES permit, or what conditions or effluent limitations (including water quality based effluent limitations) to place in the permit. The additional information may include, but is not limited to:

(1) The results of an effluent assessment (or estimate for new dischargers or new sources), including a list of the mass and concentration of pollutants found (or estimated to be for new discharges or new sources) in the wastewater discharge, under Department protocols.

(2) Description of pollution prevention techniques to be implemented, if any, capable of reducing the generation of pollutants identified in paragraph (1).

(3) The results of a waterbody assessment, under the Department protocols, setting forth the discharges impact (or potential impact) on surface waters of this Commonwealth.

(4) The results of whole effluent toxicity testing, an instream cause/effect survey or other tests or surveys as needed to determine the impact of a discharge on a waterbody conducted under a Department approved protocol.

(5) Additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life, and to determine the cause of the toxicity, and information relating to the biological, physical and chemical characteristics of waters and habitat immediately upstream and downstream of the facility conducted under a Department approved protocol.

(6) The results of any pollutant source or waterbody monitoring conducted under this title.

[(c) Four] (d) Three copies of complete applications shall be submitted, one of which shall be attested by a notary public, [justice of the peace,] alderman or district justice. The Department may require additional copies of the application to be filed.

[(d)](e) The Department [of Environmental Resources] will publish at least annually a list of addresses to which applications and their accompanying papers shall be submitted.

[(e)](f) A person required to file an [NPDES] application shall also file additional modules, forms and applications, and supply data as [are] specified by the [Director] Department. Additional modules, forms [and] applications and data shall be considered a part of the [NPDES] application.

§ 92.21a. Additional application requirements for classes of dischargers.

(a) *Existing industrial discharges.* Dischargers of industrial waste from sources other than new sources or new discharges subject to subsection (b), nonprocess wastewater discharges subject to subsection (c) and stormwater discharges associated

with industrial activity subject to subsection (d), shall submit the applicable information required to be submitted under 40 CFR 122.21(g)(1)–(7) and (g)(9)–(13) (relating to application requirements), which is hereby incorporated by reference.

(b) *New sources and new discharges.* Except for new discharges of industrial facilities which discharge nonprocess wastewater subject to subsection (c) and new discharges of stormwater associated with industrial activity subject to subsection (d), new discharges and new sources applying for NPDES permits shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(k), which is hereby incorporated by reference.

(c) *Nonprocess industrial waste discharges.* Except for stormwater discharges associated with industrial activity subject to subsection (d), all industrial waste dischargers applying for NPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitation guideline or new source performance standard shall submit all information required to be submitted, as applicable, under 40 CFR 122.21(h), which is hereby incorporated by reference.

(d) *Stormwater discharges associated with industrial activity.* Applicants for individual NPDES permits for the discharge of stormwater associated with industrial activity shall submit all information required to be submitted, as applicable, under 40 CFR 122.21(g)(7) and 122.26(c)(1) (relating to storm water discharges (application to State NPDES program)), which are hereby incorporated by reference.

(e) *New and existing sewage dischargers.* The following additional application requirements apply to new and existing sewage dischargers (including POTWs and privately owned treatment works), as applicable except where aquatic communities are essentially excluded, where pollution cannot be remedied by controlling discharges or where water quality data indicates no trend of water quality improvement in the waterbody:

(1) The following sewage dischargers shall provide the results of whole effluent toxicity testing to the Department:

(i) Sewage dischargers with design influent flows equal to or greater than 1 million gallons per day.

(ii) Sewage dischargers with approved pretreatment programs or required to develop a pretreatment program.

(2) In addition to the sewage dischargers in paragraph (1), the Department may require other sewage dischargers to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:

(i) The variability of the pollutants or pollutant parameters in the sewage effluent (based on chemical-specific information, the type of treatment facility and types of industrial contributors).

(ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow).

(iii) Existing controls on point or nonpoint sources, including TMDL calculations for the waterbody segment and the relative contribution of the sewage discharger.

(iv) Receiving stream characteristics, including possible or known water quality impairment, and whether the sewage discharges to an estuary, one of the Great Lakes or a water which is a high quality water or an exceptional value water under Chapter 93 (relating to water quality).

(v) Other considerations including, but not limited to, the history of toxic impact and compliance problems at the sewage discharge facility, which the Department determines could cause or contribute to adverse water quality impacts.

(3) For sewage dischargers required under paragraph (1) or (2) to conduct toxicity testing, the EPA's methods or other protocols approved by the Department, which are scientifically defensible and sufficiently sensitive to detect aquatic toxicity and approved by the Department, shall be utilized. The testing shall have been conducted since the last NPDES permit reissuance or major permit modification, whichever occurred later.

(f) *Dischargers with approved pretreatment programs.* All sewage dischargers with approved pretreatment programs shall provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1) (relating to National pretreatment standards: prohibited discharges) to the Department.

(g) *Combined sewer overflows.* CSO dischargers shall submit the following information:

(1) The results of an evaluation determining the frequency, extent and cause of the CSO discharge, including identifying the points of inflow into combined systems.

(2) An evaluation of the water quality impacts of the CSO discharge on receiving waters.

(3) A description of BMPs utilized at the facility to minimize or eliminate the CSO discharge impact on receiving water quality, including:

(i) An evaluation of the operational status and functional adequacy of the CSO system and recommended improvements.

(ii) A description of the operation and maintenance program which is implemented at the facility.

(iii) A description of the high flow management program implemented at the facility.

(iv) A description of measures taken to restrict infiltration and inflow into the combined sewer system.

(v) A description of measures undertaken to minimize or eliminate discharges of solids and floating materials from the facility.

(vi) A description of a long-term plan to minimize and eliminate the CSO discharge.

(h) *Large and medium municipal separate storm sewers*—The operator of a discharge from a large or medium municipal separate storm sewer shall submit in its NPDES permit application the information required to be submitted under 40 CFR 122.26(d).

§ 92.22. Application fees.

(a) [An NPDES Sewerage] A sewage application, except those submitted for single residence sewage treat-

ment plants, shall be accompanied by a check for \$500 payable to "Commonwealth of Pennsylvania."

(b) [NPDES Sewerage] Sewage applications for single residence sewage treatment plants shall require no application fee.

(c) [NPDES] Industrial [Wastes] wastes applications, except those submitted for mining operations, shall be accompanied by a check for \$500 payable to "Commonwealth of Pennsylvania."

(d) [NPDES] Industrial [Wastes] wastes applications submitted for mining operations shall be accompanied by a check for \$250 payable to "Commonwealth of Pennsylvania."

(e) [Application] A notice of intent for coverage under a general NPDES [permits] permit under § 92.83(a) (relating to inclusion of individual dischargers in general NPDES permits) shall be accompanied by a check payable to "Commonwealth of Pennsylvania" in the amount set forth in the public notice for the general permit. The amount [shall] may not exceed \$500.

(f) The application fee specified in § 91.22 (relating to fees) [shall apply] applies to all other [NPDES] applications.

§ 92.23. Identity of signatories to NPDES forms.

Any NPDES form submitted to the Department [must] shall be signed as follows:

(1) In the case of corporations, by a principal executive officer of at least the level of vice president, or [his] a duly authorized representative, if [such] the representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.

* * * * *

§ 92.25. Incomplete applications or notices of intent.

The Department [shall] will not complete processing of an application or notice of intent which is incomplete or otherwise deficient. An application for an individual NPDES permit is complete when the Department receives an application form and supplemental information which are completed in accordance with this chapter. An NOI to participate in an NPDES general permit issued by the Department is complete when the Department receives a notice of intent setting forth the information specified by the terms of the general permit.

APPROVAL OF APPLICATIONS

§ 92.31. Effluent standards or limitations.

(a) [No] Except as set forth in subsection (b), permit [shall] will not be issued for discharge of pollutants unless the proposed discharge is in compliance with [all of] the following, when applicable:

(1) Effluent limitations under sections 301 and 302 of the Federal Act (33 U.S.C.A. §§ [1131] 1311 and [1132] 1312).

* * * * *

(5) Any more stringent limitation required to implement any applicable water quality standard[; such]. The limitations to include any legally applicable requirements necessary [to] implement [total maximum

daily loads] TMDLs established [pursuant to] under Chapter 96 (relating to water quality standards implementation), or [section 303(d)] of the Federal Act [(33 U.S.C.A. § 1313) and incorporated in the continuing planning process approved under § 303(c) of the Federal Act (33 U.S.C.A. § 1313) and any regulations and guidelines issued pursuant thereto] (33 U.S.C.A. § 1313(d)).

* * * * *

(b) Existing dischargers not currently attaining a requirement in subsection (a) may meet the requirements of subsection (a) under a compliance schedule in a reissued or amended permit which is consistent with § 92.55 (relating to schedules of compliance).

MONITORING BY PERMITTEE

§ 92.41. Monitoring.

(a) The [Director] Department may impose reasonable monitoring requirements on any discharge.

(b) Each discharger of pollutants, with the exception of sewage discharges from single family residence sewage treatment plants, may be required to monitor and report all toxic, conventional, nonconventional and other pollutants in its discharge, at least once a year, and on a more frequent basis if requested by the Department, or required by a permit condition. The results of this monitoring shall be submitted to the Department by July 1 of each year, or on a more frequent basis if requested by the Department, or required by a permit condition. If the monitoring results indicate the existence of pollutants which are not limited in the permit, the permittee shall separately identify the pollutants, and their concentration, on the monitoring report, with an explanation of how the permittee will prevent the generation of the pollutant, or otherwise eliminate the pollutant from the discharge within the permit term. If the pollutant cannot be eliminated from the discharge, the permittee shall seek a permit amendment.

[(b) Any] (c) A discharge authorized by an NPDES permit which is not a minor discharge[, the Regional Administrator requests, in writing, be monitored,] or contains toxic pollutants for which an effluent standard has been established by the Administrator under section 307(a) of the Federal Act (33 U.S.C.A. § 1317(a)) shall be monitored by the permittee for at least the following:

[(i)] (1) * * *

[(ii)] (2) All of the following pollutants:

[(A)] (i) Pollutants (either directly or indirectly through the use of accepted correlation [co-efficients] coefficients or equivalent measurements) which are subject to abatement under the terms and conditions of the permit.

[(B)] (ii) Pollutants which the [Director] Department finds, on the basis of information available to [him] it, could have [a significant] an impact on the quality of the Commonwealth's [navigable] waters.

[(C)] (iii) * * *

[(D)] (iv) * * *

[(c)] (d) Each effluent flow or pollutant required to be monitored [pursuant to subsection] under subsections (b) and (c) shall be monitored at intervals sufficiently frequent to yield data which reasonably characterize the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

[(d)] (e) The permittee shall maintain records of all information resulting from any monitoring activities required of [him] it in [his] its NPDES permit as follows:

* * * * *

(2) The permittee shall also be required to retain for a minimum of [three] 3 years any records of monitoring activities and results including all original strip chart [recording] recordings for continuous monitoring instrumentation and calibration and maintenance records. This period of retention [shall] may be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the [Director] Department or Regional Administrator.

[(e)] (f) The permittee shall periodically report, at a frequency of not less than once per year, on the proper NPDES reporting form monitoring results obtained by a permittee pursuant to monitoring requirements. In addition to the NPDES reporting form, the [Director] Department may require submission of such other information regarding monitoring results as [he] it determines to be necessary.

(g) Requirements to report monitoring results from stormwater discharges associated with industrial activity, except those subject to an effluent limitation guideline or an NPDES General Permit, shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge.

[(f)] (h) * * *

PERMIT CONDITIONS

§ 92.51. Standard conditions in all permits.

The [Director shall insure the standard conditions of each] issued NPDES permit shall provide for and insure the following:

(1) That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases[,] or process modifications which result in new or increased discharges of pollutants [must] shall be reported by submission of a new [NPDES] application or, if [such] the discharge does not violate effluent limitations specified in the NPDES permit, by submission to the [Director] Department of notice of [such] the new or increased discharges of pollutants, that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit[;].

* * * * *

(5) That if a toxic effluent standard or prohibition, including any schedule of compliance specified in [such] the effluent standard or prohibition, is established under section 301(b)(2)(C) and (D), 304(b) or 307(a) of the Federal Act (33 U.S.C.A. §§ 1311(b)(2)(C) and (D), 1314(b) or 1317(a)) for a toxic pollutant which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitation upon the pollutant in the NPDES permit, the Department will revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

(6) That the discharger may not discharge substances including, but not limited to, floating materials, oil, grease, scum, foam, sheen and substances which produce color, taste, turbidity or settle to form deposits for which no effluent limitations are provided in the permit in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant or aquatic life.

§ 92.52a. Site specific permit conditions.

The Department may establish and include an NPDES permit, any permit condition, as needed on a case-by-case basis, to assure protection of surface waters. These conditions may include a requirement to implement BMPs, toxic reduction activities, effluent limitations based on WETT and other measures which eliminate, or substantially reduce releases of pollutants at their source. Permittees are encouraged to implement, or cause to be implemented, pollution prevention plans to achieve compliance with performance based permit conditions.

§ 92.53. Additional standard conditions in permits for publicly-owned treatment works which serve industrial users.

(a) Standard conditions in permits for publicly-owned treatment works shall require the permittee to give notice to the [Director] Department of the following:

* * * * *

(2) Except as to categories and classes of point sources or discharges specified by the [Director] Department, any new introduction of pollutants into treatment works from a source which would be subject to section 301 of the Federal Act (33 U.S.C.A. § 1311) if the source was directly discharging pollutants.

* * * * *

§ 92.55. Schedules of compliance.

(a) With respect to an existing discharge which is not in compliance with the water quality standards and effluent standards and limitations [listed] in § 92.31(a) (relating to effluent standards or limitations), the applicant shall be required in the permit to take specific steps to remedy a violation of the standards and limitations in accordance with a legally applicable schedule of compliance, in the shortest, reasonable period of time, the period not to be inconsistent with the requirements of the Federal Act. If a deadline specified in section 301 of the Federal Act (33 U.S.C.A. § 1311) has passed, any schedule of compliance specified in the permit shall require compliance with final enforceable effluent limits as soon as practicable, but in no case longer than 3 years, unless a court of competent jurisdiction issues an order allowing a longer time for compliance.

(b) If the period of time for compliance specified in subsection (a) exceeds [9 months] 1 year, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement[; in no event may more than 9 months elapse between interim dates]. If the time necessary for completion of the interim requirement such as the construction of a treatment facility is more than [9 months] 1 year and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress towards completion of the interim requirement. For each NPDES permit schedule of compliance, interim dates and the final date for compliance shall, to the extent practicable, fall on the last day of the months of March, June, September and December.

(c) Either before or up to 14 days following each interim date and the final date of compliance, the permittee shall provide the [Director] Department with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

§ 92.57. Effluent limitations.

NPDES permits shall specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight except pH, temperature, radiation[,] and any other pollutants not appropriately expressed by weight. Permits may in addition impose [limitation] limitations on frequency of discharge, concentrations[,] or percentage removal, and may include instantaneous maximum limits, BMPs or any other limitations, as necessary.

§ 92.59. Documentation for permit conditions.

[In any case where] When an NPDES permit applies the effluent standards and limitations described in §§ 92.31 [(a)—(c)] (relating to effluent standards or limitations), the Department [must] will prepare documentation demonstrating that the permit will not violate applicable water standards. [In any case where] When an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality standards, a waste load allocation [must] shall be prepared to insure that the discharge authorized by the permit is consistent with applicable water quality standards.

§ 92.61. Public notice of permit application and public hearing.

(a) Public notice of every complete application for an NPDES permit shall be published by the Department in the Pennsylvania Bulletin. [Such] The public notice shall also be posted by the applicant near the entrance to the premises of the applicant and in nearby places. The contents of public notice of applications for NPDES permits shall include at least the following:

* * * * *

(3) [Brief] A brief description of each applicant's activities or operations which result in the discharge described in the [NPDES] application.

* * * * *

(5) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the [NPDES] application. If there is a tentative determination to issue a permit, the determination shall

include proposed effluent limitations for those effluents proposed to be limited, a proposed schedule of compliance including interim dates and requirements for meeting the proposed effluent limitations and a brief description of any proposed special conditions which will have a significant impact upon the discharge described in the [NPDES] application.

(6) The location of the nearest downstream potable water supply considered in establishing proposed effluent limitations under this title, or a finding that no potable water supply will be affected by the proposed discharge.

[(6)] (7) * * *

[(7)] (8) * * *

(b) The [Director shall] Department will organize the tentative determination prepared [pursuant to] under subsection (a)(5) into a draft NPDES permit.

(c) For every discharge which has a total volume of more than 500,000 gallons on any day of the year the [Director shall] Department will prepare and following public notice, [shall] will send to any person, upon request, a fact sheet with respect to the application described in the public notice. The contents of [such] the fact sheets [shall] will include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the [NPDES] application.

(2) A quantitative description of the discharge described in the [NPDES] application which includes at least the following:

* * * * *

(d) There shall be a 30-day period following publication of notice during which written comments may be submitted by interested persons before the Department makes its final determination on [an NPDES] a permit application. All written comments submitted during the 30-day comment period [shall] will be retained by the [Director] Department and considered in the formulation of [his] the final determinations with respect to the [NPDES] application. The period for comment may be extended at the discretion of the [Director] Department for one additional 15-day period. The [Director shall] Department will provide an opportunity for the applicant, any affected state, any affected interstate agency, the Regional Administrator[,] or any interested agency, person[,] or group of persons to request or petition for a public hearing with respect to the [NPDES] application. [Any such] The request or petition for public hearing shall be filed within the 30 day period allowed for filing of written comments and shall indicate the interest of the party filing [such] the request and the reasons why a hearing is warranted. A hearing [shall] will be held if there is a significant public interest, including the filing of requests or petitions for [such] the hearing; in holding [such a] the hearing. Instances of doubt should be resolved in favor of holding the hearing. Any hearing brought [pursuant to] under this subsection [shall] will be held in the geographical area of the proposed discharge or other appropriate area and may, as appropriate, consider related groups of permit applications.

(e) If a public hearing is requested, notice of the hearing [shall] will be published in the *Pennsylvania Bulletin*, [shall] will be published in at least one newspaper of general circulation within the geographical area of the discharge and [shall] will be sent to all persons or government agencies which received a copy of the notice or the fact sheet for the [NPDES] application. All of the [aforementioned] notices of a public hearing [shall] will be published at least 30 days before the hearing. Notice of public hearing [shall] will include at least the following:

* * * * *

(4) A brief reference to the public notice issued for each [NPDES] application, including identification number and date of issuance.

* * * * *

§ 92.63. Public access to information.

* * * * *

(b) The [Director] Department may protect any information, other than effluent data, contained in [such] NPDES forms, or other records, reports or plans pertaining to the NPDES permit program as confidential upon a showing by any person that [such] the information is not a public record for the purposes of section 607 of the State Act (35 P.S. § 691.607). Documents which may be protected as confidential and are not public records are those which if made public would divulge an analysis of chemical and physical properties of coal (excepting information regarding the mineral or elemental content which is potentially toxic in the environment), and those which are confidential commercial information or methods or processes entitled to protection as trade secrets [of such person] under Pennsylvania or Federal law. If, however, the information being considered for confidential treatment is contained in an NPDES form, the [Director shall] Department will forward [such] the information to the Regional Administrator for [his] concurrence in any determination of confidentiality. If the Regional Administrator does not concur that some or all of the information being considered for confidential treatment merits [such] the protection and so notifies the [Director] Department in writing, the [Director shall] Department will make available to the public that information determined by the Regional Administrator in consultation with the EPA Office of General Counsel not [to constitute trade secrets] entitled to protection in accordance with 40 CFR Part 2 (relating to public information).

* * * * *

§ 92.65. Notice to other government agencies.

The [Director shall] Department will do the following:

[(a)] (1) * * *

[(b)] (2) At the time of issuance of public notice [pursuant to] under § 92.61(a) (relating to public notice of permit application and public hearing), transmit to any other states, whose waters may be affected by the issuance of an NPDES permit a copy of fact sheets prepared [pursuant to] under § 92.61(c). Upon re-

quest, the [**Director shall**] **Department will** provide [**such**] the states with a copy of the [**NPDES**] application and a copy of the draft permit prepared [**pursuant to**] under § 92.61(b). Each affected state shall be afforded an opportunity to submit written recommendations to the [**Director**] **Department** and to the Regional Administrator which the [**Director**] **Department** may incorporate into the permit if issued. [**Should**] If the [**Director fail**] **Department decides** not to incorporate any written recommendations thus received, [**he shall**] it will provide to the affected [**state or**] states and to the Regional Administrator a written explanation of [**his**] its reasons for [**failing**] **deciding not** to accept any of the written recommendations.

[**(c)**] (3) At the time of issuance of public notice [**pursuant to**] under § 92.61(a), transmit to any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit a copy of fact sheets prepared [**pursuant to**] under § 92.61(c). [**Such**] The interstate agency shall have the same opportunity to submit recommendations and to receive explanations as set forth in [**subsection (a)**] **paragraph (2)**.

[**(d)**] (4) At the time of issuance of public notice [**pursuant to**] under § 92.61(a), transmit to the appropriate [**District Engineer**] **district engineer** of the Army Corps of Engineers a copy of fact sheets prepared [**pursuant to**] under § 92.61(c). [**No**] An NPDES permit [**shall**] will not be issued if a [**District Engineer**] **district engineer** objects to the issuance of [**such**] the permit because anchorage and navigation of any of the surface waters would be impaired.

[**(e)**] (5) Provide a subscription to the *Pennsylvania Bulletin* and transmit fact sheets prepared [**pursuant to**] under § 92.61 [**(b)**] (c) for any other Federal, State or local agency upon request, and provide [**such**] these agencies an opportunity to respond or comment.

MISCELLANEOUS

§ 92.71a. Transfer of permit.

An NPDES permit may be automatically transferred to a new permittee if the following conditions are met:

(1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date.

(2) The notice includes a written agreement between the existing permittee and the new permittee containing a specific date for transfer of permit responsibilities, coverage and liability between them.

(3) The Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the transfer date specified in the agreement required under paragraph (2).

§ 92.72a. Cessation of discharge.

If a permittee intends to cease operations or cease a discharge for which a permit has been issued under this chapter, the permittee shall notify the Department in writing of its intent at least 180 days prior to the cessation of operations or the cessation of the discharge, unless permission has been granted for a later date by the Department.

§ 92.73. Prohibition of certain discharges.

[**No**] A permit [**shall**] will not be issued under any of the following conditions:

(1) [**authorizing**] **Authorizing** the discharge of any radiological, chemical, biological warfare agent [**of**] or high-level radioactive waste [**Furthermore, no permit shall be issued**].

(2) [**authorizing**] **Authorizing** any discharge which is in conflict with a plan or amendment thereto approved [**pursuant to**] under section 208(b) of the Federal Act (33 U.S.C.A. § 1288(b)).

(3) **When the applicant is required to obtain a State water quality certification or other appropriate certification under section 401 of the Federal Act (33 U.S.C.A. § 1341) and that certification has not been obtained or waived.**

(4) **When the Regional Administrator has objected to the issuance of a permit.**

(5) **When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states.**

(6) **When, in the judgment of the Administrator, a district engineer of the Army Corps of Engineers or the Department, anchorage and navigation in or on any surface waters would be substantially impaired by the discharge.**

(7) **To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards.**

(8) **To a discharger with a sanitary sewer overflow, unless the discharger can demonstrate that it is taking measures to eliminate the overflows as soon as practicable, including, but not limited to, a complete evaluation of the sanitary sewer system, the reduction of infiltration and inflow into the sanitary sewer system, the elimination of illegal hookups to the system, the institution of a ban or prohibition on sewer hookups to the sanitary sewer and any other measures which will eliminate the overflows.**

§ 92.75. Transmission of NPDES forms.

The [**Director shall**] **Department will** transmit to the Regional Administrator and the [**national**] **National** data bank complete copies of all NPDES forms and other information received [**by the Bureau**], and in the manner [**as the Director**] **agreed upon by the Department** and the Regional Administrator shall agree.

§ 92.77. Requirement of additional data in certain cases.

If, after transmission of information to the Administrator [**pursuant**] under § 92.75 (relating to transmission

of NPDES forms), the Administrator notifies the [Director] Department that any discharge which has a total volume of less than 50,000 gallons on every day of the year is not a minor discharge, the [Director shall] Department will require the applicant for [such] the discharge to submit additional NPDES [application] forms or [any] other information requested by the Regional Administrator in [his] the notification to the [Director] Department.

§ 92.79. Reports of violations.

The [Bureau shall] Department will prepare a quarterly report listing permittees who have violated final or interim requirements in their NPDES permits, stating the nature of the violation, describing any enforcement action which is proposed or has been taken, and giving a brief description, if appropriate, of any circumstances which explain the violation. A copy of the report shall be forwarded on the last day of the months of February, May, August[,] and November to the EPA Regional Administrator.

[NPDES] GENERAL PERMITS

§ 92.81. General NPDES permits.

(a) Coverage and purpose. The [Director] Department may issue a general NPDES permit, in lieu of issuing individual NPDES permits, for a clearly and specifically described category of point source discharges, if the point sources meet [all of] the following [paragraphs] conditions:

* * * * *

(5) [Do not discharge toxic or hazardous pollutants as defined in sections 307 and 311 of the Federal Act (33 U.S.C.A. §§ 1317 and 1321) or any other substance which—because of its quantity; concentration; or physical, chemical or infectious characteristics—may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into the navigable waters.] Effluent limitations are established in the general permit for any toxic or hazardous substance listed or designated under section 307(a) or 311(b)(2) of the Federal Act (33 U.S.C.A. §§ 1317(a) and 1321(b)(2)) which may be discharged.

(6) In the opinion of the [Director] Department, are more appropriately controlled under a general permit than under individual permits.

* * * * *

(8) Do not discharge to waters classified as “[special protection] exceptional value waters” under Chapter 93 (relating to water quality standards).

(b) Administration of general permits. General permits may be issued, amended, suspended, revoked, reissued[,] or terminated under this chapter. Issuance of a general NPDES permit does not exempt a person from compliance with this title. General NPDES permits shall have a fixed term not to exceed 5 years, and shall comply with §§ 92.31, 92.41, 92.51[,] and 92.57[and 92.59] and other applicable provisions of this title.

(c) Department specification. The Department may specify in the general permit that an eligible

person who has submitted a timely and complete notice of intent is authorized to discharge in accordance with the terms of the permit under one of the following:

(1) After a waiting period specified in the general permit.

(2) On a date specified in the general permit.

(3) Upon receipt of notification of inclusion by the Department.

(4) Upon receipt of the notice of intent by the Department.

(d) When notice of intent not required. Discharges other than those discharges from publicly-owned treatment works, combined sewer overflows, primary industrial facilities and stormwater discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent when the Department finds that an NOI requirement would be inappropriate.

(e) Department notification. The Department may notify a discharger that it is covered by a general permit, even if the discharger has not submitted a notice of intent to be covered. A discharger so notified may request an individual permit.

(Editor's Note: The regulations currently at §§ 92.81(a)(8) and 92.83(b)(8) were proposed to be amended as outlined at 27 Pa.B. 1459 (March 22, 1997).)

§ 92.82. Public notice and public hearing.

(a) Public notice of every proposed general NPDES permit will be published by the Department in the Pennsylvania Bulletin. The contents of the public notice will include at least the following:

* * * * *

(5) A brief description of the procedures for the formulation of final determinations, and other means by which interested persons may influence or comment on those determinations. [The] Except as provided in § 92.81(c)—(e) (relating to general NPDES permits), the procedures shall comply, at a minimum, with the public notice and hearing requirements set forth in §§ 92.61(c)—(e) (relating to public notice of permit application and public hearing).

* * * * *

(7) The [application] notice of intent fee for coverage under the general NPDES permit.

(b) Upon issuance of a general permit, the [Director] Department will place a notice in the Pennsylvania Bulletin of the availability of the general permit.

§ 92.83. Inclusion of individual dischargers in general NPDES permits.

(a) [Application] Notice of intent for coverage under the general permit.

(1) Eligible dischargers, who wish to be covered by the general permit, shall file [an application] a notice of intent which complies with [the requirements of] §§ 92.21[(c)](d), 92.22 and 92.23 (relating to application for permits). At a minimum, the [application] notice of intent shall identify each point source for which coverage under the general permit is requested; [demonstrate] certify that each point source meets

the eligibility requirements for inclusion in the general permit; [demonstrate] certify that the discharge from the point sources, individually or cumulatively, will not result in a violation of an applicable water quality standard established under Chapter 93 (relating to water quality standards) and include other information the Department may require. The [applications] NOI shall be accompanied by a signed and notarized statement that the discharger agrees to accept all conditions and limitations imposed by the general NPDES permit.

(2) If the [application for coverage under the general permit] NOI is acceptable for one or more point sources, the [Director shall] Department, except as provided in § 92.81(c)—(e) (relating to general permits), will formally notify the discharger of the coverage for each point source, and shall transmit a copy of the general permit to each discharger covered. Each copy of the general permit issued to a discharger shall bear an individual identification number.

(3) The Department will [provide notice] indicate in the publication of a general permit in the Pennsylvania Bulletin whether it will provide one of the following:

(i) Notice in the Pennsylvania Bulletin of each [application for coverage] NOI under an applicable general NPDES permit, and of each approval for coverage under a general NPDES permit.

(ii) Notice of every approval of coverage only.

(iii) No notice of NOIs or approvals of coverage.

(b) Denial of coverage. The [Director shall] Department will deny any [application for coverage under a general permit] NOI when one or more of the following conditions exist:

* * * * *

(2) The discharger is not, or will not be, in compliance with any of the conditions of the general permit or has a significant history of noncompliance with a prior NPDES permit issued by the Department.

* * * * *

(7) The [Director] Department determines that [such] the action is necessary for any other reason to ensure compliance with the Federal Act[,] the State Act[,] or this title.

(8) The discharge would be to waters classified as “[special protection] exceptional value waters” under Chapter 93.

(c) Requiring an individual permit. The [Director] Department may amend, revoke, suspend or terminate previously issued coverage under a general NPDES permit, and require the point source discharger to apply for and obtain an individual NPDES permit for any of the reasons [set forth] in subsection (b). An interested person may petition the [Director] Department to take action under this subsection. Upon notification by the [Director] Department under this subsection that an individual NPDES permit is required for a point source, the discharger shall submit a complete NPDES application, in conformance with [the requirements of] this chapter, within 90 days of receipt of the notification, unless the discharger is already in possession of a

valid individual NPDES permit. Failure to submit the application within 90 days shall result in automatic termination of coverage of the applicable point sources under the general permit. Timely submission of a complete application shall result in continuation of coverage of the applicable point sources under the general permit, until [such time as] the [Director] Department takes final action on the pending individual permit application.

(d) Action of the [Director] Department. Action of the [Director] Department denying coverage under a general permit under subsection (b), or requiring an individual NPDES permit under subsection (c), is not a final action of the Department until [such time as] the discharger submits and the Department takes final action on an individual NPDES permit application.

* * * * *

(f) Coverage under general permit. A point source excluded from a general permit solely because it already has an individual permit may submit [an application for coverage under the general permit] a notice of intent under subsection (a). If the [application] notice of intent is acceptable, the [Director] Department will revoke the individual permit and notify the source that it is covered under the general permit.

(Editor's Note: The regulations currently at §§ 92.81(a)(8) and 92.83(b)(8) were proposed to be amended as outlined at 27 Pa. B. 1459 (March 22, 1997).)

CIVIL PENALTIES FOR VIOLATIONS OF NPDES PERMITS

§ 92.91. Applicability.

This section and §§ 92.92—92.94 are applicable to civil penalty assessments by the Department under section 605(a) of the State Act (35 P. S. § 691.605(a)).

§ 92.92. Method of seeking civil penalty.

The Department may do either one of the following:

(1) File a complaint for civil penalties before the EHB.

(2) Assess a civil penalty, after hearing under § 92.93 (relating to procedure for civil penalty assessments).

§ 92.93. Procedure for civil penalty assessments.

(a) The Department, if it assesses a civil penalty for a State Act violation, will serve a copy of the proposed civil penalty assessment on the discharger. Service will be by registered or certified mail, or by personal service. If the mail is tendered at the address in the permit, or at an address where the discharger is located, and delivery is refused, or mail is not collected, the requirements of this section shall be deemed to have been complied with upon the tender.

(b) The discharger who has been served with a proposed assessment in accordance with subsection (a) has 30 days to request that the Department hold an informal hearing on the proposed assessment by serving the Department by registered or certified mail with the request. If no timely request for an informal hearing is submitted, the failure to submit a timely request will operate as a waiver of the opportunity for a hearing, and the proposed assess-

ment will become a final assessment of the Department upon the expiration of the 30 day period unless the Department determines to hold a hearing on the proposed assessment under the procedures in subsection (c).

(c) If a timely request for hearing on the proposed assessment is received by the Department, the Department will assign a representative to hold an informal hearing regarding the assessment. The informal hearing will not be governed by requirements for formal adjudicatory hearings. The Department will establish a hearing date and post notice of the time and place of the hearing at least 5 days prior to the hearing. The person requesting the hearing has the right to attend and participate in the hearing. At the hearing, the Department will consider the relevant information presented and either affirm, raise, lower or vacate the proposed assessment. The Department representative's decision will constitute the Department's final assessment.

(d) The person subject to a final assessment by the Department may contest the penalty assessment by filing a timely appeal with the EHB.

§ 92.94. Disbursement of funds pending resolution of appeal.

(a) If the person subject to a final assessment fails to file a timely appeal to the EHB as provided in the Environmental Hearing Board Act (35 P. S. §§ 7511—7516) the penalty assessed shall become due and payable upon expiration of the time allowed to file an appeal. If the person fails to pay, the amount shall be collected in the manner provided by law. The Department may preclude persons who fail to pay in full from obtaining or renewing any Department permits.

(b) If the final decision in the administrative and judicial review process results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the amount specified in the final decision to the Department within 30 days after the order is mailed to the person. If the person fails to pay the amount specified in the final decision, the amount shall be collected in the manner provided by law. The Department may preclude persons who fail to pay in full from obtaining or renewing any Department permits.

(c) Upon completion of the administrative and judicial review process, any funds collected under §§ 92.91—92.93 (relating to civil penalties for violations of NPDES permits) and this section will be deposited into the Clean Water Fund.

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.1. Definitions.

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

[*Ambient stream concentration*—The range in concentration or level of a water quality parameter which would be expected to occur in the absence of human activities. The value is normally determined from quality measurements of waters that are not affected by waste discharges or other human activities.

Ambient temperature—The temperature of the water body upstream or outside of the influence of

a heated waste discharge or waste discharge complex. The ambient temperature sampling point should be unaffected by a source of waste heat.

Application factor—The ratio of the safe concentration to the 96-hour LC₅₀ concentration which is assumed to be constant for related groups of chemicals and is multiplied by an LC₅₀ value to produce the estimated safe concentration of a pollutant necessary to protect the balanced indigenous community in the receiving body of water.

Balanced indigenous aquatic community—A group of populations occupying a common area which consists of desirable species of fish and shellfish, including the biota of other trophic levels which are necessary as part of the food chain or otherwise ecologically important to the maintenance of these populations.]

* * * * *

[*Carcinogenesis*—The onset of cancer.]

* * * * *

Clean Water Act—[Pub. L. No. 95-217, 91 Stat. 1566—1609] The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1376).

[*Cumulative pollutant*—A pollutant which is measurably increased in concentration within aquatic organisms relative to concentrations in the receiving waters.]

Critical use—The most sensitive designated or existing use the criteria are designed to protect.

* * * * *

Designated uses—Those uses specified in §§ 93.4(a) and 93.9a—93.9z for each water body or segment whether or not they are being attained.

[*Effluent limits*—Restrictions established by the Department on quantities, rates and concentrations of pollutants which are discharged into the waters of this Commonwealth]

Epilimion] *Epilimnion* * * *

[*Existing potable water supply*—A source of water supply which is presently being used by humans after conventional treatment for drinking, culinary and other purposes such as inclusion in food products.]

* * * * *

[*Existing sensitive industrial water supply*—An existing industrial water supply use which would require installation of additional water treatment by the industrial user if the total dissolved solids concentration in-stream exceeds 500 mg/l as a monthly average and 750 mg/l at one time.]

* * * * *

[*LC₅₀ value*—The concentration of a pollutant in test waters that is lethal to 50 of the test organisms during continuous exposure for a specified period of time.]

* * * * *

[*Maximum allowable daily load (MDL)*—The maximum amount of a pollutant from point and nonpoint sources which the receiving waters can

assimilate at the accepted design stream flow without endangering the achievement of the water quality standards.]

* * * * *

Natural quality—The water quality conditions that exist or that would reasonably be expected to exist in the absence of human related activity.

[*No demonstrable adverse effect on an ecological community*—A condition which would exist only if appropriate statistical analysis reveals that the relative abundance of each major grouping of organisms—that is, family, genus and species taxonomic levels—and the species diversity for major communities at upstream and downstream sampling stations is within the 95% confidence limits and that there is no shift in species from a mixed sensitive/facultative/tolerant composition structure to one favoring a facultative/tolerant composition structure.

Noncumulative pollutant—A pollutant which is not measurably increased in concentration within aquatic organisms relative to concentrations in the receiving waters.]

Nonthreshold effect—An adverse impact, including [*carcinogenesis*] *carcinogenic effects*, for which no exposure greater than zero assures protection to the exposed individual.

* * * * *

[*Q₇₋₁₀*—The actual or estimated lowest 7 consecutive-day average flow that occurs once in 10 years for a stream with unregulated flow, or the estimated minimum flow for a stream with regulated flow.

Representative important species—Species of aquatic life whose protection and propagation will assure the sustained presence of a balanced indigenous community. The species are representative in the sense that maintenance of water quality criteria will assure both the natural completion of the species' life cycles and the overall protection and sustained propagation of the balanced indigenous community.]

* * * * *

[*Safe concentration value*—An estimated pollutant concentration as may be determined by the Department from relevant aquatic field studies, substantial available scientific literature or bioassay tests tailored to the ambient quality of the receiving waters which will allow the survival of representative important species that have been chronically exposed to the concentration in the receiving waters.

State water plan—The reports, studies, inventories and plans prepared by the Department to guide the conservation, development and administration of the Commonwealth's water and related land resources as authorized by section 1904-A of The Administrative Code of 1929 (71 P. S. § 510-4).]

* * * * *

S

[*Test water*—A receiving water directly upstream from a waste discharge which is relatively unaffected by human activities, or a reconstituted water

which approximates the ambient chemical characteristics of these receiving waters.]

* * * * *

Thirty-day average—The arithmetic average of the samples collected during a consecutive 30-day period.

* * * * *

[*Water-quality-based effluent limitations*—An effluent limitation based on the need to attain or maintain specific water quality criteria in order to assure protection of a designated use.]

Water quality criteria—[Levels of parameters or stream conditions that need to be maintained or attained to prevent or eliminate pollution.] Numeric concentrations, levels or surface water conditions that need to be maintained or attained to protect existing and designated uses.

* * * * *

§ 93.2. Scope.

(a) This chapter sets forth water quality standards for [the] surface waters of [the] this Commonwealth, including wetlands. These standards are based upon water uses which are to be protected and will be considered by the Department in its regulation of discharges.

(b) [Where] When an interstate or international [agencies] agency under an interstate compact or international agreement [establish] establishes water quality standards regulations applicable to [the] surface waters of [the] this Commonwealth, including wetlands, more stringent than those in this title, the more stringent apply.

§ 93.3. Protected water uses.

Water uses which shall be protected, and upon which the development of water quality criteria shall be based, are set forth, accompanied by their identifying symbols, in [the following] Table 1:

TABLE 1

<i>Symbol</i>	<i>Protected Use</i>
	* * * * *
	<i>Recreation and fish consumption</i>
	* * * * *
F	<i>Fishing</i> —Use of the water for the legal taking of fish for recreation or consumption.
	* * * * *

(Editor's Note: Section 93.3 is also proposed to be amended in a proposed rulemaking at 27 Pa. B. 1459 (March 22, 1997).)

§ 93.4. Statewide water uses.

(a) *Statewide water uses*. [The] Except when otherwise specified in law or regulation, the uses set forth in Table 2 [were considered in determining the water quality criteria applicable to the particular waters listed in § 93.9 (relating to designated water uses and water quality criteria), except where otherwise indicated in § 93.9.] are applicable to all surface waters. These uses shall be protected in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and other applicable State and Federal laws and regulations.

TABLE 2

* * * * *

<i>Symbol</i>	<i>Use</i>
*	<i>Aquatic Life</i>
[WWF]	[Warm Water Fishes]
	* * * * *
	<i>Recreation and fish consumption</i>
B	Boating
F	Fishing
WC	Water Contact Sports
E	Esthetics

* Specific aquatic life uses are listed in §§ 93.9a—93.9z.

(b) *Less restrictive uses.* Less restrictive uses than those currently designated for particular waters listed in [§ 93.9] §§ 93.9a—93.9z may be adopted when it is demonstrated that the designated use is more restrictive than the existing use, the use cannot be attained by implementing effluent limits required under sections 301(b) and 306 of the Federal Clean Water Act (33 U.S.C.A. §§ 1311(b) and 1316) or implementing cost-effective and reasonable best management practices for nonpoint source control, and one or more of the following conditions exist:

[(1) The designated use is not attainable because of natural background conditions.

(2) The designated use is not attainable because of irretrievable man-induced conditions.

(3) Application of effluent limitations for existing sources more stringent than those required under section 301 of the Water Pollution Control Act (33 U.S.C.A. § 1311), to attain the designated use, would result in substantial and widespread adverse economic and social impact.]

(1) Naturally occurring pollutant concentrations (natural quality) prevent the attainment of the use.

(2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met.

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place.

(4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate the modification in a way that would result in the attainment of the use.

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles and the like, unrelated to water quality, preclude attainment of aquatic life uses.

(6) Controls more stringent than those required by sections 301(b) and 306 of the Federal Clean Water Act would result in substantial and widespread economic and social impact.

(Editor's Note: Sections 93.4(c) and (d)(1) and (2) are proposed to be amended and moved to a new § 93.4a in proposed rulemaking published at 27 Pa. B. 1439 (March 22, 1998).)

§ 93.5. [Application of water quality criteria to discharge of pollutants] (Reserved).

[(a) *Application of effluent limitations.* The water quality criteria prescribed in this chapter for the various designated uses of the waters of this Commonwealth apply to receiving waters and are not to be necessarily deemed to constitute the effluent limit for a particular discharge, but rather one of the major factors to be considered in developing specific limitations on the discharge of pollutants. Where water quality criteria become the controlling factor in developing specific effluent limitations, the procedures in § 95.3 (relating to waste load allocations) will be employed.

(b) *Design conditions.*

(1) Except if otherwise specified in this chapter, the water quality criteria in this chapter shall be achieved at stream flows equal to or exceeding Q_{7-10} . For streams where the Q_{7-10} flow is estimated to be zero, water quality criteria shall be achieved at the first downstream point where the stream is capable of supporting designated water uses, as defined in § 93.4 (relating to Statewide water uses).

(2) The Department may impose more restrictive design stream flow conditions where, in its judgment, the conditions are necessary for the protection of designated water uses.

(3) In establishing effluent limitations based on water quality criteria in this chapter, the Department may consider design conditions including, but not limited to, temperature, pH and hardness. The combination of design conditions shall provide a minimum 99% level of protection.

(c) *Application of ambient stream concentrations.* Where adopted water quality criteria as set forth in § 93.9 (relating to designated water uses and water quality criteria) are more stringent than ambient stream concentrations of specific water quality indicators, the ambient stream concentrations shall be deemed to be the applicable criteria used to establish specific effluent limits.

(d) *Application of osmotic pressure criterion for protection of aquatic life.* To protect aquatic life and irrigation where it occurs, the amount and composition of total dissolved solids in discharges into the surface waters of this Commonwealth shall be controlled so that the osmotic pressure of the receiving waters does not exceed either the criteria listed in paragraphs (1) or (2):

(1) Fifty milliosmoles per kilogram at any time.

(2) A less stringent osmotic pressure criterion established and based upon data obtained from bioassay or aquatic field studies conducted in accordance with the methodologies specified in subparagraphs (i) or (ii) respectively. In either case, the discharger shall submit a plan proposing the studies to be conducted; progress reports as the Department may require; and a report of the completed results of the testing including data collected and calculations made in recording, evaluating and interpreting the data. The alternate methodologies are as follows:

(i) *Bioassays.* Data shall be obtained from continuous flow bioassay tests conducted in a water

environment which is equal to or closely approximates that of the natural quality of the receiving waters. A safe osmotic pressure for a test solution which simulates projected instream conditions will be determined by establishment of a no-effect level—maximum acceptable toxicant concentration or by the determination of an experimentally derived application factor which would be applied to a 96-hour LC₅₀ bioassay test result utilizing one or more representative important species of benthic macroinvertebrates and fishes obtained from commercially available strains or wild populations from unpolluted streams or impoundments. Remaining bioassay testing protocol shall be conducted in accordance with continuous flow methodologies outlined in EPA Ecological Research Series Publication, *EPA-660/3-75-009, Methods of Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians (April, 1975)*; EPA Environmental Monitoring Series Publication, *EPA-600/4-78-012, Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms (July, 1978)*; *Standard Methods for the Examination of Water and Wastewater (15th Edition, 1980)*; *Standard Method of Test for ASTM D 1345-59 (Reapproved 1970 and published in the 1975 Annual Book of ASTM Standards)—Part 31—Water; or Biological Methods for the Assessment of Water Quality, ASTM Special Technical Publication 528, 1973*. The use of other methodologies is subject to prior written approval by the Department.

(ii) *Aquatic field studies*. The studies may be used when the stream above the source of total dissolved solids supports a balanced, indigenous aquatic community. Instream sampling stations shall be located directly upstream and downstream of the source of total dissolved solids and free of harm from other abatable point and nonpoint sources of pollution. Biological parameters including, but not limited to, benthic macroinvertebrates and fishes, shall be collected qualitatively or quantitatively, or both, on a quarterly basis for a minimum of 1 year. Sample replication should be adequate to determine precision of the data collected and to conduct appropriate statistical tests. Remaining biological field methods shall be conducted in accordance with *Standard Methods for the Examination of Water and Wastewater (15th Edition, 1980)*; *EPA-Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents, EPA-670/4-73-001, July, 1973, Cornelius I. Weber, ed; Techniques of Water Resources Investigations of the United States Geological Survey, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples by K. V. Slack, et al., 1973; EPA-Model State Water Monitoring Program, edited by Water Monitoring Task Force, R. L. Crim, Chairman, EPA-440/9-74-002, June, 1975*. It shall be demonstrated that the existing point source discharge of total dissolved solids will not result in a demonstrable adverse effect on the ecological community structure when upstream and downstream biological data are compared.

(e) *Application of potable water supply use criteria*.

(1) Water quality criteria for total dissolved solids (TDS₁), nitrite-nitrate nitrogen (N), phenolics (Phen₁) and fluoride (F₁) established for the protection of Statewide potable water use shall be applied so instream criteria are met at the point of with-

drawal for existing potable water supply systems, and at the point of projected withdrawal for new potable water supplies identified by the State Water Plan or a river basin commission plan as necessary to satisfy the demands of an existing or new potable water supply within the next 20 years. Criteria necessary to protect other designated uses shall be met at the point of wastewater discharge.

(2) The Department will include in every public notice of a draft NPDES permit published under § 92.61 (relating to public notice of permit application and public hearing) the location of the nearest downstream potable water supply considered in establishing proposed effluent limitations under this section, or a finding that no potable water supply will be affected by the proposed discharge.

(3) Wastewater discharges to waters designated for special protection in § 93.9 will continue to be regulated under § 95.1 (relating to general requirements).

(4) Whenever a point of projected withdrawal for a new potable water supply not previously considered is identified by an update to the State Water Plan or a river basin commission plan, or by the application for a water allocation permit from the Department, the Department will notify a discharger of total dissolved solids, nitrite-nitrate nitrogen, phenolics and fluoride of more stringent effluent limitations needed to protect the point of withdrawal. The discharger shall meet more stringent effluent limitations in accordance with a schedule approved by the Department. The Department will issue orders directing dischargers to achieve compliance, when necessary.

(f) *Application of total residual chlorine (TRC) criteria*.

(1) Except as provided in paragraph (2), facilities utilizing chlorine which discharge to waters of this Commonwealth shall meet the more stringent of the following:

(i) An effluent limitation representing the Best Available Technology (BAT) for the discharge of TRC. If the EPA adopts a National categorical effluent limit guideline (ELG) for TRC for a specific industry or activity under sections 301 and 304(b) of the Water Pollution Control Act (33 U.S.C.A. §§ 1311 and 1314(b)), that ELG shall constitute BAT for the industry or activity. If the EPA has not promulgated a National ELG for an industry or activity, the Department may develop a facility-specific BAT effluent limitation. Factors which will be considered in developing a facility-specific BAT effluent limitation include the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques and process changes (including source reduction measures in addition to end-of-pipe controls), the cost of achieving the effluent reduction, nonwater quality environmental impact (including energy requirements), and other factors the Department deems appropriate. For facilities where the EPA has not promulgated a National ELG for an industry or activity, and the Department has not developed a facility-specific BAT effluent limitation pursuant to the factors in this subparagraph, an effluent limitation for TRC of 0.5 mg/l (30-day average) shall constitute BAT.

(ii) A water-quality based effluent limitation for a facility developed in accordance with subsections (a) and (b), as applicable, which attains the water quality criteria for TRC specified in § 93.7(c), Table 3 (relating to specific water quality criteria).

(2) Facilities utilizing chlorine which discharge to Exceptional Value Waters, as defined in § 93.3 (relating to protected water uses), or High Quality Waters, as defined in § 93.3, where necessary economic or social justification of significant public value and other factors have not been demonstrated under § 95.1(b), shall dechlorinate their effluents prior to discharge into the waters.

(3) For facilities subject to paragraph (1)(ii), the Department may allow site-specific criteria under § 93.8 (relating to development of site-specific water quality criteria for the protection of aquatic life).

(4) Facilities which have discharges containing fecal coliform organisms shall effectively disinfect their discharges under § 95.7 (relating to effective disinfection).]

§ 93.6. General water quality criteria.

(a) Water may not contain substances attributable to point or nonpoint source [waste] discharges in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life.

* * * * *

§ 93.7. Specific water quality criteria.

(a) [Waters of this Commonwealth for which specific criteria have been established are listed in § 93.9 (relating to designated water uses and water quality criteria).

(b) References to specific criteria in § 93.9 shall be keyed to the list of specific criteria in subsection (c) and to the groups of criteria in subsection (d).

(c)] (a) [The following] Table 3 displays [the] specific water quality criteria and associated critical uses. [Unless otherwise specified, the specific criteria concentration limits are for the total rather than the dissolved, form of a substance.] The criteria associated with the Statewide water uses listed in Table 2 are applicable to all surface waters, unless a specific exception is indicated in §§ 93.9a—93.9z. Other specific water quality criteria are applicable to surface waters as specified in §§ 93.9a—93.9z. All applicable criteria shall be applied in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and other applicable State and Federal laws and regulations.

TABLE 3

Parameter	Symbol	Criteria	Critical Use*
[Aluminum]	[Al]	[Maximum 0.1 of the 96-hour LC50 for representative important species as determined through substantial available literature data or bioassay tests tailored to the ambient quality of the receiving waters.]	[1]
Alkalinity	Alk ₁	Minimum 20 mg/l as CaCO ₃ [, except where natural conditions are less. Where discharges are to waters with 20 mg/l or less alkalinity, the discharge should not further reduce the alkalinity of the receiving waters.]	[1] CWF, WWF, TSF, MF
	[Alk ₂]	[Minimum 20 mg/l as CaCO ₃ .]	[1]
	[Alk ₃]	[Between 20 and 100 mg/l.]	[DRBC]
	[Alk ₄]	[Between 20 and 120 mg/l.]	[DRBC]
Ammonia Nitrogen	Am	The maximum total ammonia nitrogen concentration at all times shall be the numerical value given by: un-ionized ammonia nitrogen (NH ₃ -N) × (log ⁻¹ [pK _T -pH] + 1), where: * * * * *	[1] CWF, WWF, TSF, MF
		[For purposes of calculating effluent limitations based on this value the accepted design stream flow shall be the actual or estimated lowest 30-consecutive-day average flow that occurs once in 10 years.]	
Bacteria	Bac ₁	(Fecal coliforms/100 ml)—During the swimming season (May 1 through September 30), the maximum fecal coliform level shall be a geometric mean of 200 per 100 milliliters (ml) based on a minimum of five consecutive samples each sample collected on different days during a 30-day period; for the remainder of the year, the maximum fecal coliform level shall be a geometric mean of 2,000 per 100 milliliters (ml) based on a minimum of five consecutive samples collected on different days during a 30-day period.	[3] WC

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use*</i>
	Bac ₂	(Coliforms/100 ml)—Maximum of 5,000/100 ml as a monthly average value, no more than this number in more than 20 of the samples collected during a month, nor more than 20,000/100 ml in more than 5% of the samples.	[2] PWS
	[Bac ₃]	[(Coliforms/100 ml)—Not more than 5,000/100 ml as a monthly geometric mean.]	[2]
	[Bac ₄]	[(Fecal Coliforms/100 ml)—Maximum geometric mean of 770/100 ml; samples shall be taken at a frequency and location to permit valid interpretation.]	[DRBC]
	[Bac ₅]	[The fecal coliform density in five consecutive samples may not exceed a geometric mean of 200/100 ml.]	[DRBC]
Chloride	[Ch ₁]	[Maximum 150 mg/l.]	[4]
	Ch[₂]	Maximum 250 mg/l.	[2] PWS
	[Ch ₃]	[Maximum 30-day average 180 mg/l.]	[DRBC]
	[Ch ₄]	[Maximum 15-day average 50 mg/l.]	[DRBC]
Color	[Col ₁]	[Maximum 50 units on the platinum-cobalt scale; no other colors perceptible to the human eye.]	[3]
	Col[₂]	Maximum 75 units on the platinum-cobalt scale; no other colors perceptible to the human eye.	[2] PWS
Dissolved Oxygen	DO ₁	Minimum daily average 6.0 mg/l; minimum 5.0 mg/l. For lakes, ponds and impoundments only, minimum 5.0 mg/l at any point.	[1] CWF, HQ-WWF, HQ-TSF
	DO ₂	Minimum daily average 5.0 mg/l; minimum 4.0 mg/l. For the epilimnion of lakes, ponds and impoundments, minimum daily average of 5.0 mg/l, minimum 4.0 mg/l.	[1] WWF
	[DO ₃]	[Minimum daily average not less than 5.0 mg/l; during periods April 1—June 15 and September 16—December 31, not less than 6.5 mg/l as a seasonal average.]	[DRBC]
	[DO ₄]	[Minimum daily average not less than 3.5 mg/l; during periods April 1—June 15 and September 16—December 31, not less than 6.5 mg/l as a seasonal average.]	[DRBC]
	DO[₅] ₃	For the period February 15 to July 31 of any year, minimum daily average of 6.0 mg/l, minimum 5.0 mg/l. For the remainder of the year, minimum daily average of 5.0 mg/l, minimum 4.0 mg/l.	[1] TSF
	DO[₆] ₄	Minimum 7.0 mg/l.	[1] HQ-CWF
Fluoride	F[₁]	Daily average 2.0 mg/l.	[2] PWS
	[F ₂]	Four-day average 0.01 of the 96-hour LC ₅₀ ; one-hour average 0.05 of the 96-hour LC ₅₀ for representative important species as determined through substantial available literature data or bioassay tests tailored to the ambient quality of the receiving water, or both.]	1
[Hardness]	[Hd ₁]	[Maximum monthly mean 150 mg/l.]	[DRBC]
	[Hd ₂]	[Maximum monthly mean 95 mg/l.]	[DRBC]
Iron	Fe ₁	[Daily] 30-day average 1.5 mg/l as total [iron; maximum 0.3 mg/l as dissolved iron] Recoverable.	[1,2] CWF, WWF, TSF, MF
	Fe ₂	Maximum 0.3 mg/l as dissolved	PWS
Manganese	Mn	Maximum 1.0 mg/l, as total recoverable.	[2] PWS
[Methylene Blue Active Substance]	[MBAS ₁]	[Not more than 0.5 mg/l.]	[DRBC]
	[MBAS ₂]	[Not more than 1.0 mg/l.]	[DRBC]
Nitrite plus Nitrate	N	Maximum 10 mg/l as nitrogen.	[2] PWS

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<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use*</i>
Osmotic Pressure	OP	Maximum 50 milliosmoles per kilogram [or criteria developed using § 93.5(d) (relating to the application of water quality criteria to discharge of pollutants).]	[1] CWF, WWF, TSF, MF
pH	pH	From 6.0 to 9.0 inclusive.	[1] CWF, WWF, TSF, MF
[Phenolics (except Section 307(a)(1) (33 U.S.C.A. § 1317(a)(1)), Priority Pollutants)]	[pH ₂]	[Not less than 6.5 and not more than 8.5.]	[DRBC]
	[pH ₃]	[From 7.0 to 9.0 inclusive.]	[1]
	[pH ₄]	[Not less than 6.0 and not more than 8.5.]	[DRBC]
	[Phen ₁]	[Maximum 0.005 mg/l.]	[2]
	[Phen ₂]	[Maximum 0.02 mg/l.]	[DRBC]
[Radioactivity]	[Phen ₃]	[Four-day average 0.02 mg/l; 1-hour average 0.1 mg/l.]	[1]
	Rad]	[Alpha emitters, maximum 3 pc/l; beta emitters, maximum 1,000 pc/l.]	[DRBC]
Sulfate	Sul	Maximum 250 mg/l.	[2] PWS
[Temperature]	[Temp ₁]	[Maximum temperatures in the receiving water body resulting from heated waste sources regulated under Chapter 97 (relating to industrial wastes), and other sources where the Department determines that temperature limits are necessary to protect designated uses, are as follows. Additionally, these wastes may not result in a change by more than 2°F during a 1-hour period. Exceptions to these thermal maxima may be granted on a case-specific basis under § 97.82(a)(2) (relating to allowable discharges).]	[1]
		[<i>Period</i>]	[<i>Temperature °F</i>]
		[January 1-31	38
		February 1-29	38
		March 1-31	42
		April 1-15	48
		April 16-30	52
		May 1-15	54
		May 16-31	58
		June 1-15	60
		June 16-30	64
		July 1-31	66
		August 1-31	66
		September 1-15	64
		September 16-30	60
		October 1-15	54
		October 16-31	50
		November 1-15	46
		November 16-30	42
		December 1-31	40]
[Parameter]	[Symbol]	[Criteria]	[Critical Use*]
[Temperature]	[Temp ₂]	[Maximum temperatures in the receiving water body resulting from heated waste sources regulated under Chapter 97, and other sources where the Department determines that temperature limits are necessary to protect designated uses, are as follows. Additionally, these wastes may not result in a change by more than 2°F during a 1-hour period. Exceptions to these thermal maxima may be granted on a case-specific basis under § 97.82(a)(2).]	[1]

[<i>Period</i>]	[<i>Temperature °F</i>]
[January 1-31	40
February 1-29	40
March 1-31	46
April 1-15	52
April 16-30	58
May 1-15	64
May 16-31	72
June 1-15	80
June 16-30	84
July 1-31	87
August 1-31	87
September 1-15	84
September 16-30	78
October 1-15	72
October 16-31	66
November 1-15	58
November 16-30	50
December 1-31	42]

[<i>Parameter</i>]	[<i>Symbol</i>]	[<i>Criteria</i>]	[<i>Critical Uses*</i>]
[Temperature]	[Temp ₃]	[Maximum temperatures in the receiving water body resulting from heated waste sources regulated under Chapter 97 and other sources where the Department determines that temperature limits are necessary to protect designated uses, are as follows. Additionally, these wastes may not result in a change by more than 2°F during a 1-hour period. Exceptions to these thermal maxima may be granted on a case-specific basis under § 97.82(a)(2).]	[1]

[<i>Period</i>]	[<i>Temperature °F</i>]
[January 1-31	40
February 1-29	40
March 1-31	46
April 1-15	52
April 16-30	58
May 1-15	64
May 16-31	68
June 1-15	70
June 16-30	72
July 1-31	74
August 1-15	80
August 16-30	87
September 1-15	84
September 16-30	78
October 1-15	72
October 16-31	66
November 1-15	58
November 16-30	50
December 1-31	42]

[<i>Parameter</i>]	[<i>Symbol</i>]	[<i>Criteria</i>]	[<i>Critical Uses*</i>]
Temperature		Maximum temperatures in the receiving water body resulting from heated waste sources regulated under Chapters 92, 96 and other sources where temperature limits are necessary to protect designated and existing uses.	See below

<i>Symbol:</i> <i>Critical Use:</i> <i>Period</i>	<i>Temp₁ CWF</i>	<i>Temp₂ WWF</i> <i>Temperature °F</i>	<i>Temp₃ TSF</i>
January 1-31	38	40	40
February 1-29	38	40	40
March 1-31	42	46	46
April 1-15	48	52	52
April 16-30	52	58	58

<i>Symbol: Critical Use: Period</i>	<i>Temp₁ CWF</i>	<i>Temp₂ WWF Temperature °F</i>	<i>Temp₃ TSF</i>
May 1-15	54	64	64
May 16-31	58	72	68
June 1-15	60	80	70
June 16-30	64	84	72
July 1-31	66	87	74
August 1-15	66	87	80
August 16-30	66	87	87
September 1-15	64	84	84
September 16-30	60	78	78
October 1-15	54	72	72
October 16-31	50	66	66
November 1-15	46	58	58
November 16-30	42	50	50
December 1-31	40	42	42

[<i>Parameter</i>]	[<i>Symbol</i>]	[<i>Criteria</i>]	[<i>Critical Use*</i>]
	[Temp ₄]	[No rise when ambient temperature is 87°F or above; not more than a 5°F rise above ambient temperature until stream temperature reaches 87°F; not to be changed by more than 2°F during any 1-hour period.]	[DRBC]
	[Temp ₅]	[Not more than 5°F above the average daily temperature during the 1961—66 period, which is shown below, or a maximum of 86°F, whichever is less.]	[DRBC]

[Average Daily Temperature]
[1961—1966]

[(Temperatures may be interpolated)]

[Date]	[Delaware Estuary, Head of Tide to River Mile 108.4 (about 1 mile below Pennypack Creek) °F]	[Delaware Estuary, River Mile 108.4 (about 1 mile below Pennypack Creek) to Big Timber Creek °F]	[Delaware Estuary From Big Timber Creek to Pennsylvania-Delaware State Line °F]
[January 1]	37	41	42
[February 1]	35	35	36
[March 1]	38	38	40
[April 1]	46	46	47
[May 1]	58	58	58
[June 1]	71	71	72
[July 1]	79	79	80
[August 1]	81	81	81
[September 1]	78	79	78
[September 15]	76	77	78
[October 1]	70	70	70
[November 1]	59	61	60
[December 1]	46	50	50
[December 15]	40	45	45]

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Uses*</i>
	[Temp ₆]	[Not more than 5°F rise above the ambient temperatures until stream temperatures reach 50°F; nor more than 2°F rise above ambient temperature when temperatures are between 50°F and 58°F; nor may temperatures exceed 58°F, whichever is less, except in designated heat dissipation areas.]	DRBC

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Uses*</i>
	[Temp ₇]	[As a guideline, the maximum length of heat dissipation areas may not be longer than 3,500 feet measured from the point where the waste discharge enters the stream. The width of heat dissipation areas may not exceed two-thirds the surface width measured from shore to shore at any stage of tide or the width encompassing one-fourth the cross-sectional area of the stream, whichever is less. Within any one heat dissipation area only one shore shall be used in determining the limits of the area. Where waste discharges are close to each other, additional limitations may be prescribed to protect water uses. Controlling temperatures shall be measured outside the heat dissipation area. The rate of temperature change in the heat dissipation area may not cause mortality of the fish.]	[DRBC]
	[Temp ₈]	[As a guideline, the maximum length of heat dissipation areas may not be longer than 3,500 feet or 20 times the average stream width, whichever is less, measured from the point where the waste discharge enters the stream. Heat dissipation areas may not exceed one-half the surface stream width or the width encompassing one-half the cross-sectional area of the stream, whichever is less. Within any one heat dissipation area only one shore may be used in determining the limits of the area. Where waste discharges are close to each other, additional limitations may be prescribed to protect stream uses. Controlling temperatures shall be measured outside the heat dissipation zone. The rate of temperature change in designated heat dissipation areas may not cause mortality of the fish.]	[DRBC]
	[Temp ₉]	[As a guideline, the maximum length of heat dissipation areas may not be longer than 1,000 feet or 20 times the average width of the stream, whichever is less, measured from the point where the waste discharge enters the stream. Heat dissipation areas may not exceed one-half the surface stream width or the width encompassing one-half the entire cross-sectional area of the stream, whichever is less. Within any one heat dissipation area only one shore shall be used in determining the limits of the area. Where waste discharges are close to each other, additional limitations may be prescribed to protect water uses. Controlling temperatures shall be measured outside the heat dissipation zone. The rate of temperature change in designated heat dissipation areas may not cause mortality of the fish.]	[DRBC]
[Threshold Odor Number]	[TON]	[Maximum 24 at 60°C.]	[3]
Total Dissolved Solids	TDS ₁	500 mg/l as a monthly average value; maximum 750 mg/l.	[2] PWS
	[TDS ₂]	Maximum 1,500 mg/l.]	[1]
	[TDS ₃]	Not to exceed 133% of ambient stream concentration or 500 mg/l, whichever is less.]	[DRBC]
	[TDS ₄]	Not to exceed 133% of ambient stream concentration.	[DRBC]
Total Residual Chlorine	TRC	Four-day average 0.011 mg/l; 1-hour average 0.019 mg/l.	[1] CWF, WWF, TSF, MF
[Turbidity]	[Tur ₁]	[Not more than 30 NTU during the period May 30—September 15, nor more than a monthly mean of 40 NTU or a maximum of 150 NTU during the remainder of the year.]	[DRBC]
	[Tur ₂]	Maximum monthly mean 40 NTU, maximum value not more than 150 NTU.]	[DRBC]
	[Tur ₃]	[Not more than 100 NTU.]	[1]
	[Tur ₄]	[For the period May 15—September 15 of any year, not more than 40 NTU; for the period September 16—May 14 of any year, not more than 100 NTU.]	[1]

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Uses*</i>
	[Tur ₅]	[Maximum monthly mean of 10 NTU, maximum 150 NTU.]	[DRBC]
	[Tur ₆]	[Maximum monthly mean of 20 NTU, maximum 150 NTU.]	[DRBC]
	[Tur ₇]	[Maximum monthly mean of 30 NTU, maximum 150 NTU.]	[DRBC]

*Critical use: The most sensitive designated or existing water use the criteria are designed to protect [, identified by the following:]

- 1 = Aquatic Life
- 2 = Water Supply
- 3 = Recreation (including esthetics)
- 4 = Special Protection

DRBC = Criteria adopted by agreement with the Delaware River Basin Commission and that apply only to selected portions of the Delaware River Basin in this Commonwealth.]

[(d) Unless otherwise specified in subsection (e), §§ 93.5(d) and (e) and 93.9, Statewide specific criteria in the following Table 4 apply to the surface waters of this Commonwealth.]

TABLE 4

[Symbol]	[Specific Water Quality Criteria]
[Al	Aluminum
Alk ₁	Alkalinity
Am	Ammonia Nitrogen
Bac ₁	Bacteria
F ₁ & F ₂	Fluoride
Fe	Iron
Mn	Manganese
N	Nitrite plus Nitrate
OP	Osmotic Pressure
pH ₁	Ph
Phen ₁ & Phen ₃	Phenolics
TDS ₁	Total Dissolved Solids
TRC	Total Residual Chlorine]

[(e) Table 5 contains groups of specific water quality criteria based upon water uses to be protected. When the symbols listed in Table 5 appear in the *Water Uses Protected* column in § 93.9, they have the meaning listed in the Table 5. Exceptions to these standardized groupings will be indicated on a stream-by-stream or segment-by-segment basis by the words “Add” or “Delete” followed by the appropriate symbols described elsewhere in this chapter.]

TABLE 5

[Symbol]	[Water Uses Included]	[Specific Criteria]
[WWF	Statewide list	Statewide list plus DO ₂ and Temp ₂
CWF	Statewide list plus Cold Water Fish	Statewide list plus DO ₁ and Temp ₁
TSF	Statewide list plus Trout Stocking	Statewide list plus DO ₅ and Temp ₃
HQ-WWF	Statewide list plus High Quality Waters	Statewide list plus DO ₁ and Temp ₂
HQ-CWF	Statewide list plus High Quality Waters and Cold Water Fish	Statewide list plus DO ₆ and Temp ₁
HQ-TSF	Statewide list plus High Quality Waters and Trout Stocking	Statewide list plus DO ₁ and Temp ₃
EV	Statewide list plus Exceptional Value Waters	Existing quality]

[(f)] (b) The list of specific water quality criteria does not include all possible substances that could cause pollution. For substances not listed, the general criterion that these substances may not be inimical or injurious to the designated water uses applies. [The best scientific information available will be used to adjudge the suitability of a given waste discharge where these substances are involved.] The Department may develop a criterion for any substance not listed in Table 3 that is determined to be inimical or injurious to existing or designated water uses using the best available scientific information, as determined by the Department.

(c) If the Department determines that natural quality of a surface water segment is of lower quality than the applicable criteria listed in Table 3, the natural quality shall constitute the criteria for that segment. All draft natural quality determinations will be published in the *Pennsylvania Bulletin* and subject to a minimum 30-day comment period. The Department will maintain a publicly available list of surface waters and parameters where this subsection applies, and from time to time submit appropriate amendments to §§ 93.9a—93.9z.

§ 93.8. Development of site-specific water quality criteria for the protection of aquatic life.

(a) The Department will consider a request for site-specific criteria for protection of aquatic life, human health or wildlife when a person demonstrates that there exist site-specific biological or chemical conditions of receiving waters or exposure factors which differ from conditions upon which the water quality criteria were based. Site-specific criteria may be developed for use only in place of current Statewide or regional (such as the Great Lakes Systems) criteria. The request for site-specific criteria shall include the results of scientific studies for the purpose of:

(1) Defining the areal boundaries for application of the site-specific criteria which will include the potentially affected wastewater dischargers identified by the Department, through various means, including, but not limited to, [**water quality modeling, the wasteload allocation process**] **the total maximum daily load (TMDL) process described in Chapter 96 (relating to water quality standards implementation)** or biological assessments.

* * * * *

(c) [**This section applies to the criteria in regulations adopted by the EQB, including § 93.5(f) (relating to application of total residual chlorine criteria); § 93.7, Table 3 (relating to specific water quality criteria) or in the statement of policy implementing § 93.8a (relating to toxic substances) set forth at § 16.51 (relating to table) and § 16.61 (relating to water quality criteria for the Great Lakes System); or otherwise forming the basis for effluent limitations established under § 93.7(f). These provisions include criteria developed by the EPA under section 304(a) of the Water Pollution Control Act (33 U.S.C.A. § 1314(a)), and adopted in their original or modified form, and criteria developed by the Department.**

(d)] ***

[(e)] (d) ***

[(f)] (e) ***

[(g)] (f) ***

§ 93.8a. Toxic substances.

* * * * *

(e) [**Design conditions for toxics shall be determined under § 93.5(b) (relating to application of water quality criteria to discharge of pollutants), except that for] Water quality criteria for toxics shall be applied in accordance with Chapter 96 (relating to water quality standards implementation) and other applicable State and Federal laws and regulations. For carcinogens, the design [**stream flow**] conditions shall [**be that which results**] result in a lifetime—70 years—average exposure corresponding to the risk management level specified in subsection (d).**

* * * * *

(h) [**The Department may require effluent toxicity testing as a basis for limiting the addition of toxic substances to waters of this Commonwealth, and may establish water quality based effluent limitations based on the results of effluent toxicity testing.**

(i)] (h) ***

[(j)] (i) ***

[(k)] (l)

* * * * *

§ 93.9. Designated water uses and water quality criteria.

(a) [**Except as provided in § 93.5(d) and (e) (relating to the application of water quality criteria to discharge of pollutants), the] The tables in §§ 93.9a—93.9z display designated water uses and water quality criteria in addition to the water uses and criteria apecified in Tables 2 and 3. Designated uses shall be protected in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and other applicable State and Federal laws and regulations. The tables also indicate specific exceptions to Tables 2 and 3 on a stream by stream or segment basis by the words “add” or “delete” followed by the appropriate symbols described elsewhere in this chapter. The county column in §§ 93.9a—93.9z indicates the county in which the mouth of the stream is located. Abbreviations used in the “Zone” column are as follows:**

* * * * *

(b) **Where appropriate, “exceptions to specific criteria” provide reference to DRBC (Delaware River Basin Commission) water quality regulations, ORSANCO (Ohio River Valley Water Sanitation Commission) pollution control standards and the GLWQA (Great Lakes Water Quality Agreement) which specify the criteria that apply. The applicable criteria can be obtained from the following:**

**Delaware River Basin Commission
P. O. Box 7360
West Trenton, New Jersey 08628
(609) 883-9500**

Ohio River Valley Water Sanitation Commission
 5735 Kellogg Ave.
 Cincinnati, Ohio 45228
 (513) 231-7719

GLWQA: International Joint Commission
 Great Lakes Regional Office
 100 Ouellette Ave., 8th Floor
 Windsor Ontario, Canada N9A 6T3
 (519) 257-6700

[(b)] (c) ***
 [(c)] (d) * * *

* * * * *

§ 93.9a. Drainage List A.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
2—West Branch Delaware River	Main Stem, PA-NY State Border to Confluence with East Branch	Wayne	CWF, MF	[<i>Delete Bac₁, pH₁, Temp₁ and TDS₁ Add Bac₅, pH₄, Temp₆, Temp₉, TDS₃, Tur₅, TON, Rad and MBAS₁] See DRBC Regulations—Water Quality Zone 1A</i>
1—Delaware River	Main Stem, Confluence of East and West Branches to PA 652 Bridge (Narrowsburg, NY)	Wayne	CWF, MF	[<i>Delete Bac₁, pH₁, Temp₁ and TDS₁ Add Bac₅, pH₄, Temp₆, Temp₉, TDS₃, Tur₅, TON, MBAS₁ and Rad] See DRBC Regulations—Water Quality Zone 1A</i>
1—Delaware River	Main Stem, PA 652 Bridge to Lackawaxen River	Pike	WWF, MF	[<i>Delete Bac₁, pH₁ and TDS₁ Add Bac₅, pH₄, Temp₄, Temp₉, TON, TDS₃, Tur₅, MBAS₁ and Rad] See DRBC Regulations—Water Quality Zone 1B</i>

§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River	Main Stem, Lackawaxen River to Tocks Island	Pike	WWF, MF	[<i>Delete Bac₁, pH₁ and TDS₁ Add Bac₅, pH₄, Temp₄, Temp₉, TON, TDS₃, Tur₅ upstream of RM 254.75 and Tur₆, downstream of RM 254.75, MBAS₁ and Rad] See DRBC Regulations—Water Quality Zone 1B/1C</i>

* * * * *

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River	Main Stem, Tocks Island to Lehigh River	Northampton	WWF, MF	[<i>Delete</i> Bac ₁ , pH ₁ and TDS ₁ . <i>Add</i> Bac ₅ , pH ₄ , Temp ₄ , Temp ₈ , TON, TDS ₃ , Tur ₆ , MBAS ₁ and Rad] See DRBC Regulations—Water Quality Zone 1D
		* * * * *		

§ 93.9e. Drainage List E.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River	Main Stem, Lehigh River to Head of Tide	Bucks	WWF [;] MF	[<i>Delete</i> Bac ₁ , pH ₁ and TDS ₁ . <i>Add</i> Bac ₅ , MBAS ₁ , pH ₄ , Rad, TDS ₃ , Temp ₄ , Temp ₈ , TON and Tur ₇] See DRBC Regulations—Water Quality Zone 1E
		* * * * *		
1—Delaware Estuary	Tidal Portions of Basin, Head of Tide to Burlington-Bristol Bridge	Bucks	WWF, MF	[<i>Delete</i> Alk ₁ , Bac ₁ , DO ₂ , pH ₁ , Temp ₂ , TDS ₁ and Am. <i>Add</i> Alk ₃ , Bac ₅ , Enterococcus—maximum geometric average 33 per 100 ml, Ch ₄ , DO ₃ , Hd ₂ , MBAS ₁ , pH ₂ , Rad, TDS ₃ , Temp ₅ , Temp ₇ , TON and Tur ₁] See DRBC Regulations—Water Quality Zone 2
		* * * * *		

2—Neshaminy Creek

The following criteria are specific to waters in the Neshaminy Creek Basin where indicated, based on special studies.

Parameter	Symbol	Criteria	Critical Use
Turbidity	Tur ₃ Tur ₄	Not more than 100 NTU. For the period May 15—September 15 of any year, not more than 40 NTU; for the period September 16—May 14 of any year, not more than 100 NTU.	PWS, WWF, MF PWS, CWF, WWF, MF

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—West Branch Neshaminy Creek	Basin, Source to Confluence with North Branch	Bucks	WWF, MF	<i>Add</i> [Col ₂ ,] Tur ₄
3—North Branch Neshaminy Creek	Basin, Source to Tailwaters of Lake Galena	Bucks	WWF	<i>Add</i> [Col ₂ ,] Tur ₄
3—North Branch Neshaminy Creek	Basin, Lake Galena	Bucks	WWF	<i>Add</i> [Col ₂ ,] Tur ₄
3—North Branch Neshaminy Creek	Basin, Lake Galena Dam to Confluence with West Branch	Bucks	TSF, MF	<i>Add</i> [Col ₂ ,] Tur ₄
2—Neshaminy Creek	Main Stem, Confluence of West and North Branches to PA 614 Dam	Bucks	TSF, MF	<i>Add</i> [Col ₂ ,] Tur ₄
3—Unnamed Tributaries to Neshaminy Creek	Basins, Confluence of West and North Branches to proposed PA 614 Dam	Bucks	TSF, MF	<i>Add</i> [Col ₂ ,] Tur ₄

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3—Cooks Run	Basin	Bucks	WWF, MF	Add [Col₂,] Tur₄
3—Mill Creek	Basin	Bucks	TSF, MF	Add [Col₂,] Tur₄
3—Country Club Creek	Basin	Bucks	WWF, MF	Add [Col₂,] Tur₄
2—Neshaminy Creek	Non-Tidal Portion of Main Stem, proposed PA 614 Dam to Mouth	Bucks	WWF, MF	Add [Col₂ and] Tur₃
3—Unnamed Tributaries to Neshaminy Creek	Non-Tidal Portions of Basins, proposed PA 614 Dam to Mouth	Bucks	WWF, MF	Add [Col₂ and] Tur₃
3—Little Neshaminy Creek	Basin	Bucks	WWF, MF	Add [Col₂ and] Tur₃
3—Mill Creek	Basin, Source to Watson Creek	Bucks	CWF, MF	Add [Col₂ and] Tur₄
4—Watson Creek	Basin	Bucks	CWF, MF	Add [Col₂ and] Tur₄
3—Mill Creek	Basin, Watson Creek to Mouth	Bucks	WWF, MF	Add [Col₂ and] Tur₃
3—Core Creek	Basin, Source PA 620 Dam	Bucks	CWF, MF	Add [Col₂ and] Tur₄
3—Core Creek	Basin, PA 620 Dam to Mouth	Bucks	WWF, MF	Add [Col₂ and] Tur₃
3—Mill Creek	Basin	Bucks	WWF, MF	Add [Col₂ and] Tur₃
1—Delaware Estuary	Tidal Portions of Basin, Burlington-Bristol Bridge to RM 108.4	Philadelphia	WWF, MF	Add [Col₂ and] Tur₃ [Delete Alk₁, Bac₁, DO₂, pH₁, Temp₂, TDS₁ and Am. Add Alk₃, Bac₅, Enterococcus maximum geometric average 33 per 100 ml, Ch₄, DO₃, Hd₂, MBAS₁, pH₂, Rad, TDS₃, Temp₅, Temp₇, Tur₂ and TON] See DRBC Basin Regulations—Water Quality Zone 2
		* * * * *		
1—Delaware Estuary	Tidal Portions of Basin, RM 108.4 to Big Timber Creek (NJ)	Philadelphia	WWF (Maintenance Only); MF (Passage Only); Delete WC	[Delete Alk₁, Bac₁, DO₂, pH₁, Temp₂, TDS₁ and Am Add Alk₄, Bac₄, Enterococcus—maximum geometric average 88 per ml, Ch₃ at RM 98, Sodium—maximum 30-day average 100 mg/l at RM 98, DO₄, Hd₁, MBAS₂, pH₂, TDS₃, Temp₅, Temp₉, TON, Tur₂ and Rad] See DRBC Basin Regulations—Water Quality Zone 3
		* * * * *		
1—Delaware Estuary	Tidal Portions of Basin, Big Timber Creek (NJ) to Philadelphia-Delaware County Border	Philadelphia-Delaware	WWF (Maintenance Only); MF (Passage Only); N Delete WC , PWS, LWS and IRS	[Delete Alk₁, Bac₁, DO₂, F, N, pH₁, Phen₁, Temp₂, TDS₁ and Am Add Alk₄, Bac₄, Enterococcus—maximum geometric average 88 per 100 ml, DO₄, MBAS₂, pH₂, Phen₂, Rad, TDS₄, Temp₅, Temp₇, TON and Tur₂] See DRBC Basin Regulations—Water Quality Zone 4
		* * * * *		

§ 93.9g. Drainage List G.

Delaware River Basin in Pennsylvania

Delaware River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Delaware Estuary	Tidal Portions of Basin, Philadelphia-Delaware County Border to PA-DE State Border	Delaware	WWF (Maintenance Only); MF (Passage Only); Delete PWS, LWS, IRS. Delete WC above RM 81.8	[Delete Alk ₁ , Bac ₁ , DO ₂ , F, N, pH ₁ , Phen ₁ , Temp ₂ , TDS ₁ and Am Add Alk ₄ above RM 81.8: Bac ₄ , Enterococcus—maximum geometric average 88 per 100 ml; below RM 81.8: Bac ₅ , and Enterococcus—maximum geometric average 33 per 100 ml, DO ₄ , MBAS ₂ , pH ₂ , Phen ₂ , TDS ₄ , Temp ₅ , Temp ₇ , TON, Tur ₂ and Rad] See DRBC Basin Regulations—Water Quality Zone 4
		* * * * *		
3—Brandywine Creek	Main Stem, Confluence of East and West Branches to PA-DE State Border	Delaware	WWF, MF	[Add TON] None
		* * * * *		

§ 93.9i. Drainage List I.

Susquehanna River Basin in Pennsylvania

Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
1—Susquehanna River	Main Stem, PA-NY State Border near Milltown to Lackawanna River	Luzerne	WWF	[Add TON and Mn] None
		* * * * *		

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania

West Branch Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
3—Bald Eagle Creek	Main Stem, Nittany Creek to Mouth	Centre	WWF	[Add Col ₂] None
		* * * * *		
3—Chatham Run	Basin, Chatham Water Co. Intake to Mouth	Clinton	CWF	[Add Col ₂] None
		* * * * *		

§ 93.9m. Drainage List M.

Susquehanna River Basin in Pennsylvania

Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Susquehanna River	Main Stem, West Branch Susquehanna River to Juniata River	Perry	WWF	[Add Mn] None
	* * * * *			

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

Juniata River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
4—Halter Creek	Basin	Blair	WWF	[Add Col₂] None
3—Frankstown Branch Juniata River	Main Stem, Halter Creek to Piney Creek	Blair	WWF	[Add Col₂] None
		* * * * *		
3—Frankstown Branch Juniata River	Main Stem, Piney Creek to US 22 Bridge	Huntingdon	TSF	[Add Col₂] None
		* * * * *		
3—Frankstown Branch Juniata River	Main Stem, US 22 Bridge to Confluence with Little Juniata River	Huntingdon	WWF	[Add Col₂] None
		* * * * *		
3—Little Juniata River	Main Stem, South Bald Eagle Creek to Spruce Creek	Huntingdon	TSF	[Add Col₂] None
		* * * * *		
3—Little Juniata River	Main Stem, Spruce Creek to Confluence with Frankstown Branch	Huntingdon	CWF	[Add Col₂] None
		* * * * *		

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania

Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Susquehanna River	Main Stem, Juniata River to PA-MD State Border	York Lancaster	WWF	[Add Mn] None
		* * * * *		
2—Yellow Breeches Creek	Main Stem, LR 21012 to Mouth	Cumberland York-Dauphin	CWF	Delete DO₁ Add DO[₆]₄
		* * * * *		
2—Codorus Creek	Main Stem, Oil Creek to Mouth	York	WWF	Add Col[₁] or: maximum 50 units on the Platinum-Cobalt Scale; no other colors perceptible to the human eye.

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		

§ 93.9p. Drainage List P.

Ohio River Basin in Pennsylvania

Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Ohio River 2—Allegheny River	Main Stem, Source to PA-NY State Border	McKean	CWF	[Add Ch₁, MBAS₁ and TON] None
		* * * * *		
3—Knapp Creek	Main Stem	McKean	CWF	[Add Ch₂] None
		* * * * *		
3—Indian Creek	Main Stem, PA-NY State Border to Mouth	McKean	CWF	[Add Ch₂] None
		* * * * *		
3—Tunungwant Creek	Main Stem, Confluence of East and West Branches to PA-NY State Border	McKean	WWF	[Add Ch₂] None
		* * * * *		
3—Oswayo Creek	Main Stem, Source to Honeoye Creek	McKean	CWF	[Add Ch₁] None
		* * * * *		
4—Honeoye Creek	Main Stem, PA-NY State Border to Mouth	Potter	CWF	[Add Ch₁] None
		* * * * *		
3—Oswayo Creek	Main Stem, Honeoye Creek to PA-NY State Border	McKean	WWF	[Add Ch₁] None
		* * * * *		
3—Tunungwant Creek	Main Stem, Confluence of East and West Branches to PA-NY State Border	McKean	WWF, Delete WC	[Add Ch₂] None
		* * * * *		

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania

Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
2—Allegheny River	Main Stem, PA-NY State Border to Clarion River	Clarion	WWF	[Add Ch₁, MBAS₁ and TON] None
		* * * * *		
3—Brokenstraw Creek	Main Stem, PA-NY State Border to Mouth	Warren	CWF	[Add Ch₁] None
		* * * * *		

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3—Oil Creek	Main Stem, Source to Cherrytree Run	Venango	CWF	[<i>Add TON</i>] None
4—Unnamed Tributaries to Oil Creek	Basins, Source to Cherrytree Run	Crawford-Venango	CWF	[<i>Add TON</i>] None
4—West Shreve Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—East Shreve Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Mosey Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Bloomfield Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—East Branch Oil Creek	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Marsh Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Thompson Creek	Basin	Crawford	CWF	[<i>Add TON</i>] None
5—Shirley Run	Basin	Crawford	HQ-CWF	[<i>Add TON</i>] None
4—Thompson Creek	Basin, Shirley Run to Mouth	Crawford	CWF	[<i>Add TON</i>] None
4—Church Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Pine Creek	Main Stem	Crawford	CWF	[<i>Add TON</i>] None
5—Unnamed Tributaries to Pine Creek	Basins	Warren-Crawford	CWF	[<i>Add TON</i>] None
5—Campbell Creek	Basin	Warren	CWF	[<i>Add TON</i>] None
5—Dunham Run	Basin	Warren	CWF	[<i>Add TON</i>] None
5—Caldwell Creek	Basin	Crawford	HQ-CWF	[<i>Add TON</i>] None
5—Henderson Run	Basin	Crawford	CWF	[<i>Add TON</i>] None
4—Benninghof Run	Basin	Venango	CWF	[<i>Add TON</i>] None
4—Cherrytree Run	Basin	Venango	CWF	[<i>Add TON</i>] None
3—Oil Creek	Main Stem, Cherrytree Run to Mouth	Venango	WWF	[<i>Add TON</i>] None
4—Unnamed Tributaries to Oil Creek	Basins, Cherrytree Run to Mouth	Venango	CWF	[<i>Add TON</i>] None
4—Cherry Run	Basin, Source to Rouseville Corporate Boundary	Venango	HQ-CWF	[<i>Add TON</i>] None
4—Cherry Run	Basin, Rouseville Corporate Boundary to Mouth	Venango	CWF	[<i>Add TON</i>] None
4—Cornplanter Run	Basin	Venango	CWF	[<i>Add TON</i>] None
		* * * * *		
3—French Creek	Main Stem, PA-NY State Border to Mouth	Venango	WWF	[<i>Add MBAS₁ and TON</i>] None
		* * * * *		

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania

Clarion River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Ohio River				
2—Allegheny River				
3—Clarion River				
4—East Branch Clarion River	Basin, Source to Confluence with West Branch	Elk	HQ-CWF	[<i>Add TON</i>] None
4—West Branch Clarion River	Main Stem, Source to Confluence with East Branch	Elk	CWF	[<i>Add TON</i>] None
5—Unnamed Tributaries to West Branch Clarion River	Basins, Source to Confluence with East Branch	McKean-Elk	CWF	[<i>Add TON</i>] None
5—Windfall Run	Basin	McKean	CWF	[<i>Add TON</i>] None
5—Sicily Run	Basin	McKean	CWF	[<i>Add TON</i>] None
5—Buck Run	Basin	McKean	CWF	[<i>Add TON</i>] None
5—Rocky Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Nearing Run	Basin	Elk	CWF	[<i>Add TON</i>] None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
5—Wilson Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Oil Creek	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Wolf Run	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None
5—Meffert Creek	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Silver Creek	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None
3—Clarion River	Main Stem, Confluence of East and West Branches to Mouth	Clarion	CWF	[<i>Add TON</i>] None
4—Unnamed Tributaries to Clarion River	Basins, Confluence of East and West Branches to Mouth	Elk-Forest-Jefferson-Clarion	CWF	[<i>Add TON</i>] None
4—Johnson Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Powers Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Riley Run	Basin	Elk	WWF	[<i>Add TON</i>] None
4—Little Mill Creek	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None
4—Mason Creek	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Elk Creek	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Island Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Big Mill Creek	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None
4—Connerville Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Dog Hollow Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Gillis Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Little Toby Creek	Main Stem	Elk	CWF	[<i>Add TON</i>] None
5—Unnamed Tributaries to Little Toby Creek	Basins	Elk-Jefferson	CWF	[<i>Add TON</i>] None
5—Limestone Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Kyler Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—McCauley Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Sawmill Run	Main Stem	Elk	CWF	[<i>Add TON</i>] None
6—Unnamed Tributaries to Sawmill Run	Basins	Elk	CWF	[<i>Add TON</i>] None
6—Lost Run	Basin, Source to Fox Township Municipal Authority Dam	Elk	HQ-CWF	[<i>Add TON</i>] None
6—Lost Run	Basin, Fox Township Municipal Authority Dam to Mouth	Elk	CWF	[<i>Add TON</i>] None
5—Brandy Camp Creek	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Johnson Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Bear Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Oyster Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Mead Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Boggy Run	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None
5—Whetstone Branch	Basin, Source to Brockway Municipal Authority No. 1 Dam	Elk	HQ-CWF	[<i>Add TON</i>] None
5—Whetstone Branch	Basin, Brockway Municipal Authority No. 1 Dam to Mouth	Elk	CWF	[<i>Add TON</i>] None
5—Walburn Run	Basin	Jefferson	CWF	[<i>Add TON</i>] None
5—Rattlesnake Creek	Basin, Source to Brockway Municipal Authority Dam	Jefferson	HQ-CWF	[<i>Add TON</i>] None
5—Rattlesnake Creek	Basin, Brockway Municipal Authority Dam to Mouth	Jefferson	CWF	[<i>Add TON</i>] None
5—Baghdad Run	Basin	Jefferson	CWF	[<i>Add TON</i>] None
5—Jenkins Run	Basin	Jefferson	CWF	[<i>Add TON</i>] None
5—Little Vineyard Run	Basin	Jefferson	CWF	[<i>Add TON</i>] None
5—Vineyard Run	Basin	Jefferson	CWF	[<i>Add TON</i>] None
5—Coward Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Laurel Run	Basin	Elk	CWF	[<i>Add TON</i>] None
5—Bearmouth Run	Basin	Elk	CWF	[<i>Add TON</i>] None
4—Bear Creek	Basin	Elk	HQ-CWF	[<i>Add TON</i>] None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4—Mahood Run	Basin	Elk	CWF	[Add TON] None
4—Beech Bottom Run	Basin	Elk	CWF	[Add TON] None
4—Lake City Run	Basin	Elk	CWF	[Add TON] None
4—Cole Run	Main Stem	Elk	CWF	[Add TON] None
5—Unnamed Tributaries to Cole Run	Basins	Elk	CWF	[Add TON] None
5—Crow Run	Basin	Elk	HQ-CWF	[Add TON] None
4—Irwin Run	Basin	Elk	CWF	[Add TON] None
4—Spring Creek	Basin	Elk	HQ-CWF	[Add TON] None
4—Maxwell Run	Basin	Elk	HQ-CWF	[Add TON] None
4—Elliott Run	Basin	Elk	CWF	[Add TON] None
4—Daugherty Run	Basin	Jefferson	CWF	[Add TON] None
4—Raught Run	Basin	Elk	CWF	[Add TON] None
4—Painter Run	Basin	Elk	CWF	[Add TON] None
4—Church Run	Basin	Elk	CWF	[Add TON] None
4—Callen Run	Basin	Jefferson	HQ-CWF	[Add TON] None
4—Cline Run	Basin	Elk	CWF	[Add TON] None
4—Wyncoop Run	Basin	Elk	HQ-CWF	[Add TON] None
4—Leeper Run	Basin	Elk	CWF	[Add TON] None
4—Pine Run	Basin	Elk	CWF	[Add TON] None
4—Mill Stone Creek	Basin	Elk	HQ-CWF	[Add TON] None
4—Shippen Run	Basin	Forest	CWF	[Add TON] None
4—Clear Creek	Basin	Jefferson	HQ-CWF	[Add TON] None
4—Tadler Run	Basin	Jefferson	CWF	[Add TON] None
4—Cherry Run	Basin	Forest	HQ-CWF	[Add TON] None
4—Maple Creek	Basin	Forest	HQ-CWF	[Add TON] None
4—Coleman Run	Basin	Forest	HQ-CWF	[Add TON] None
4—Troutman Run	Basin	Forest	HQ-CWF	[Add TON] None
4—Henry Run	Basin	Forest	CWF	[Add TON] None
4—Toms Run	Basin	Forest	CWF	[Add TON] None
4—Cather Run	Basin	Clarion	HQ-CWF	[Add TON] None
4—Maxwell Run	Basin	Clarion	HQ-CWF	[Add TON] None
4—Blyson Run	Basin	Clarion	EV	None
4—Mill Creek	Main Stem, Source to Little Mill Creek	Clarion	HQ-CWF	[Add TON] None
5—Unnamed Tributaries to Mill Creek	Basins, Source to Little Mill Creek	Clarion-Jefferson	HQ-CWF	[Add TON] None
4—Mill Creek				
5—Parks Run	Basin	Jefferson	HQ-CWF	[Add TON] None
5—Martin Run	Basin	Jefferson	HQ-CWF	[Add TON] None
5—Rankin Run	Basin	Jefferson	HQ-CWF	[Add TON] None
5—Updike Run	Basin	Jefferson	HQ-CWF	[Add TON] None
5—McCanna Run (Pendleton Run)	Basin	Clarion	EV	None
5—Little Mill Creek	Basin	Clarion	CWF	[Add TON] None
4—Mill Creek	Main Stem, Little Mill Creek to Mouth	Clarion	CWF	[Add TON] None
5—Unnamed Tributaries to Mill Creek	Basins, Little Mill Creek to Mouth	Clarion	HQ-CWF	[Add TON] None
5—Douglass Run	Basin	Clarion	CWF	[Add TON] None
5—Woods Run	Basin	Clarion	HQ-CWF	[Add TON] None
5—Stroup Run	Basin	Clarion	HQ-CWF	[Add TON] None
5—Trap Run	Basin	Clarion	HQ-CWF	[Add TON] None
5—Whites Run	Basin	Clarion	CWF	[Add TON] None
4—Reeds Run	Basin	Clarion	CWF	[Add TON] None
4—Toby Creek	Basin	Clarion	CWF	[Add TON] None
4—Trout Run	Basin	Clarion	CWF	[Add TON] None
4—Courtleys Run	Basin	Clarion	CWF	[Add TON] None
4—Piney Creek	Basin	Clarion	CWF	[Add TON] None
4—Deer Creek	Basin	Clarion	CWF	[Add TON] None
4—Canoe Creek	Basin	Clarion	HQ-CWF	[Add TON] None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4—Beaver Creek	Basin	Clarion	HQ-CWF	[Add TON] None
4—Licking Creek	Basin	Clarion	CWF	[Add TON] None
4—Turkey Creek	Basin	Clarion	HQ-CWF	[Add TON] None

§ 93.9u. Drainage List U.

Ohio River Basin in Pennsylvania

Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Ohio River				
2—Allegheny River	Main Stem, Kiskiminetas River to Confluence with Monongahela River	Allegheny	WWF[;], Add N	[Add TON] None
		* * * * *		
3—Unnamed Tributaries to Allegheny River	Basins, Plum Creek to Confluence with Monongahela River	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Powers Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Indian Creek	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Quigley Creek	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Sandy Creek	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Squaw Run	Basin	Allegheny	HQ-WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Shades Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Guyasuta Run	Basin, Source to PA 28	Allegheny	HQ-WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Guyasuta Run	Basin, PA 28 to Mouth	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Pine Creek	Basin, Source to North Park Lake Dam	Allegheny	CWF	None
3—Pine Creek	Basin, North Park Lake Dam to Mouth	Allegheny	TSF	[Delete TDS₁ Add TDS₂] None
3—Girtys Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None

§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania

Monongahela River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Ohio River				
		* * * * *		
2—Monongahela River	Main Stem, PA-WV State Border to Confluence with Allegheny River	Allegheny	WWF; Add N	[Add TON] None
		* * * * *		
3—Unnamed Tributaries to Monongahela River	Basins, Youghiogheny River to Mouth	Allegheny	WWF; Delete PWS	[Delete TDS and Mn; Add TDS₂] None
3—Crooked Run	Basin	Allegheny	WWF; Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None
3—Thompson Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS₁ and Mn; Add TDS₂] None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3—Turtle Creek	Main Stem, Source to Brush Creek	Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Unnamed Tributaries to Turtle Creek	Basins, Source to Brush Creek	Westmoreland-Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Steels Run	Basin	Westmoreland	HQ-CWF, Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Haymakers Run	Basin	Westmoreland	HQ-CWF, Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Abers Creek	Basin	Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Lyons Run	Basin	Westmoreland	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Simpson Run	Basin	Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Brush Creek	Basin	Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
3—Turtle Creek	Main Stem, Brush Creek to Mouth	Allegheny	WWF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Unnamed Tributaries to Turtle Creek	Basins, Brush Creek to Mouth	Allegheny	WWF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
4—Thompson Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
3—Homestead Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
3—Ninemile Run	Basin	Allegheny	TSF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
3—West Run	Basin	Allegheny	WWF[;], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None
3—Streets Run	Basin	Allegheny	WWF[:], Delete PWS	[Delete TDS ₁ and Mn; Add TDS ₂] None

§ 93.9w. Drainage List W.

Ohio River Basin in Pennsylvania

Ohio River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Ohio River	Main Stem, Confluence of Allegheny and Monongahela Rivers to PA-OH State Border	Beaver	WWF[;], Add N	[Shown Below] See Orsanco, Pollution Control Standards

[Exceptions to Specific Criteria for Ohio River Main Stem

Delete CN and F; **Add:**

Barium—Total barium shall not exceed 1.0 mg/l.

Cadmium—Total cadmium shall not exceed 0.01 mg/l.

Chloride—Chloride shall not exceed 250 mg/l.

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	<p>Cyanide—Total cyanide shall not exceed 0.025 mg/l; free cyanide shall not exceed 0.005 mg/l.</p> <p>Fluoride—Total fluoride shall not exceed 1.0 mg/l.</p> <p>Nitrite—Nitrite shall not exceed 1.0 mg/l as N.</p> <p>Selenium—Total selenium shall not exceed 0.01 mg/l.</p> <p>Silver—Total silver shall not exceed 0.05 mg/l.</p> <p>Radionuclides—Gross total alpha activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocurie per liter (pCi/l) and combined radium-226 and radium-228 shall not exceed 5 pCi/l; provided that specific determinations of radium-226 and radium-228 are not required if gross particle activity does not exceed 5 pCi/l. Concentration of total gross beta particle activity shall not exceed 50 pCi/l; the concentration of tritium shall not exceed 20,000 pCi/l; the concentration of total Strontium-90 shall not exceed 8 pCi/l.</p> <p>Mercury—Total organism body burden of any aquatic species shall not exceed 0.5 micrograms/gram as total mercury. Total mercury concentration (unfiltered) in any water sample shall not exceed 0.2 micrograms/liter.</p>			

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	<p>PCB—Total PCB shall not exceed 1 nanogram per liter; however, when the level in water is less than the practical laboratory quantification level, a fish flesh body burden level in excess of 2 ppm shall be cause for concern and further investigation.]</p>			
				* * * * *
3—Mahoning River	<p>Main Stem, PA-OH State Border to Confluence with Shenango River</p>	Lawrence	WWF	[<i>Shown Below</i>] None
	<p>[Exceptions to Specific Criteria for Mahoning River Main Stem</p>			
	<p><i>Delete</i> the entire list except Am.</p>			
	<p><i>Add:</i></p>			
	<p>As, Ch₂, Cr, DO₂, F, Pb, Mn, N, S, Temp₄, TDS₁,</p>			
	<p>pH—Not less than 6.0 and not more than 8.5</p>			
	<p>Total Iron—Not more than 1.0 mg/l</p>			
	<p>Threshold Odor Number—Not to exceed 24 at 60°C as a daily average</p>			
	<p>Total Cyanide—Not to exceed 0.025 mg/l</p>			
	<p>Free Cyanide—Not to exceed 0.005 mg/l</p>			
	<p>Phenolics—Not to exceed 0.010 mg/l</p>			
	<p>Cadmium—Not to exceed 0.01 mg/l</p>			
	<p>Total Chromium—Not to exceed 0.1 mg/l</p>			
	<p>PCB—Not to exceed 1 nanogram per liter.</p>			
	<p>Copper—Not to exceed 0.02 mg/l (total).</p>			
	<p>Nickel—Not to exceed 0.1 mg/l (total)</p>			

PROPOSED RULEMAKING

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	Zinc—Not to exceed 0.2 mg/l (total)]			
	* * * * *			
3—Shenango River	Main Stem (all sections in PA), Pymatuning Reservoir	Crawford	WWF	[Add TON] None
	* * * * *			
3—Shenango River	Main Stem, Pymatuning Reservoir Dam to Shenango Reservoir Dam	Mercer	WWF	[Add TON] None
	* * * * *			
3—Shenango River	Main Stem, Shenango Reservoir Dam to Point 1.0 River Mile Downstream	Mercer	TSF	[Add TON] None
4—Unnamed Tributaries to Shenango River	Basins, Shenango Reservoir Dam to Point 1.0 River Mile Downstream	Mercer	CWF	None
3—Shenango River	Main Stem (all sections in PA), 1.0 River Mile Downstream of Shenango Reservoir Dam to Confluence with Mahoning River	Lawrence	WWF	[Add TON] None
	* * * * *			
2—Beaver River	Main Stem, Confluence of Mahoning and Shenango Rivers to Mouth	Beaver	WWF, Add N	[Add TON] None
	* * * * *			

§ 93.9x. Drainage List X.

Lake Erie

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1—Lake Erie	All sections of lake in PA except Outer Erie Harbor and Presque Isle Bay	Erie	CWF	Delete Fe, pH ₁ , DO ₁ and Bac ₁ [Add the “specific criteria for Lake Erie” as listed below.] See GLWQA
	[Specific Criteria for Lake Erie			
	Determination of compliance with specific criteria shall be based on statistically valid sampling data. For the lake-wide dissolved solids limit, the Great Lakes Regional Office of the IJC will determine compliance.			
	pH—Values should not be outside range of 6.5 to 9.0			

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	<p>Dissolved Oxygen—In the upper waters of the lakes, the dissolved oxygen level should be not less than 6.0 milligrams per liter at any time; in hypolimnetic waters, it should be not less than necessary for the support of fishlife, particularly cold water species.</p> <p>Iron (Fe)—Levels should not exceed 0.3 milligrams per liter or natural levels, whichever is greater.</p> <p>Temperature—Temp₁</p> <p>Dissolved Solids—In addition to TDS₁ the level of total dissolved should not exceed 200 milligrams per liter as an annual average based on representative lakewide sampling.</p> <p>Bacteria—The geometric mean of not less than five samples taken over not more than a thirty-day period should not exceed 1,000/100 milliliters total coliforms, nor 200/100 milliliters fecal coliforms. Waters used for body contact recreation activities should be substantially free from bacteria, fungi, or viruses that may produce enteric disorders or eye, ear, nose, throat and skin infections or other human diseases and infections.</p> <p>Taste and Odor—Phenols and other objectionable taste and odor producing substances should be substantially absent.</p>			

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	<p>Phosphorus (P)—Concentrations should be limited to the extent necessary to prevent nuisance growths of algae, weeds, and slimes that are or may become injurious to any beneficial water use.</p> <p>Radioactivity—Radioactivity should be kept at the lowest practicable level and in any event should be controlled to the extent necessary to prevent harmful effects on health.</p> <p>Aldrin/Dieldrin—Not to exceed 1 nanogram per liter in water; not to exceed 0.3 mg/Kg in the edible portion of fish.</p> <p>Chlordane—Not to exceed 60 nanograms per liter.</p> <p>DDT and Metabolites—Not to exceed 3 nanograms per liter in water; not to exceed 1 mg/Kg in the edible portion of fish.</p> <p>Endrin—Not to exceed 2 nanograms per liter in water; not to exceed 0.3 mg/Kg in the edible portion of fish.</p> <p>Heptachlor—Not to exceed 1 nanogram/liter in water; not to exceed 0.3 mg/Kg in the edible portion of fish.</p> <p>Lindane—Not to exceed 10 nanograms per liter in water; not to exceed 0.3 mg/Kg in the edible portion of fish.</p> <p>Methoxychlor—Not to exceed 40 nanograms per liter.</p> <p>Toxaphene—Not to exceed 8 nanograms per liter.</p>			

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	<p>Phthalate Esters; Dibutyl Phthalate—Not to exceed 4 micrograms per liter. Di-(2-ethylhexyl phthalate)—Not to exceed 0.6 micrograms per liter. Other phthalate esters—Not to exceed 0.2 micrograms per liter.</p> <p>PCB's—Not to exceed 1 nanogram per liter; not to exceed 0.1 mg/Kg in whole fish.</p> <p>Cadmium—Not to exceed 0.01 of the 96-hour LC50 for representative important species.</p> <p>Mercury—Not to exceed 0.2 micrograms per liter in an unfiltered water sample.</p> <p>Selenium—Not to exceed 10 micrograms per liter.]</p>			
1—Lake Erie (Outer Erie Harbor and Presque Isle Bay)	Portion of lake bordered by Presque Isle on west, longitude 80°01'50" on east, and latitude 42°10'18" on north, except harbor area and central channel dredged and maintained by United States Army Corps of Engineers.	Erie	WWF	Delete pH[₁], Add pH[₃] Between ₇ and ₉ [, TON, and MBAS ₁]
1—Lake Erie (Outer Erie Harbor and Presque Isle Bay)	Harbor area and central channel dredged and maintained by United States Army Corps of Engineers	Erie	WWF, <i>Delete</i> WC	Delete pH[₁], and Bac ₁ Add pH[₃] Between ₇ and ₉ , Bac ₂ [TON and MBAS ₁]
	* * * * *			

§ 93.9y. Drainage List Y.

[Susquehanna River] Lake Ontario Basin in Pennsylvania
 [(Lake Ontario)

Genesee River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania

Potomac River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—East Branch Antietam Creek	Main Stem, Vineyard Run to Confluence with West Branch	Franklin	CWF	[Add Col ₂] None
4—Unnamed Tributaries to East Branch Antietam Creek	Basins (all sections in PA) Vineyard Run to Confluence with West Branch	Franklin	CWF	[Add Col ₂] None
4—Deer Lick Run	Basin	Franklin	CWF	None
4—Biesecker Run	Basin	Franklin	CWF	[Add Col ₂] None
4—Red Run	Main Stem	Franklin	CWF	[Add Col ₂] None
5—Unnamed Tributaries to Red Run	Basins (all sections in PA)	Franklin	CWF	[Add Col ₂] None
5—Devils Run	Basin	Franklin	CWF	[Add Col ₂] None
5—Mackey Run	Basin	Franklin	CWF	[Add Col ₂] None
5—Falls Creek	Basin (all sections in PA)	Franklin	WWF	[Add Col ₂] None
3—West Branch Antietam Creek	Basin, Source to Confluence with East Branch	Franklin	CWF	None
2—Antietam Creek	Basin, Confluence of East and West Branches to PA-MD State Border	Franklin	WWF	[Add Col ₂] None
2—Antietam Creek (MD)				
3—Unnamed Tributaries to Antietam Creek	Basins (all sections in PA), PA-MD State Border to Mouth	Franklin	WWF	[Add Col ₂] None

CHAPTER 95. WASTEWATER TREATMENT REQUIREMENTS

§ 95.1. [General requirements] Special protection.

(a) [Specific treatment requirements and effluent limitations for each waste discharge shall be established based on the more stringent of subsections (b) and (c), the water quality criteria specified in Chapter 93 (relating to water quality standards), the applicable treatment requirements and effluent limitations to which a discharge is subject under 33 U.S.C.A. § 1251 or the treatment requirements and effluent limitations of this title provided that specific treatment requirements and effluent limitations for waste discharges from overflows as defined in § 94.1 (relating to definitions) shall be established based on applicable treatment requirements and effluent limitations to which such discharge is subject under 33 U.S.C.A. § 1251 et seq.]

(b)] ***

* * * * *

[(c)](b) ***

[(d)](c) ***

* * * * *

(Editor's Note: There is an outstanding proposed amendment to § 95.1 at 27 Pa.B. 1459 (March 22, 1997).

§§ 95.2—95.9. (Reserved).

(Editor's Note: The Department is proposing to delete §§ 95.2—95.9 as they currently appear in the Pennsylvania

Code at pages 95-3—95-11 (serial pps. (234591)—(234593) and (228303)—(228309).)

§§ 95.2—95.9. (Reserved).

(Editor's Note: The following chapter is proposed to be added. It has been printed in regular type to enhance readability.)

CHAPTER 96. WATER QUALITY STANDARDS IMPLEMENTATION

- Sec. 96.1. Definitions.
- 96.2. Purpose.
- 96.3. Water quality protection levels.
- 96.4. TMDLs.
- 96.5. Nutrient discharges.
- 96.6. Heated wastewater discharges.
- 96.7. Public participation.

§ 96.1. Definitions.

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

Allowable discharge concentration—The average discharge concentration from a point source discharge over a specified duration.

Concentration—The amount of a substance, expressed in mass units, in a unit volume of water or wastewater.

Conservative substance—A pollutant whose concentration in the water column does not change, except by dilution.

Continuous point source discharge—A point source whose discharge rate is not determined primarily by precipitation or surface water runoff.

Cumulative loading—The sum of pollutant loadings from individual pollutant sources.

Design discharge flow—The average daily flow from an existing or proposed point source discharge that is included in a discharger's NPDES permit, or that may be reasonably expected over a 10-year period.

Dilution ratio—Surface water flow divided by pollutant source flow.

Harmonic mean flow—The flow that is determined by taking the reciprocal of the arithmetic mean of reciprocals of daily flow values.

Impaired surface water—A surface water that does not support its existing or designated surface water uses.

LA—Load allocation—The portion of a surface water's loading capacity that is assigned or allocated to existing and future nonpoint sources or natural quality and is expressed in narrative or numeric terms.

Lake, pond or impoundment—A surface water with a hydraulic residence time of 14 days or more based on average annual surface and groundwater discharge. Residence time shall be determined at normal pool volume. In the absence of actual records, an average annual daily discharge rate of 1.5 cfs per square mile shall be used unless a scientifically defensible alternative is demonstrated to the Department's satisfaction.

Loading capacity—The greatest amount of loading that a surface water can receive without violating water quality standards.

Margin of safety—The portion of a surface water's loading capacity that is set aside to account for uncertainty about the relationship between pollutant loadings and resulting surface water quality, including any uncertainty or imprecision in mathematical models used to determine these relationships. For nonconservative substances, any imprecision or uncertainty concerning the mechanisms by which the substance decays or is transformed shall be considered.

Mass load—The pollutant loading expressed in units of mass per unit time.

NPDES or National Pollutant Discharge Elimination System permit—A permit issued under Chapter 92 (relating to National Pollutant Discharge Elimination System) for the discharge or potential discharge of pollutants from a point source to surface waters.

Natural quality—The water quality conditions that exist or that would reasonably be expected to exist in the absence of human related activity.

Nonconservative substance—A pollutant whose concentration in the water column changes as a result of volatilization, photolysis, hydrolysis, biodegradation, transformation or other processes, except dilution.

Nonpoint source best management practice—An activity, procedure, practice or combination thereof determined to be effective and practical to maintain and improve surface water quality and its associated aquatic environment by preventing to the maximum extent practicable nonpoint source pollutant loadings to surface waters.

Nonpoint source discharge—A pollutant discharge which is not a point source discharge.

Nonpoint source remediation plan—A nonpoint source management plan which describes needed actions to achieve water quality protection levels.

Precipitation induced point source discharge—A point source discharge whose discharge rate is determined primarily by precipitation or surface water runoff.

Point source discharge—A pollutant source regulated under the NPDES permit system as defined in § 92.1 (relating to definitions).

Pollutant—A contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

Potable water supply—A water source that is used by humans after conventional treatment for drinking, culinary and other purposes such as inclusion in food products.

Q₇₋₁₀ flow—The actual or estimated lowest 7 consecutive-day average flow that occurs once in 10 years for a stream with unregulated flow, or the estimated minimum flow for a stream with regulated flow.

Q₃₀₋₁₀ flow—The actual or estimated lowest 30 consecutive-day average flow that occurs once in 10 years for a stream with unregulated flow, or the estimated 30-day average minimum flow for a stream with regulated flow.

Significant pollutant source—A point or nonpoint source discharge whose pollutant loading contributes a substantial portion of the total pollutant loading to a surface water. In determining whether a pollutant source is significant, the Department will consider the following factors:

(i) The number of pollutant sources discharging to or otherwise impacting a surface water.

(ii) The relative contribution of each pollutant source to the total pollutant load in the surface water.

(iii) Whether the pollutant source must be controlled to meet the water quality protection levels in § 96.3 (relating to water quality protection levels) in the surface water.

Steady state modeling—The use of a pollutant fate and transport model that utilizes constant values of input variables to predict constant values of receiving water quality concentrations.

Surface waters—Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.

TMDL—Total maximum daily load—The sum of individual waste load allocations for point sources, load allocations for nonpoint sources, natural quality and a margin of safety.

WLA—Wasteload allocation—The portion of a surface water's loading capacity that is allocated to existing and future point source discharges.

Water quality criteria duration—The averaging period associated with a water quality criterion.

Water quality protection levels—The levels of water quality necessary to protect existing and designated uses in a surface water.

Water quality standards—The combination of water uses to be protected and the water quality criteria necessary to protect those uses.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

§ 96.2. Purpose.

The purpose of this chapter is to establish the process for achieving and maintaining water quality standards.

§ 96.3. Water quality protection levels.

(a) Existing and designated surface water uses shall be protected.

(b) Antidegradation requirements, in Chapters 93, 95 and 105 (relating to water quality standards; wastewater treatment requirements; and dam safety and waterway management) shall apply to surface waters classified as high quality and exceptional value in Chapter 93.

(c) To protect existing and designated surface water uses, the water quality criteria in Chapter 93, including the criteria in §§ 93.6, 93.7 and 93.8a(b) (relating to general water quality criteria; specific water quality criteria; and toxic substances) shall be achieved in all surface waters at least 99% of the time, unless otherwise specified in this chapter.

(d) Water quality criteria for total dissolved solids, nitrite-nitrate nitrogen and fluoride established for the protection of potable water supply shall be met at least 99% of the time at the point of all existing or planned surface potable water supply withdrawals, except in high quality and exceptional value waters, where they shall be met at least 99% of the time everywhere and applied in accordance with § 95.1 (relating to special protection).

(e) When a water quality criterion described in Chapter 93, including the criteria in §§ 93.6, 93.7 and 93.8a(b), cannot be attained at least 99% of the time due to natural quality, as determined by the Department under § 93.7(c) based on observations at one or more reference stations, or an evaluation of the physical surroundings of the surface water, the natural quality that is achieved at least 99% of the time shall be the applicable protection level.

(f) When the minimum flow of a stream segment is determined or estimated to be zero, applicable water quality criteria shall be achieved at least 99% of the time at the first downstream point where the stream is capable of supporting existing or designated uses.

(g) Functions and values of wetlands shall be protected under Chapter 105 (relating to dam safety and waterway management).

§ 96.4. TMDLs.

(a) The Department will identify surface waters or portions thereof that require the development of TMDLs, prioritize these surface waters for TMDL development and then develop TMDLs for these waters.

(b) In addition to subsection (a), the Department will determine a TMDL using applicable procedures described in this chapter when the following apply:

(1) As a result of a watershed assessment or other evaluation, including an evaluation of an application for a new or modified point source discharge, the Department determines that water quality protection levels specified in § 96.3 (relating to water quality protection levels) are or would be violated after the imposition of applicable technology based limitations required under section 301(b), 306, 307 or other sections of the Federal Clean Water Act (33 U.S.C.A. §§ 1311(b), 1316 and 1317) to the point source.

(2) One or more point sources are or would be the primary cause of violation of the applicable water quality protection level.

(c) The sum of WLAs and LAs may not be greater than the loading capacity of the surface water, after allowances are made for natural quality, seasonal variations and a margin of safety.

(d) WLAs developed in accordance with this chapter shall serve as the basis for the determination of water quality-based effluent limitations for pollutant sources regulated under Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance).

(e) In developing TMDLs, WLAs and LAs the Department:

(1) Will consider relevant design factors, including, but not limited to: water quality criteria duration; flow duration and frequency; natural seasonal variability in water temperature; and the natural variability of pH and hardness.

(2) Will treat all pollutants as conservative unless it finds based on scientifically valid information that the substance is not conservative, and adequate information is available to characterize the substances fate or transformation, or both.

(3) Will include a margin of safety.

(4) May consider any increases in pollutant loadings that may be reasonably expected over a 10-year period.

(f) The allocation procedure is as follows:

(1) WLAs and LAs assigned or allocated to individual pollutant sources shall be the more stringent of the following:

(i) The pollutant loading authorized to be discharged under applicable technology-based requirements.

(ii) When applicable, the pollutant loading determined under §§ 96.5 and 96.6 (relating to nutrient discharges; and heated wastewater discharges).

(iii) The pollutant loading that can be discharged by the source in the absence of all other sources, except natural quality, that will achieve water quality protection levels specified in § 96.3.

(2) WLAs and LAs for significant pollutant sources shall be made more stringent if the cumulative loading determined after the application of paragraph (1) exceeds the TMDL.

(g) The Department may approve effluent trading provided that the following conditions are met:

(1) All pollutant sources comply with applicable technology-based requirements.

(2) Water quality protection levels specified in § 96.3 are achieved in all portions of the surface water under consideration.

(3) The Department has published a description of the effluent trading procedure in the *Pennsylvania Bulletin*, and solicited comments thereon.

(h) Steady state modeling at the design flow conditions listed in Table 1 shall be used to develop TMDLs, WLAs and LAs when it is determined that continuous point sources are the primary cause of a violation of the water quality protection levels specified in § 96.3, unless an alternative method is approved by the Department under subsection (g). The LA portion of the TMDL may be a total allotment for nonpoint source pollutant loadings and natural quality, and need not be assigned to individual nonpoint sources.

Table 1

<i>Water Quality Criteria</i>	<i>Steady State Design Flow</i>
Fish and aquatic life, except ammonia-nitrogen	Q_{7-10}
Ammonia-nitrogen	Q_{30-10}
Threshold human health	Q_{7-10}
Nonthreshold human health (carcinogens)	Harmonic mean flow

(i) The Department will revise WLAs and LAs because of new or increased pollutant loadings. WLAs shall be revised at or before the expiration date of the current point source discharge permit term.

(j) When mathematical modeling techniques are used to determine TMDLs, WLAs and LAs, the techniques should be generally accepted in the scientific community.

(k) The Department may require NPDES dischargers and other persons subject to regulation under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) to conduct appropriate monitoring of pollutant sources and waters and report the results and data, in order to obtain data needed to develop TMDLs, WLAs and LAs, and to determine their effectiveness.

(l) A person challenging a TMDL, WLA or LA prepared by the Department under this section shall have the burden of proof to demonstrate that the TMDL, WLA or LA does not meet the requirements of this chapter.

§ 96.5. Nutrient discharges.

(a) Whenever technically and financially feasible, and environmentally sound, land disposal of wastewater shall be used on a continuous or seasonal basis to prevent or minimize to the maximum extent practicable the discharge of nutrients to surface waters, including tributaries thereof, that are determined to be either threatened or impaired by nutrient enrichment.

(b) Where necessary to control eutrophication in a lake, pond or other impoundment, the Department will develop a TMDL and associated WLAs and LAs based on average annual loading estimates.

(c) When it is determined that the discharge of phosphorus, alone or in combination with the discharge of

other pollutants, contributes or threatens to impair existing or designated uses in a free flowing surface water, phosphorus discharges from point source discharges shall be limited to an average monthly concentration of 2 mg/l. More stringent controls on point source discharges may be imposed, or may be otherwise adjusted as a result of a TMDL which has been developed.

§ 96.6. Heated wastewater discharges.

(a) WLAs established for the discharge of heated wastewater shall comply with applicable State and Federal requirements.

(b) Heated wastewater discharges may not cause a change of surface water temperature of more than 2°F during any 1 hour period.

(c) In addition to subsection (b), the allowable heat content of heated wastewater discharges shall be limited to one of the following:

(1) A calculated amount that will raise the temperature of the receiving surface water to no more than the applicable criteria specified in § 93.7 (relating to public participation).

(2) An amount based on an evaluation conducted in accordance with section 316(a) of the Federal Clean Water Act (33 U.S.C.A. § 1326(a)).

§ 96.7. Public participation.

(a) The Department will publish a notice in the *Pennsylvania Bulletin* of the availability of draft and final lists of surface waters requiring TMDLs under § 96.4(a) (relating to TMDLs). The notice of the draft list shall set forth a minimum 30-day public comment period.

(b) The Department will publish a notice in the *Pennsylvania Bulletin* of the availability of any draft and final TMDL prepared under this chapter. Draft TMDL notices shall be subject to a minimum 30-day comment period. The Department may hold a public hearing on a draft TMDL if there is significant public interest. When the TMDL is prepared under § 96.4(b), the notice may be included in the notice of permit application prepared under § 92.61(a) (relating to public notice of permit application and public hearing).

CHAPTER 97. INDUSTRIAL WASTE

§ 97.1. (Reserved).

§ 97.2. (Reserved).

§ 97.14. (Reserved).

§ 97.15. (Reserved).

§ 97.63. (Reserved).

§§ 97.81—97.83. (Reserved).

§§ 97.91—97.95. (Reserved).

(Editor's Note: The Department is proposing to delete §§ 97.1, 97.2, 97.14, 97.15, 97.63, 97.81—97.83 and 97.91—97.95 which currently appear at Pennsylvania Code pages 97-3—97-6, 97-10—97-12, and 97-14—97-31 (serial pps. (233515)—(233518), (233522)—(233524), (233526)—(233528) and (233529)—(233543)).

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